CHAPTER 259A

ADOPTION ASSISTANCE

NOTE: A transfer of a power or responsibility in this chapter to the Department of Children, Youth, and Families is effective upon notice of the commissioner of children, youth, and families to the commissioners of administration, management and budget, and other relevant departments along with the secretary of the senate, the chief clerk of the house of representatives, and the chairs and ranking minority members of the relevant legislative committees and divisions. Laws 2024, chapter 80, article 8, section 72, Laws 2023, chapter 70, article 12, section 30.

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259A.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them except as otherwise indicated by the context.

Subd. 2. **Adoption assistance.** "Adoption assistance" means medical coverage and reimbursement of nonrecurring adoption expenses, and may also include financial support and reimbursement for specific nonmedical expenses provided under agreement with the parent of an adoptive child who would otherwise remain in foster care and whose special needs would otherwise make it difficult to place the child for adoption. Financial support may include a basic maintenance payment and a supplemental needs payment.

Subd. 3. **Adoptive parent.** "Adoptive parent" means the adult who has been made the legal parent of a child through a court-ordered adoption decree or a customary adoption through Tribal court.

Subd. 4. **AFDC.** "AFDC" means the aid to families with dependent children program under sections 142A.418, 518A.81, and 518A.82.

Subd. 5. **Assessment.** "Assessment" means the process by which the child-placing agency determines the benefits an eligible child may receive under this chapter.

Subd. 6. **At-risk child.** "At-risk child" means a child who does not have a documented disability but who is at risk of developing a physical, mental, emotional, or behavioral disability based on being related within the first or second degree to persons who have an inheritable physical, mental, emotional, or behavioral disabling condition, or from a background that has the potential to cause the child to develop a physical, mental, emotional, or behavioral disability that the child is at risk of developing. The disability must manifest during childhood.

Subd. 7. **Basic maintenance payment.** "Basic maintenance payment" means the maintenance payment made on behalf of a child to support the costs an adoptive parent incurs to meet a child's needs consistent

with the care parents customarily provide, including: food, clothing, shelter, daily supervision, school supplies, and a child's personal incidentals. It also supports reasonable travel to participate in face-to-face visitation between child and birth relatives, including siblings.

Subd. 8. **Child.** "Child" means an individual under 18 years of age. For purposes of this chapter, child also includes individuals up to age 21 who have approved adoption assistance agreement extensions under section 259A.45, subdivision 1.

Subd. 9. **Child-placing agency.** "Child-placing agency" means a business, organization, or department of government, including the responsible social services agency or a federally recognized Minnesota Tribe, designated or authorized by law to place children for adoption and assigned legal responsibility for placement, care, and supervision of the child through a court order, voluntary placement agreement, or voluntary relinquishment.

Subd. 10. **Child under guardianship of the commissioner of children, youth, and families.** "Child under guardianship of the commissioner of children, youth, and families" means a child the court has ordered under the guardianship of the commissioner of children, youth, and families pursuant to section 260C.325.

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of children, youth, and families or any employee of the Department of Children, Youth, and Families to whom the commissioner has delegated authority regarding children under the commissioner's guardianship.

Subd. 12. **Consent of parent to adoption under chapter 260C.** "Consent of parent to adoption under chapter 260C" means the consent executed pursuant to section 260C.515, subdivision 3.

Subd. 13. **Department.** "Department" means the Minnesota Department of Children, Youth, and Families.

Subd. 14. **Disability.** "Disability" means a physical, mental, emotional, or behavioral impairment that substantially limits one or more major life activities. Major life activities include, but are not limited to: thinking, walking, hearing, breathing, working, seeing, speaking, communicating, learning, developing and maintaining healthy relationships, safely caring for oneself, and performing manual tasks. The nature, duration, and severity of the impairment shall be used in determining if the limitation is substantial.

Subd. 15. **Foster care.** "Foster care" has the meaning given in section 260C.007, subdivision 18.

Subd. 16. **Guardian.** "Guardian" means an adult who is appointed pursuant to section 260C.325. For a child under guardianship of the commissioner, the child's guardian is the commissioner of children, youth, and families.

Subd. 17. **Guardianship.** "Guardianship" means the court-ordered rights and responsibilities of the guardian of a child and includes legal custody of the child.

Subd. 18. **Indian child.** "Indian child" has the meaning given in section 260.755, subdivision 8.

Subd. 19. **Legal custodian.** "Legal custodian" means a person to whom permanent legal and physical custody of a child has been transferred under chapter 260C, or for children under Tribal court jurisdiction, a similar provision under Tribal code which means that the individual responsible for the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 20. **Medical assistance.** "Medical assistance" means Minnesota's implementation of the federal Medicaid program.

Subd. 21. **Parent.** "Parent" has the meaning given in section 257.52. Parent does not mean a putative father of a child unless the putative father also meets the requirements of section 257.55 or unless the putative father is entitled to notice under section 259.49, subdivision 1. For matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by Tribal law or custom, as provided in section 260.755, subdivision 14, and does not include the unwed father where paternity has not been acknowledged or established.

