

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1699**

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DATE	D-PG	OFFICIAL STATUS
02/02/2012	3709	Introduction and first reading Referred to Health and Human Services
03/08/2012	4199a	Comm report: To pass as amended and re-refer to State Government Innovation and Veterans
03/12/2012	4321	Withdrawn and re-referred to Health and Human Services See SF2093, Art. 4, Sec. 4, 6-8, 10-11, 19-20, 27-29, 37-38 See SF1675, Art. 16, Sec. 21 See HF2294, Art. 4

A bill for an act

1.1 relating to human services; Minnesota supplemental aid shelter needy provisions;
1.2 modifying adult foster care homes; amending Minnesota Statutes 2010, sections
1.3 245A.03, by adding a subdivision; 245A.11, subdivisions 2a, 7, 7a; 245B.06,
1.4 subdivision 2; 245B.07, subdivision 1; 245C.04, subdivision 6; 245C.05,
1.5 subdivision 7; 256B.092, subdivision 1b; 256D.44, subdivision 5; Minnesota
1.6 Statutes 2011 Supplement, sections 256B.097, subdivision 3; 256B.49,
1.7 subdivision 23; proposing coding for new law in Minnesota Statutes, chapter
1.8 256B.
1.9

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

1.11 Section 1. Minnesota Statutes 2010, section 245A.03, is amended by adding a
1.12 subdivision to read:

1.13 Subd. 6a. **Adult foster care homes serving people with mental illness;**
1.14 **certification.** (a) The commissioner of human services shall develop an optional
1.15 certification process for adult foster care homes licensed under this chapter and Minnesota
1.16 Rules, parts 9555.5105 to 9555.6265, that serve people with mental illness where the
1.17 home is not the primary residence of the license holder. If an adult foster care license
1.18 holder becomes certified, the certification shall be included in the license information.
1.19 The certification process shall be developed with input from advocates, mental health
1.20 professionals, and adult foster care providers.

1.21 (b) As part of the certification process, the commissioner shall require that:

1.22 (1) staff working in the adult foster care home receive training on the following
1.23 topics:

1.24 (i) mental health diagnoses;

1.25 (ii) mental health crisis response and de-escalation techniques;

1.26 (iii) recovery from mental illness;

2.1 (iv) treatment options including evidence-based practices;

2.2 (v) medications and their side effects;

2.3 (vi) co-occurring substance abuse and health conditions; and

2.4 (vii) other topics as determined by the commissioner; and

2.5 (2) a mental health professional, as defined in section 245.462, subdivision 18,

2.6 provides oversight of the adult foster care home.

2.7 (c) The commissioner shall develop certification requirements by January 1, 2013.

2.8 Sec. 2. Minnesota Statutes 2010, section 245A.11, subdivision 2a, is amended to read:

2.9 Subd. 2a. **Adult foster care license capacity.** (a) The commissioner shall issue
2.10 adult foster care licenses with a maximum licensed capacity of four beds, including
2.11 nonstaff roomers and boarders, except that the commissioner may issue a license with a
2.12 capacity of five beds, including roomers and boarders, according to paragraphs (b) to (f).

2.13 (b) An adult foster care license holder may have a maximum license capacity of five
2.14 if all persons in care are age 55 or over and do not have a serious and persistent mental
2.15 illness or a developmental disability.

2.16 (c) The commissioner may grant variances to paragraph (b) to allow a foster care
2.17 provider with a licensed capacity of five persons to admit an individual under the age of 55
2.18 if the variance complies with section 245A.04, subdivision 9, and approval of the variance
2.19 is recommended by the county in which the licensed foster care provider is located.

2.20 (d) The commissioner may grant variances to paragraph (b) to allow the use of a fifth
2.21 bed for emergency crisis services for a person with serious and persistent mental illness
2.22 or a developmental disability, regardless of age, if the variance complies with section
2.23 245A.04, subdivision 9, and approval of the variance is recommended by the county in
2.24 which the licensed foster care provider is located.

2.25 (e) The commissioner may grant a variance to paragraph (b) to allow for the
2.26 use of a fifth bed for respite services, as defined in section 245A.02, for persons with
2.27 disabilities, regardless of age, if the variance complies with section 245A.03, subdivision
2.28 7, and section 245A.04, subdivision 9, and approval of the variance is recommended by
2.29 the county in which the licensed foster care provider is licensed. Respite care may be
2.30 provided under the following conditions:

2.31 (1) staffing ratios cannot be reduced below the approved level for the individuals
2.32 being served in the home on a permanent basis;

2.33 (2) no more than two different individuals can be accepted for respite services in
2.34 any calendar month and the total respite days may not exceed 120 days per program in
2.35 any calendar year;

3.1 (3) the person receiving respite services must have his or her bedroom, which could
3.2 be used for alternative purposes when not used as a respite bedroom, and cannot be the
3.3 room of another person who lives in the foster care home; and

3.4 (4) individuals living in the foster care home must be notified when the variance
3.5 is approved. The provider must give 60 days' notice in writing to the residents and their
3.6 legal representatives prior to accepting the first respite placement. Notice must be given to
3.7 residents at least two days prior to service initiation, or as soon as the license holder is
3.8 able if they receive notice of the need for respite less than two days prior to initiation,
3.9 each time a respite client will be served, unless the requirement for this notice is waived
3.10 by the resident or legal guardian.

3.11 ~~(e) If the 2009 legislature adopts a rate reduction that impacts providers of adult~~
3.12 ~~foster care services;~~ (f) The commissioner may issue an adult foster care license with a
3.13 capacity of five adults if the fifth bed does not increase the overall statewide capacity of
3.14 licensed adult foster care beds in homes that are not the primary residence of the license
3.15 holder, ~~over the licensed capacity in such homes on July 1, 2009,~~ as identified in a plan
3.16 submitted to the commissioner by the county, when the capacity is recommended by
3.17 the county licensing agency of the county in which the facility is located and if the
3.18 recommendation verifies that:

3.19 (1) the facility meets the physical environment requirements in the adult foster
3.20 care licensing rule;

3.21 (2) the five-bed living arrangement is specified for each resident in the resident's:

3.22 (i) individualized plan of care;

3.23 (ii) individual service plan under section 256B.092, subdivision 1b, if required; or

3.24 (iii) individual resident placement agreement under Minnesota Rules, part
3.25 9555.5105, subpart 19, if required;

3.26 (3) the license holder obtains written and signed informed consent from each
3.27 resident or resident's legal representative documenting the resident's informed choice
3.28 to remain living in the home and that the resident's refusal to consent would not have
3.29 resulted in service termination; and

3.30 (4) the facility was licensed for adult foster care before March 1, ~~2009~~ 2011.

