45A.06 DELAYING DISBURSEMENTS.

Subdivision 1. **Broker-dealers and investment advisers.** (a) A broker-dealer or investment adviser shall delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if the commissioner of commerce, law enforcement agency, or prosecuting attorney's office provides information to the broker-dealer or investment adviser demonstrating that it is reasonable to believe that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted. A broker-dealer or investment adviser may, but is not required to, delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) the broker-dealer or investment adviser reasonably believes, after initiating an internal review of the requested disbursement or transaction and the suspected financial exploitation, that the requested disbursement or transaction may result in financial exploitation of an eligible adult; and

(2) the broker-dealer or investment adviser:

(i) immediately, but in no event more than two business days after the delayed disbursement or transaction, provides written notification of the delay or hold and the reason for the delay or hold to all parties authorized to transact business on the account, unless the party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) immediately, but in no event more than two business days after the delayed disbursement or transaction, notifies the commissioner and the common entry point; and

(iii) provides documentation and updates of any internal review conducted by the broker-dealer or investment adviser upon request of the commissioner, lead investigative agency, law enforcement agency, or prosecuting attorney's office.

(b) A delay of a disbursement or hold on a transaction as authorized by this section expires upon the sooner of:

(1) the broker-dealer or investment adviser reasonably believes that the disbursement or transaction will not result in financial exploitation of the eligible adult if the broker-dealer or investment adviser initiated the delay of disbursement or hold on the transaction;

(2) a determination by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office that the disbursement or transaction will not result in financial exploitation of the eligible adult; or

(3) 15 business days after the date on which the broker-dealer or investment adviser first delayed disbursement of the funds or held the transaction, unless the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office requests that the broker-dealer or investment adviser extends the delay or hold, in which case the delay or hold expires no more than 25 business days after the date on which the broker-dealer or investment adviser first delayed disbursement or placed the hold on the transaction.

(c) An eligible adult or other interested person as defined in section 524.5-102 may appeal to the commissioner for the termination of the delay of the disbursement of funds or hold on the transaction. A broker-dealer or investment adviser must notify the eligible adult or interested person of the right to appeal. The commissioner shall issue a decision within five business days of receiving the appeal. A decision of the

commissioner may be reviewed consistent with the contested case proceeding procedure provided in chapter 14.

(d) Provided that a broker-dealer's or investment adviser's internal review of the suspected or attempted financial exploitation of the eligible adult supports the broker-dealer's or investment adviser's reasonable belief that financial exploitation of the eligible adult has occurred, has been attempted, or is being attempted, the temporary delay or hold may be extended by the broker-dealer or investment adviser for no longer than ten business days following the date authorized by paragraph (b), clause (3), unless otherwise terminated or extended by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office or an order of a court.

Subd. 2. **Financial services providers.** (a) A financial services provider shall delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if the commissioner of commerce, law enforcement agency, or prosecuting attorney's office provides information to the financial services provider demonstrating that it is reasonable to believe that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted. A financial services provider may, but is not required to, delay a disbursement from or place a hold on a transaction involving an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) the financial services provider reasonably believes, after initiating an internal review of the requested disbursement or transaction and the suspected financial exploitation, that the requested disbursement or transaction may result in financial exploitation of an eligible adult; and

(2) the financial services provider:

(i) immediately, but in no event more than two business days after the delayed disbursement or transaction, provides written notification of the delay or hold and the reason for the delay or hold to all parties authorized to transact business on the account, unless the party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) immediately, but in no event more than two business days after the delayed or held disbursement or transaction, notifies the common entry point and may notify the commissioner; and

(iii) provides documentation and updates of any internal review conducted by the financial services provider upon request of the commissioner, lead investigative agency, law enforcement agency, or prosecuting attorney's office.

(b) A delay of a disbursement or hold on a transaction as authorized by this section expires upon the sooner of:

(1) the financial services provider reasonably believes that the disbursement or transaction will not result in financial exploitation of the eligible adult if the financial services provider initiated the delay of disbursement or hold on the transaction;

(2) a determination by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office that the disbursement or transaction will not result in financial exploitation of the eligible adult; or

(3) 15 business days after the date on which the financial services provider first delayed disbursement of the funds or held the transaction, unless the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office requests that the financial services provider extends the delay or

hold, in which case the delay or hold expires no more than 25 business days after the date on which the financial services provider first delayed disbursement or placed the hold on the transaction.

(c) An eligible adult or other interested person as defined in section 524.5-102 may appeal to the commissioner for the termination of the delay of the disbursement of funds or hold on the transaction. A financial services provider must notify the eligible adult or interested person of the right to appeal. The commissioner shall issue a decision within five business days of receiving the appeal. A decision of the commissioner may be reviewed consistent with the contested case proceeding procedure provided in chapter 14.

(d) Provided that a financial services provider's internal review of the suspected or attempted financial exploitation of the eligible adult supports the financial services provider's reasonable belief that financial exploitation of the eligible adult has occurred, has been attempted, or is being attempted, the temporary delay or hold may be extended by the financial services provider for no longer than ten business days following the date authorized by paragraph (b), clause (3), unless otherwise terminated or extended by the commissioner, law enforcement agency, lead investigative agency, or prosecuting attorney's office or an order of a court.

History: *2018 c 161 s 6; 2018 c 213 s 9; 2020 c 85 s 6*