Subd. 22. **Permanent legal and physical custody.** "Permanent legal and physical custody" means permanent legal and physical custody ordered by a Minnesota court under section 260C.515, subdivision 4, or for children under Tribal court jurisdiction, a similar provision under Tribal code which means that the individual with permanent legal and physical custody of the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

Subd. 23. **Preadoptive parent.** "Preadoptive parent" means an adult who is caring for a child in an adoptive placement, but where the court has not yet ordered a final decree of adoption making the adult the legal parent of the child.

Subd. 24. **Reassessment.** "Reassessment" means an update of a previous assessment through the process under this chapter completed for a child who has been continuously eligible for this benefit.

Subd. 25. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative means a person who is a member of the Indian child's family as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

Subd. 26. **Relative search.** "Relative search" means the search that is required under section 260C.221.

Subd. 27. **Sibling.** "Sibling" has the meaning given in section 260C.007, subdivision 32.

Subd. 28. **Social and medical history.** "Social and medical history" means the document, on a form or forms prescribed by the commissioner, that contains a child's genetic, medical, and family background as well as the history and current status of a child's physical and mental health, behavior, demeanor, foster care placements, education, and family relationships and has the same meaning as the history required under sections 259.43 and 260C.609.

Subd. 29. **Supplemental needs payment.** "Supplemental needs payment" means the payment which is negotiated with the adoptive parent for a child who has a documented physical, mental, emotional, or behavioral disability. The payment is made based on the requirements associated with parenting duties to nurture the child, preserve the child's connections, and support the child's functioning in the home.

Subd. 30. **Termination of parental rights.** "Termination of parental rights" means a court order that severs all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support, existing between a parent and child. For an Indian child who is a ward of Tribal court, termination of parental rights means any action resulting in the termination or suspension of the parent-child relationship when the Tribe has made a judicial determination that the child cannot or should not be returned to the home of the child's parent or parents.

History: *2012 c 216 art 3 s 1; art 6 s 13; 2015 c 78 art 1 s 11; 2024 c 80 art 1 s 96; art 8 s 68,70; 2024 c 115 art 16 s 34*

259A.05 PROGRAM ADMINISTRATION.

Subdivision 1. **Administration of title IV-E program.** The title IV-E Adoption Assistance Program shall operate according to the requirements of United States Code, title 42, sections 671 and 673, and Code of Federal Regulations, parts 1355 and 1356.

Subd. 2. **Administration responsibilities.** (a) AFDC relatedness is one eligibility component of title IV-E adoption assistance. The AFDC relatedness determination shall be made by an agency according to policies and procedures prescribed by the commissioner.

(b) Subject to commissioner approval, the child-placing agency shall certify a child's eligibility for adoption assistance in writing on the forms prescribed by the commissioner according to section 259A.15.

(c) Children who meet all eligibility criteria, except those specific to title IV-E, shall receive adoption assistance paid through state funds.

(d) The child-placing agency is responsible for assisting the commissioner with the administration of the adoption assistance program by conducting assessments, reassessments, negotiations, and other activities as specified by the requirements and procedures prescribed by the commissioner.

(e) The child-placing agency shall notify an adoptive parent of a child's eligibility for Medicaid in the state of residence. In Minnesota, the child-placing agency shall refer the adoptive parent to the appropriate social service agency in the parent's county of residence that administers medical assistance. The child-placing agency shall inform the adoptive parent of the requirement to comply with the rules of the applicable Medicaid program.

Subd. 3. **Procedures, requirements, and deadlines.** The commissioner shall specify procedures, requirements, and deadlines for the administration of adoption assistance in accordance with this section.

Subd. 4. **Promotion of programs.** (a) Parents who adopt children with special needs must be informed of the adoption tax credit.

(b) The commissioner shall actively seek ways to promote the adoption assistance program, including informing prospective adoptive parents of eligible children under guardianship of the commissioner and the availability of adoption assistance.

Subd. 5. **Transfer of funds.** The commissioner of children, youth, and families may transfer funds into the adoption assistance account when a deficit in the adoption assistance program occurs.

History: *1986 c 414 s 3; 1994 c 631 s 31; 1Sp2003 c 14 art 11 s 11; 2012 c 216 art 3 s 2; art 6 s 2,13; 2024 c 80 art 8 s 70*

259A.10 ELIGIBILITY REQUIREMENTS.

Subdivision 1. **General eligibility requirements.** (a) To be eligible for adoption assistance, a child must:

(1) be determined to be a child with special needs, according to subdivision 2;

(2) meet the applicable citizenship and immigration requirements in subdivision 3; and

(3)(i) meet the criteria outlined in section 473 of the Social Security Act; or

(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or Tribal social service agency and be a child under the guardianship of the commissioner or a ward of Tribal court.