3.31 ~~(f)~~ (g) The commissioner shall not issue a new adult foster care license under
3.32 paragraph ~~(e)~~ (f) after June 30, ~~2011~~ 2016. The commissioner shall allow a facility with
3.33 an adult foster care license issued under paragraph ~~(e)~~ (f) before June 30, ~~2011~~ 2016, to
3.34 continue with a capacity of five adults if the license holder continues to comply with the
3.35 requirements in paragraph ~~(e)~~ (f).

S.F. No. 1699, 1st Engrossment - 87th Legislative Session (2011-2012) [S1699-1]

4.1 Sec. 3. Minnesota Statutes 2010, section 245A.11, subdivision 7, is amended to read:

4.2 Subd. 7. **Adult foster care; variance for alternate overnight supervision.** (a) The
4.3 commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts
4.4 requiring a caregiver to be present in an adult foster care home during normal sleeping
4.5 hours to allow for alternative methods of overnight supervision. The commissioner may
4.6 grant the variance if the local county licensing agency recommends the variance and the
4.7 county recommendation includes documentation verifying that:

4.8 (1) the county has approved the license holder's plan for alternative methods of
4.9 providing overnight supervision and determined the plan protects the residents' health,
4.10 safety, and rights;

4.11 (2) the license holder has obtained written and signed informed consent from
4.12 each resident or each resident's legal representative documenting the resident's or legal
4.13 representative's agreement with the alternative method of overnight supervision; and

4.14 (3) the alternative method of providing overnight supervision, which may include
4.15 the use of technology, is specified for each resident in the resident's: (i) individualized
4.16 plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if
4.17 required; or (iii) individual resident placement agreement under Minnesota Rules, part
4.18 9555.5105, subpart 19, if required.

4.19 (b) To be eligible for a variance under paragraph (a), the adult foster care license
4.20 holder must not have had a ~~licensing action~~ conditional license issued under section
4.21 245A.06₂ or any other licensing sanction issued under section 245A.07 during the prior 24
4.22 months based on failure to provide adequate supervision, health care services, or resident
4.23 safety in the adult foster care home.

4.24 (c) A license holder requesting a variance under this subdivision to utilize
4.25 technology as a component of a plan for alternative overnight supervision may request
4.26 the commissioner's review in the absence of a county recommendation. Upon receipt of
4.27 such a request from a license holder, the commissioner shall review the variance request
4.28 with the county.

4.29 Sec. 4. Minnesota Statutes 2010, section 245A.11, subdivision 7a, is amended to read:

4.30 Subd. 7a. **Alternate overnight supervision technology; adult foster care license.**

4.31 (a) The commissioner may grant an applicant or license holder an adult foster care license
4.32 for a residence that does not have a caregiver in the residence during normal sleeping
4.33 hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses
4.34 monitoring technology to alert the license holder when an incident occurs that may
4.35 jeopardize the health, safety, or rights of a foster care recipient. The applicant or license

5.1 holder must comply with all other requirements under Minnesota Rules, parts 9555.5105
5.2 to 9555.6265, and the requirements under this subdivision. The license printed by the
5.3 commissioner must state in bold and large font:

5.4 (1) that the facility is under electronic monitoring; and

5.5 (2) the telephone number of the county's common entry point for making reports of
5.6 suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

5.7 (b) Applications for a license under this section must be submitted directly to
5.8 the Department of Human Services licensing division. The licensing division must
5.9 immediately notify the host county and lead county contract agency and the host county
5.10 licensing agency. The licensing division must collaborate with the county licensing
5.11 agency in the review of the application and the licensing of the program.

5.12 (c) Before a license is issued by the commissioner, and for the duration of the
5.13 license, the applicant or license holder must establish, maintain, and document the
5.14 implementation of written policies and procedures addressing the requirements in
5.15 paragraphs (d) through (f).

5.16 (d) The applicant or license holder must have policies and procedures that:

5.17 (1) establish characteristics of target populations that will be admitted into the home,
5.18 and characteristics of populations that will not be accepted into the home;

5.19 (2) explain the discharge process when a foster care recipient requires overnight
5.20 supervision or other services that cannot be provided by the license holder due to the
5.21 limited hours that the license holder is on site;

5.22 (3) describe the types of events to which the program will respond with a physical
5.23 presence when those events occur in the home during time when staff are not on site, and
5.24 how the license holder's response plan meets the requirements in paragraph (e), clause
5.25 (1) or (2);

5.26 (4) establish a process for documenting a review of the implementation and
5.27 effectiveness of the response protocol for the response required under paragraph (e),
5.28 clause (1) or (2). The documentation must include:

5.29 (i) a description of the triggering incident;

5.30 (ii) the date and time of the triggering incident;

5.31 (iii) the time of the response or responses under paragraph (e), clause (1) or (2);

5.32 (iv) whether the response met the resident's needs;

5.33 (v) whether the existing policies and response protocols were followed; and

5.34 (vi) whether the existing policies and protocols are adequate or need modification.

5.35 When no physical presence response is completed for a three-month period, the
5.36 license holder's written policies and procedures must require a physical presence response

6.1 drill to be conducted for which the effectiveness of the response protocol under paragraph
6.2 (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

6.3 (5) establish that emergency and nonemergency phone numbers are posted in a
6.4 prominent location in a common area of the home where they can be easily observed by a
6.5 person responding to an incident who is not otherwise affiliated with the home.

6.6 (e) The license holder must document and include in the license application which
6.7 response alternative under clause (1) or (2) is in place for responding to situations that
6.8 present a serious risk to the health, safety, or rights of people receiving foster care services
6.9 in the home:

6.10 (1) response alternative (1) requires only the technology to provide an electronic
6.11 notification or alert to the license holder that an event is underway that requires a response.
6.12 Under this alternative, no more than ten minutes will pass before the license holder will be
6.13 physically present on site to respond to the situation; or

6.14 (2) response alternative (2) requires the electronic notification and alert system
6.15 under alternative (1), but more than ten minutes may pass before the license holder is
6.16 present on site to respond to the situation. Under alternative (2), all of the following
6.17 conditions are met:

6.18 (i) the license holder has a written description of the interactive technological
6.19 applications that will assist the license holder in communicating with and assessing the
6.20 needs related to the care, health, and safety of the foster care recipients. This interactive
6.21 technology must permit the license holder to remotely assess the well being of the foster
6.22 care recipient without requiring the initiation of the foster care recipient. Requiring the
6.23 foster care recipient to initiate a telephone call does not meet this requirement;

6.24 (ii) the license holder documents how the remote license holder is qualified and
6.25 capable of meeting the needs of the foster care recipients and assessing foster care
6.26 recipients' needs under item (i) during the absence of the license holder on site;

6.27 (iii) the license holder maintains written procedures to dispatch emergency response
6.28 personnel to the site in the event of an identified emergency; and

6.29 (iv) each foster care recipient's individualized plan of care, individual service plan
6.30 under section 256B.092, subdivision 1b, if required, or individual resident placement
6.31 agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the
6.32 maximum response time, which may be greater than ten minutes, for the license holder
6.33 to be on site for that foster care recipient.

6.34 (f) ~~Each foster care recipient's placement agreement, individual~~
6.35 ~~service agreements, and plans applicable to the foster care recipient agreement, and plan~~
6.36 must clearly state that the adult foster care license category is a program without the

7.1 presence of a caregiver in the residence during normal sleeping hours; the protocols in
7.2 place for responding to situations that present a serious risk to the health, safety, or rights
7.3 of foster care recipients under paragraph (e), clause (1) or (2); and a signed informed
7.4 consent from each foster care recipient or the person's legal representative documenting
7.5 the person's or legal representative's agreement with placement in the program. If
7.6 electronic monitoring technology is used in the home, the informed consent form must
7.7 also explain the following:

7.8 (1) how any electronic monitoring is incorporated into the alternative supervision
7.9 system;

7.10 (2) the backup system for any electronic monitoring in times of electrical outages or
7.11 other equipment malfunctions;

7.12 (3) how the ~~license holder is~~ caregivers are trained on the use of the technology;

7.13 (4) the event types and license holder response times established under paragraph (e);

7.14 (5) how the license holder protects the foster care recipient's privacy related to
7.15 electronic monitoring and related to any electronically recorded data generated by the
7.16 monitoring system. A foster care recipient may not be removed from a program under
7.17 this subdivision for failure to consent to electronic monitoring. The consent form must
7.18 explain where and how the electronically recorded data is stored, with whom it will be
7.19 shared, and how long it is retained; and

7.20 (6) the risks and benefits of the alternative overnight supervision system.

7.21 The written explanations under clauses (1) to (6) may be accomplished through
7.22 cross-references to other policies and procedures as long as they are explained to the
7.23 person giving consent, and the person giving consent is offered a copy.

7.24 (g) Nothing in this section requires the applicant or license holder to develop or
7.25 maintain separate or duplicative policies, procedures, documentation, consent forms, or
7.26 individual plans that may be required for other licensing standards, if the requirements of
7.27 this section are incorporated into those documents.

7.28 (h) The commissioner may grant variances to the requirements of this section
7.29 according to section 245A.04, subdivision 9.

7.30 (i) For the purposes of paragraphs (d) through (h), "license holder" has the meaning
7.31 under section 245A.2, subdivision 9, and additionally includes all staff, volunteers, and
7.32 contractors affiliated with the license holder.

7.33 (j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to
7.34 remotely determine what action the license holder needs to take to protect the well-being
7.35 of the foster care recipient.

8.1 (k) The commissioner shall evaluate license applications using the requirements
8.2 in paragraphs (d) to (f). The commissioner shall provide detailed application forms,
8.3 including a checklist of criteria needed for approval.

8.4 (l) To be eligible for a license under paragraph (a), the adult foster care license holder
8.5 must not have had a conditional license issued under section 245A.06 or any licensing
8.6 sanction under section 245A.07 during the prior 24 months based on failure to provide
8.7 adequate supervision, health care services, or resident safety in the adult foster care home.

8.8 (m) The commissioner shall review an application for an alternative overnight
8.9 supervision license within 60 days of receipt of the application. When the commissioner
8.10 receives an application that is incomplete because the applicant failed to submit required
8.11 documents or that is substantially deficient because the documents submitted do not meet
8.12 licensing requirements, the commissioner shall provide the applicant written notice
8.13 that the application is incomplete or substantially deficient. In the written notice to the
8.14 applicant, the commissioner shall identify documents that are missing or deficient and
8.15 give the applicant 45 days to resubmit a second application that is substantially complete.
8.16 An applicant's failure to submit a substantially complete application after receiving
8.17 notice from the commissioner is a basis for license denial under section 245A.05. The
8.18 commissioner shall complete subsequent review within 30 days.

8.19 (n) Once the application is considered complete under paragraph (m), the
8.20 commissioner will approve or deny an application for an alternative overnight supervision
8.21 license within 60 days.

8.22 (o) For the purposes of this subdivision, "supervision" means:

8.23 (1) oversight by a caregiver as specified in the individual resident's place agreement
8.24 and awareness of the resident's needs and activities; and

8.25 (2) the presence of a caregiver in a residence during normal sleeping hours, unless a
8.26 determination has been made and documented in the individual's support plan that the
8.27 individual does not require the presence of a caregiver during normal sleeping hours.

8.28 Sec. 5. Minnesota Statutes 2010, section 245B.06, subdivision 2, is amended to read:

8.29 Subd. 2. **Risk management plan.** (a) The license holder must develop, document
8.30 ~~in writing~~, and implement a risk management plan that meets the requirements of this
8.31 subdivision. License holders licensed under this chapter are exempt from sections
8.32 245A.65, subdivision 2, and 626.557, subdivision 14, if the requirements of this
8.33 subdivision are met.

8.34 (b) The risk management plan must identify areas in which the consumer is
8.35 vulnerable, based on an assessment, at a minimum, of the following areas:

9.1 (1) an adult consumer's susceptibility to physical, emotional, and sexual abuse as
9.2 defined in section 626.5572, subdivision 2, and financial exploitation as defined in section
9.3 626.5572, subdivision 9; a minor consumer's susceptibility to sexual and physical abuse as
9.4 defined in section 626.556, subdivision 2; and a consumer's susceptibility to self-abuse,
9.5 regardless of age;

9.6 (2) the consumer's ability to manage mental and physical health needs, considering
9.7 the consumer's ~~physical~~:

9.8 (i) mental health diagnosis and disabilities or sensory impairments and the ability
9.9 to seek and use assistance, assistive technology, adaptive aids, or equipment; ~~allergies;~~
9.10 ~~sensory impairments~~

9.11 (ii) ability to recognize and avoid allergens and manage allergic reactions;

9.12 (iii) ability to manage seizures;

9.13 (iv) ability to meet diet and nutritional needs, including eating without assistance
9.14 and swallowing without choking; ~~need for~~

9.15 (v) ability to self-administer and manage medications or treatment orders; ~~and~~
9.16 ~~ability to~~

9.17 (vi) ability to obtain routine medical treatment; ~~and~~

9.18 (vii) ability to recognize, respond appropriately to, and report changes in physical
9.19 and mental well-being;

9.20 (3) the consumer's safety ~~needs~~ skills in environments where the license holder
9.21 serves the consumer, considering the consumer's ability to:

9.22 (i) take reasonable safety precautions to prevent falls, burns, or avoid hazards;

9.23 (ii) identify and use community survival skills to prevent becoming lost or seeking
9.24 help when lost;

9.25 (iii) follow street safety rules;

9.26 (iv) use public transportation;

9.27 (v) drive or ride in a vehicle;

9.28 (vi) identify and follow water survival skills sufficient to avoid drowning or near
9.29 drowning; ~~ability to~~

9.30 (vii) seek assistance with or provide medical care self-administer basic first aid;
9.31 ~~and access to~~

9.32 (viii) recognize and handle or avoid toxic substances or dangerous items;

9.33 (4) ~~environmental issues~~ the consumer's ability to recognize and respond
9.34 appropriately to unsafe or hazardous situations or conditions in the physical and social
9.35 environment, considering the ~~program's location in a particular~~ consumer's ability to:

- 10.1 (i) access and participate in the neighborhood or community resources where the
10.2 program is located; ~~the type of~~
- 10.3 (ii) maneuver around areas in the building where services are provided or on the
10.4 grounds and terrain surrounding the building; ~~and the consumer's ability to~~
- 10.5 (iii) respond to weather-related conditions, including dressing appropriately for
10.6 the weather or seeking shelter;
- 10.7 (iv) open locked doors; to safely evacuate a room or building in an emergency; and
- 10.8 (v) remain alone in any environment; and
- 10.9 (5) the consumer's behavior, including when the license holder knows that the
10.10 consumer has committed a violent crime or the consumer engages in behaviors that may
10.11 increase the likelihood of physical aggression ~~between consumers~~ or sexual activity
10.12 ~~between consumers~~ involving force or coercion, as defined under section 245B.02,
10.13 subdivision 10, clauses (6) and (7), between consumers, or towards others. Under this
10.14 clause, a license holder knows of a consumer's history of criminal misconduct or physical
10.15 aggression if it receives such information from a law enforcement authority, through
10.16 a medical record prepared by a health care provider, or the license holder's ongoing
10.17 assessments of the consumer.
- 10.18 (c) When assessing a consumer's vulnerability, the license holder must consider only
10.19 the consumer's skills and abilities, independent of staffing patterns, supervision plans, the
10.20 environment, or other situational elements. License holders jointly providing services
10.21 to a consumer shall coordinate and use the resulting assessment of risk areas for the
10.22 development of each license holder's risk management or the shared risk management plan.
- 10.23 ~~(d) License holders jointly providing services to a consumer shall coordinate and use~~
10.24 ~~the resulting assessment of risk areas for the development of each license holder's risk~~
10.25 ~~management or the shared risk management plan. The license holder's license holder~~
10.26 must develop a plan ~~must include~~ that identifies the specific actions a staff person will
10.27 take and measures that will be taken to protect the consumer and minimize risks for the
10.28 identified vulnerability areas within the scope of the licensed services. The plan must
10.29 identify referrals made when the consumer is vulnerable to risks outside the scope or
10.30 control of the licensed services.
- 10.31 (e) The specific actions must include the proactive measures being taken to reduce
10.32 or minimize the risk, training being provided to the consumer to develop skills or abilities
10.33 to avoid or respond to the risk as independently as possible, or a detailed description of
10.34 actions a staff person will take when intervention is needed.
- 10.35 ~~(e)~~ (f) The specific actions must be developed according to the requirements
10.36 of subdivision 1, paragraph (a). When the assessment indicates that the consumer is

11.1 vulnerable but does not need specific risk reduction measures, the risk management
11.2 plan shall document this determination and why, at a minimum, proactive measures or
11.3 consumer training are not needed.

11.4 (g) Prior to or upon initiating services, a license holder must develop an initial risk
11.5 management plan that is, at a minimum, verbally approved by the consumer or consumer's
11.6 legal representative and case manager. The license holder must document the date the
11.7 license holder receives the consumer's or consumer's legal representative's and case
11.8 manager's verbal approval of the initial plan.

11.9 ~~(f) As part of the meeting held~~ (h) Within 45 days of initiating service, ~~as required~~
11.10 ~~under section 245B.06, subdivision 4,~~ the license holder must review the initial risk
11.11 management plan for accuracy and revise the plan if necessary. The license holder must
11.12 give the consumer or consumer's legal representative and case manager an opportunity to
11.13 participate in this plan review. If the license holder revises the plan, or if the consumer or
11.14 consumer's legal representative and case manager have not previously signed and dated
11.15 the plan, the license holder must obtain dated signatures to document the plan's approval.

11.16 ~~(g)~~ (i) After plan approval, the license holder must review the plan at least
11.17 annually and update the plan based on the individual consumer's needs and changes
11.18 to the environment. The license holder must give the consumer or consumer's legal
11.19 representative and case manager an opportunity to participate in the ongoing plan
11.20 development. The license holder shall obtain dated signatures from the consumer or
11.21 consumer's legal representative and case manager to document completion of the annual
11.22 review and approval of plan changes.

11.23 Sec. 6. Minnesota Statutes 2010, section 245B.07, subdivision 1, is amended to read:

11.24 Subdivision 1. **Consumer data file.** The license holder must maintain the following
11.25 information for each consumer:

11.26 (1) identifying information that includes date of birth, medications, legal
11.27 representative, history, medical, and other individual-specific information, and names and
11.28 telephone numbers of contacts;

11.29 (2) consumer health information, including individual medication administration
11.30 and monitoring information;

11.31 (3) the consumer's individual service plan. When a consumer's case manager does
11.32 not provide a current individual service plan, the license holder shall make a written
11.33 request to the case manager to provide a copy of the individual service plan and inform
11.34 the consumer or the consumer's legal representative of the right to an individual service
11.35 plan and the right to appeal under section 256.045~~5~~. In the event the case manager fails

12.1 to provide an individual service plan after a written request from the license holder, the
12.2 license holder shall not be sanctioned or penalized financially for not having a current
12.3 individual service plan in the consumer's data file;

12.4 (4) copies of assessments, analyses, summaries, and recommendations;

12.5 (5) progress review reports;

12.6 (6) incidents involving the consumer;

12.7 (7) reports required under section 245B.05, subdivision 7;

12.8 (8) discharge summary, when applicable;

12.9 (9) record of other license holders serving the consumer that includes a contact
12.10 person and telephone numbers, services being provided, services that require coordination
12.11 between two license holders, and name of staff responsible for coordination;

12.12 (10) information about verbal aggression directed at the consumer by another
12.13 consumer; and

12.14 (11) information about self-abuse.

12.15 Sec. 7. Minnesota Statutes 2010, section 245C.04, subdivision 6, is amended to read:

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

12.20 (b) ~~The commissioner shall conduct~~ Except as provided in paragraph (c), the
12.21 providers must initiate a background study annually of an individual required to be studied
12.22 under section 245C.03, subdivision 6.

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

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

12.34 (2) the individual who is the subject of the background study provides direct
12.35 contact services under the provider's licensed program for at least 40 hours per year so

13.1 the individual will be recognized by a probation officer or corrections agent to prompt
13.2 a report to the commissioner regarding criminal convictions as required under section
13.3 245C.05, subdivision 7.

13.4 Sec. 8. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

13.5 Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or
13.6 corrections agent shall notify the commissioner of an individual's conviction if the
13.7 individual is:

13.8 (1) has been affiliated with a program or facility regulated by the Department of
13.9 Human Services or Department of Health, a facility serving children or youth licensed by
13.10 the Department of Corrections, or any type of home care agency or provider of personal
13.11 care assistance services within the preceding year; and

13.12 (2) has been convicted of a crime constituting a disqualification under section
13.13 245C.14.

13.14 (b) For the purpose of this subdivision, "conviction" has the meaning given it
13.15 in section 609.02, subdivision 5.

13.16 (c) The commissioner, in consultation with the commissioner of corrections, shall
13.17 develop forms and information necessary to implement this subdivision and shall provide
13.18 the forms and information to the commissioner of corrections for distribution to local
13.19 probation officers and corrections agents.

13.20 (d) The commissioner shall inform individuals subject to a background study that
13.21 criminal convictions for disqualifying crimes will be reported to the commissioner by the
13.22 corrections system.

13.23 (e) A probation officer, corrections agent, or corrections agency is not civilly or
13.24 criminally liable for disclosing or failing to disclose the information required by this
13.25 subdivision.

13.26 (f) Upon receipt of disqualifying information, the commissioner shall provide the
13.27 notice required under section 245C.17, as appropriate, to agencies on record as having
13.28 initiated a background study or making a request for documentation of the background
13.29 study status of the individual.

13.30 (g) This subdivision does not apply to family child care programs.

13.31 Sec. 9. Minnesota Statutes 2010, section 256B.092, subdivision 1b, is amended to read:

13.32 Subd. 1b. **Individual service plan.** (a) The individual service plan must:

S.F. No. 1699, 1st Engrossment - 87th Legislative Session (2011-2012) [S1699-1]

14.1 (1) include the results of the assessment information on the person's need for service,
14.2 including identification of service needs that will be or that are met by the person's
14.3 relatives, friends, and others, as well as community services used by the general public;

14.4 (2) identify the person's preferences for services as stated by the person, the person's
14.5 legal guardian or conservator, or the parent if the person is a minor;

14.6 (3) identify long- and short-range goals for the person;

14.7 (4) identify specific services and the amount and frequency of the services to be
14.8 provided to the person based on assessed needs, preferences, and available resources.

14.9 The individual service plan shall also specify other services the person needs that are
14.10 not available;

14.11 (5) identify the need for an individual program plan to be developed by the provider
14.12 according to the respective state and federal licensing and certification standards, and
14.13 additional assessments to be completed or arranged by the provider after service initiation;

14.14 (6) identify provider responsibilities to implement and make recommendations for
14.15 modification to the individual service plan;

14.16 (7) include notice of the right to request a conciliation conference or a hearing
14.17 under section 256.045;

14.18 (8) be agreed upon and signed by the person, the person's legal guardian
14.19 or conservator, or the parent if the person is a minor, and the authorized county
14.20 representative; and

14.21 (9) be reviewed by a health professional if the person has overriding medical needs
14.22 that impact the delivery of services.

14.23 (b) Service planning formats developed for interagency planning such as transition,
14.24 vocational, and individual family service plans may be substituted for service planning
14.25 formats developed by county agencies.

14.26 (c) Approved, written, and signed changes to a consumer's services that meet the
14.27 criteria in this subdivision shall be an addendum to that consumer's individual service plan.

14.28 Sec. 10. Minnesota Statutes 2011 Supplement, section 256B.097, subdivision 3,
14.29 is amended to read:

14.30 Subd. 3. **State Quality Council.** (a) There is hereby created a State Quality
14.31 Council which must define regional quality councils, and carry out a community-based,
14.32 person-directed quality review component, and a comprehensive system for effective
14.33 incident reporting, investigation, analysis, and follow-up.

15.1 (b) By August 1, 2011, the commissioner of human services shall appoint the
15.2 members of the initial State Quality Council. Members shall include representatives
15.3 from the following groups:

15.4 (1) disability service recipients and their family members;

15.5 (2) during the first two years of the State Quality Council, there must be at least three
15.6 members from the Region 10 stakeholders. As regional quality councils are formed under
15.7 subdivision 4, each regional quality council shall appoint one member;

15.8 (3) disability service providers;

15.9 (4) disability advocacy groups; and

15.10 (5) county human services agencies and staff from the Department of Human
15.11 Services and Ombudsman for Mental Health and Developmental Disabilities.

15.12 (c) Members of the council who do not receive a salary or wages from an employer
15.13 for time spent on council duties may receive a per diem payment when performing council
15.14 duties and functions.

15.15 (d) The State Quality Council shall:

15.16 (1) assist the Department of Human Services in fulfilling federally mandated
15.17 obligations by monitoring disability service quality and quality assurance and
15.18 improvement practices in Minnesota; ~~and~~

15.19 (2) establish state quality improvement priorities with methods for achieving results
15.20 and provide an annual report to the legislative committees with jurisdiction over policy
15.21 and funding of disability services on the outcomes, improvement priorities, and activities
15.22 undertaken by the commission during the previous state fiscal year;

15.23 (3) identify issues pertaining to financial and personal risk that impede Minnesotans
15.24 with disabilities from optimizing choice of community-based services; and

15.25 (4) recommend to the chairs and ranking minority members of the legislative
15.26 committees with jurisdiction over human services and civil law by January 15, 2013,
15.27 statutory and rule changes related to the findings under clause (3) that promote
15.28 individualized service and housing choices balanced with appropriate individualized
15.29 protection.

15.30 (e) The State Quality Council, in partnership with the commissioner, shall:

15.31 (1) approve and direct implementation of the community-based, person-directed
15.32 system established in this section;

15.33 (2) recommend an appropriate method of funding this system, and determine the
15.34 feasibility of the use of Medicaid, licensing fees, as well as other possible funding options;

15.35 (3) approve measurable outcomes in the areas of health and safety, consumer
15.36 evaluation, education and training, providers, and systems;

16.1 (4) establish variable licensure periods not to exceed three years based on outcomes
16.2 achieved; and

16.3 (5) in cooperation with the Quality Assurance Commission, design a transition plan
16.4 for licensed providers from Region 10 into the alternative licensing system by July 1, 2013.

16.5 (f) The State Quality Council shall notify the commissioner of human services that a
16.6 facility, program, or service has been reviewed by quality assurance team members under
16.7 subdivision 4, paragraph (b), clause (13), and qualifies for a license.

16.8 (g) The State Quality Council, in partnership with the commissioner, shall establish
16.9 an ongoing review process for the system. The review shall take into account the
16.10 comprehensive nature of the system which is designed to evaluate the broad spectrum of
16.11 licensed and unlicensed entities that provide services to persons with disabilities. The
16.12 review shall address efficiencies and effectiveness of the system.

16.13 (h) The State Quality Council may recommend to the commissioner certain
16.14 variances from the standards governing licensure of programs for persons with disabilities
16.15 in order to improve the quality of services so long as the recommended variances do
16.16 not adversely affect the health or safety of persons being served or compromise the
16.17 qualifications of staff to provide services.

16.18 (i) The safety standards, rights, or procedural protections referenced under
16.19 subdivision 2, paragraph (c), shall not be varied. The State Quality Council may make
16.20 recommendations to the commissioner or to the legislature in the report required under
16.21 paragraph (c) regarding alternatives or modifications to the safety standards, rights, or
16.22 procedural protections referenced under subdivision 2, paragraph (c).

16.23 (j) The State Quality Council may hire staff to perform the duties assigned in this
16.24 subdivision.

16.25 Sec. 11. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 23,
16.26 is amended to read:

16.27 Subd. 23. **Community-living settings.** "Community-living settings" means a
16.28 single-family home or apartment where the service recipient or their family owns or rents,
16.29 ~~as demonstrated by a lease agreement,~~ and maintains control over the individual unit as
16.30 demonstrated by the lease agreement, or has a plan for transition of a lease from a service
16.31 provider to the individual. Within two years of signing the initial lease, the service provider
16.32 shall transfer the lease to the individual. In the event the landlord denies the transfer, the
16.33 commissioner may approve an exception within sufficient time to ensure the continued
16.34 occupancy by the individual. Community-living settings are subject to the following:

16.35 (1) individuals are not required to receive services;

- 17.1 (2) individuals are not required to have a disability or specific diagnosis to live
17.2 in the community-living setting;
- 17.3 (3) individuals may hire service providers of their choice;
- 17.4 (4) individuals may choose whether to share their household and with whom;
- 17.5 (5) the home or apartment must include living, sleeping, bathing, and cooking areas;
- 17.6 (6) individuals must have lockable access and egress;
- 17.7 (7) individuals must be free to receive visitors and leave the settings at times and for
17.8 durations of their own choosing;
- 17.9 (8) leases must not reserve the right to assign units or change unit assignments; and
- 17.10 (9) access to the greater community must be easily facilitated based on the
17.11 individual's needs and preferences.

17.12 Sec. 12. **[256B.492] ADULT FOSTER CARE VOLUNTARY CLOSURE.**

17.13 **Subdivision 1. Commissioner's duties; report.** The commissioner of human
17.14 services shall ask providers of adult foster care services to present proposals for the
17.15 conversion of services provided for persons with developmental disabilities in settings
17.16 licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, to services to other
17.17 community settings in conjunction with the cessation of operations and closure of
17.18 identified facilities.

17.19 **Subd. 2. Inventory of foster care capacity.** The commissioner of human services
17.20 shall submit to the legislature by February 15, 2013, a report that includes:

17.21 (1) an inventory of the assessed needs of all individuals with disabilities receiving
17.22 foster care services under section 256B.092;

17.23 (2) an inventory of total licensed foster care capacity for adults and children
17.24 available in Minnesota as of January 1, 2013; and

17.25 (3) a comparison of the needs of individuals receiving services in foster care settings
17.26 and nonfoster care settings.

17.27 The report will also contain recommendations on developing a profile of individuals
17.28 requiring foster care services and the projected level of foster care capacity needed
17.29 to serve that population.

17.30 **Subd. 3. Applications for planned closure of adult foster care facilities.** (a) If
17.31 the report required in subdivision 2 determines the existing supply of foster care capacity
17.32 is higher than needed to meet the needs of individuals requiring that level of care, the
17.33 commissioner shall, within the limits of available appropriations, announce and implement
17.34 a program for closure of adult foster care homes. Names and identifying information

18.1 provided in response to the announcement shall remain private unless approved, according
18.2 to the timelines established in the plan.

18.3 (b) To be considered for approval, an application must include:

18.4 (1) a description of the proposed closure plan, which must include identification of
18.5 the home or homes to receive a planned closure rate adjustment;

18.6 (2) the proposed timetable for any proposed closure, including the proposed dates
18.7 for announcement to residents, commencement of closure, and completion of closure;

18.8 (3) the proposed relocation plan jointly developed by the county of financial
18.9 responsibility and the provider for current residents of any facility designated for closure;
18.10 and

18.11 (4) documentation in a format approved by the commissioner that all the adult foster
18.12 care homes receiving a planned closure rate adjustment under the plan have accepted joint
18.13 and several liability for recovery of overpayments under section 256B.0641, subdivision
18.14 2, for the facilities designated for closure under the plan.

18.15 Subd. 4. **Criteria for review of application.** (a) In reviewing and approving
18.16 closure proposals that the commissioner shall consider, the commissioner shall give first
18.17 priority to proposals that:

18.18 (1) result in the closing of a facility;

18.19 (2) demonstrate savings of medical assistance expenditures; and

18.20 (3) demonstrate that alternative placements will be developed based on individual
18.21 resident needs and applicable federal and state rules.

18.22 (b) The commissioner shall select proposals that best meet the criteria established
18.23 in this subdivision within the appropriations made available for planned closure of adult
18.24 foster care facilities. The commissioner shall notify providers of the selections made and
18.25 approved by the commissioner.

18.26 (c) For each proposal approved by the commissioner, a contract must be established
18.27 between the commissioner, the county of financial responsibility, and the participating
18.28 provider.

18.29 Subd. 5. **Adjustment to rates.** (a) For purposes of this section, the commissioner
18.30 shall establish an enhanced payment rate under section 256B.4913 to facilitate an orderly
18.31 transition for persons with developmental disabilities from adult foster care to other
18.32 community-based settings.

18.33 (b) The maximum length the commissioner may establish an enhanced rate is six
18.34 months.

19.1 (c) The commissioner shall analyze the fiscal impact of the closure of each facility
19.2 on medical assistance expenditures. Any savings is allocated to the medical assistance
19.3 program.

19.4 Sec. 13. Minnesota Statutes 2010, section 256D.44, subdivision 5, is amended to read:

19.5 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
19.6 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
19.7 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
19.8 center, or a group residential housing facility.

19.9 (a) The county agency shall pay a monthly allowance for medically prescribed
19.10 diets if the cost of those additional dietary needs cannot be met through some other
19.11 maintenance benefit. The need for special diets or dietary items must be prescribed by
19.12 a licensed physician. Costs for special diets shall be determined as percentages of the
19.13 allotment for a one-person household under the thrifty food plan as defined by the United
19.14 States Department of Agriculture. The types of diets and the percentages of the thrifty
19.15 food plan that are covered are as follows:

19.16 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

19.17 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
19.18 of thrifty food plan;

19.19 (3) controlled protein diet, less than 40 grams and requires special products, 125
19.20 percent of thrifty food plan;

19.21 (4) low cholesterol diet, 25 percent of thrifty food plan;

19.22 (5) high residue diet, 20 percent of thrifty food plan;

19.23 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

19.24 (7) gluten-free diet, 25 percent of thrifty food plan;

19.25 (8) lactose-free diet, 25 percent of thrifty food plan;

19.26 (9) antidumping diet, 15 percent of thrifty food plan;

19.27 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

19.28 (11) ketogenic diet, 25 percent of thrifty food plan.

19.29 (b) Payment for nonrecurring special needs must be allowed for necessary home
19.30 repairs or necessary repairs or replacement of household furniture and appliances using
19.31 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
19.32 as long as other funding sources are not available.

19.33 (c) A fee for guardian or conservator service is allowed at a reasonable rate
19.34 negotiated by the county or approved by the court. This rate shall not exceed five percent

20.1 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
20.2 guardian or conservator is a member of the county agency staff, no fee is allowed.

20.3 (d) The county agency shall continue to pay a monthly allowance of \$68 for
20.4 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
20.5 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
20.6 until the person has not received Minnesota supplemental aid for one full calendar month
20.7 or until the person's living arrangement changes and the person no longer meets the criteria
20.8 for the restaurant meal allowance, whichever occurs first.

20.9 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
20.10 is allowed for representative payee services provided by an agency that meets the
20.11 requirements under SSI regulations to charge a fee for representative payee services. This
20.12 special need is available to all recipients of Minnesota supplemental aid regardless of
20.13 their living arrangement.

20.14 (f)(1) Notwithstanding the language in this subdivision, an amount equal to the
20.15 maximum allotment authorized by the federal Food Stamp Program for a single individual
20.16 which is in effect on the first day of July of each year will be added to the standards of
20.17 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify
20.18 as shelter needy and are: (i) relocating from an institution, or an adult mental health
20.19 residential treatment program under section 256B.0622; (ii) eligible for the self-directed
20.20 supports option as defined under section 256B.0657, subdivision 2; or (iii) home and
20.21 community-based waiver recipients living in their own home or rented or leased apartment
20.22 which is not owned, operated, or controlled by a provider of service not related by blood
20.23 or marriage, unless allowed under paragraph (g).

20.24 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the
20.25 shelter needy benefit under this paragraph is considered a household of one. An eligible
20.26 individual who receives this benefit prior to age 65 may continue to receive the benefit
20.27 after the age of 65.

20.28 (3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
20.29 exceed 40 percent of the assistance unit's gross income before the application of this
20.30 special needs standard. "Gross income" for the purposes of this section is the applicant's or
20.31 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
20.32 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
20.33 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
20.34 considered shelter needy for purposes of this paragraph.

20.35 (g) Notwithstanding this subdivision, to access housing and services as provided
20.36 in paragraph (f), the recipient may choose housing that may be owned, operated, or

21.1 controlled by the recipient's service provider. In a multifamily building ~~of four or more~~
21.2 ~~units, the maximum number of apartments that may be used by recipients of this program~~
21.3 ~~shall be 50 percent of the units in a building. This paragraph expires on June 30, 2012.~~
21.4 the service provider shall implement a plan with the recipient to transition the lease to
21.5 the recipient's name. Within two years of signing the initial lease, the service provider
21.6 shall transfer the lease entered into under this subdivision to the recipient. In the event the
21.7 landlord denies this transfer, the commissioner may approve an exception within sufficient
21.8 time to ensure the continued occupancy by the recipient.

21.9 Sec. 14. **INNOVATION TASK FORCE.**

21.10 (a) The commissioner of human services shall appoint members to the Innovation
21.11 Task Force to review and make recommendations on provider or lead agency initiated
21.12 pilot projects in home and community-based services for people with disabilities that
21.13 otherwise would be limited by state-imposed regulatory or funding restrictions.

21.14 (b) The task force membership shall include: two providers of disability services;
21.15 one person receiving disability services or a family member; one advocate for people with
21.16 disabilities; one representative from the Disability Law Center; one county representative;
21.17 one representative from the National Alliance on Mental Illness-Minnesota; and three
21.18 representatives from the Department of Human Services, one from the mental health
21.19 division, one from the disability services division, and one from the licensing division.
21.20 Members of the task force shall serve three-year terms and shall not be reimbursed for
21.21 task force work or meetings.

21.22 (c) On January 1 and July 1 of each year, the commissioner shall issue a request for
21.23 proposals in the State Register for service providers or lead agencies to develop and
21.24 implement new models for residential services that support people with disabilities. The
21.25 task force shall review and recommend to the commissioner projects for implementation
21.26 twice per year.

21.27 (d) Each proposed pilot project must:

21.28 (1) spend no more in state and federal funding than is spent in total funding for the
21.29 affected service recipients;

21.30 (2) be two years in duration;

21.31 (3) have the informed consent of all affected recipients or their guardians;

21.32 (4) be based on recipients' individual needs and designed for specific quality
21.33 outcomes; and

22.1 (5) be evaluated by the task force after two years with recommendations to the
22.2 commissioner to either discontinue the pilot project or continue the pilot project with
22.3 no time limitation.

22.4 (e) The commissioner shall review the task force's recommendations for start-up or
22.5 continuation of pilot projects and may approve new and continued pilot projects twice
22.6 per year.

22.7 (f) If a pilot project is discontinued, the affected recipients may return to services
22.8 provided prior to the pilot project and shall have funding for services restored to prepilot
22.9 project levels.

22.10 (g) Providers or lead agencies whose pilot projects are not continued shall not be
22.11 penalized due to a pilot project's performance but remain accountable to state and federal
22.12 Medicaid, vulnerable adult, and maltreatment of minors laws.

22.13 Sec. 15. **HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH**
22.14 **DISABILITIES.**

22.15 Individuals receiving services under a home and community-based waiver may
22.16 receive services in the following settings:

22.17 (1) an individual's own home or family home;

22.18 (2) a licensed adult foster care setting of up to five people; and

22.19 (3) community living settings as defined in Minnesota Statutes, section 256B.49,
22.20 subdivision 23, regardless of the number of people living in the setting receiving services
22.21 under the home and community-based waiver.

22.22 The above settings must not:

22.23 (1) be located in a building that is a publicly or privately operated facility that
22.24 provides institutional treatment or custodial care;

22.25 (2) be located in a building on the grounds of or adjacent to a public institution;

22.26 (3) be a housing complex designed expressly around an individual's diagnosis or
22.27 disability unless state or federal funding for housing requires it;

22.28 (4) be segregated based on a disability, either physically or because of setting
22.29 characteristics, from the larger community; and

22.30 (5) have the qualities of an institution, unless specifically required in the individual's
22.31 plan developed with the lead agency case manager and legal guardian. The qualities of an
22.32 institution include, but are not limited to:

22.33 (i) regimented meal and sleep times;

22.34 (ii) limitations on visitors; and

22.35 (iii) lack of privacy.

23.1 The commissioner shall submit an amendment to the waiver plan no later than
23.2 December 31, 2012.

23.3 Sec. 16. **INDEPENDENT LIVING SERVICES BILLING.**

23.4 The commissioner shall allow for daily rate and 15-minute increment billing for
23.5 independent living services under the brain injury (BI) and CADI waivers. If necessary to
23.6 comply with this requirement, the commissioner shall submit a waiver amendment to the
23.7 state plan no later than December 31, 2012.