(b) In addition to the requirements in paragraph (a), the child's adoptive parents must meet the applicable background study requirements outlined in subdivision 4.

Subd. 2. **Special needs determination.** (a) A child is considered a child with special needs under this section if all of the requirements in paragraphs (b) to (g) are met.

(b) There has been a determination that the child cannot or should not be returned to the home of the child's parents as evidenced by:

(1) court-ordered termination of parental rights;

(2) petition to terminate parental rights;

(3) consent of parent to adoption accepted by the court under chapter 260C;

(4) in circumstances where Tribal law permits the child to be adopted without a termination of parental rights, a judicial determination by Tribal court indicating the valid reason why the child cannot or should not return home;

(5) voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment occurred in another state, the applicable laws in that state; or

(6) death of the legal parent, or parents if the child has two legal parents.

(c) There exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance as evidenced by:

(1) determination by the Social Security Administration that the child meets all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits;

(2) documented physical, mental, emotional, or behavioral disability not covered under clause (1);

(3) a member in a sibling group being adopted at the same time by the same parent;

(4) adoptive placement in the home of a parent who previously adopted a sibling for whom they receive adoption assistance; or

(5) documentation that the child is an at-risk child.

(d) A reasonable but unsuccessful effort was made to place the child with adoptive parents without providing adoption assistance as evidenced by:

(1) a documented search for an appropriate adoptive placement; or

(2) determination by the commissioner that a search under clause (1) is not in the best interests of the child.

(e) The requirement for a documented search for an appropriate adoptive placement under paragraph (d), including the registration of the child with the State Adoption Exchange and other recruitment methods under paragraph (f), must be waived if:

(1) the child is being adopted by a relative and it is determined by the child-placing agency that adoption by the relative is in the best interests of the child;

(2) the child is being adopted by a foster parent with whom the child has developed significant emotional ties while in their care as a foster child and it is determined by the child-placing agency that adoption by the foster parent is in the best interests of the child; or

(3) the child is being adopted by a parent that previously adopted a sibling of the child, and it is determined by the child-placing agency that adoption by this parent is in the best interests of the child.

When the Indian Child Welfare Act applies, a waiver must not be granted unless the child-placing agency has complied with the placement preferences required by the Indian Child Welfare Act according to United States Code, title 25, section 1915(a).

(f) To meet the requirement of a documented search for an appropriate adoptive placement under paragraph (d), clause (1), the child-placing agency minimally must:

(1) conduct a relative search as required by section 260C.221 and give consideration to placement with a relative as required by section 260C.212, subdivision 2;

(2) comply with the adoptive placement preferences required under the Indian Child Welfare Act when the Indian Child Welfare Act, United States Code, title 25, section 1915(a), applies;

(3) locate prospective adoptive families by registering the child on the State Adoption Exchange, as required under section 259.75; and

(4) if registration with the State Adoption Exchange does not result in the identification of an appropriate adoptive placement, employ additional recruitment methods, as outlined in requirements and procedures prescribed by the commissioner.

(g) Once the child-placing agency has determined that placement with an identified parent is in the child's best interest and has made full written disclosure about the child's social and medical history, the agency must ask the prospective adoptive parent if they are willing to adopt the child without adoption assistance. If the identified parent is either unwilling or unable to adopt the child without adoption assistance, the child-placing agency must provide documentation as prescribed by the commissioner to fulfill the requirement to make a reasonable effort to place the child without adoption assistance. If the identified parent desires to adopt the child without adoption assistance, the parent must provide a written statement to this effect to the child-placing agency and the statement must be maintained in the permanent adoption record of the child-placing agency. For children under guardianship of the commissioner, the child-placing agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

Subd. 3. **Citizenship and immigration status.** (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for the title IV-E Adoption Assistance Program.

(b) A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded adoption assistance.

Subd. 4. **Background study.** A background study under section 259.41 must be completed on each prospective adoptive parent. An adoptive parent is prohibited from receiving adoption assistance on behalf of an otherwise eligible child if the background study reveals:

(1) a felony conviction at any time for:

(i) child abuse or neglect;

(ii) spousal abuse;

(iii) a crime against children, including child pornography; or

(iv) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a felony conviction within the past five years for:

(i) physical assault;

(ii) battery; or

(iii) a drug-related offense.

Subd. 5. **Responsibility for determining adoption assistance eligibility.** The state will determine eligibility for:

(1) a Minnesota child under the guardianship of the commissioner who would otherwise remain in foster care;

(2) a child who is not under the guardianship of the commissioner who meets title IV-E eligibility defined in section 473 of the Social Security Act and no state agency has legal responsibility for placement and care of the child;

(3) a Minnesota child under Tribal jurisdiction who would otherwise remain in foster care; and

(4) an Indian child being placed in Minnesota who meets title IV-E eligibility defined in section 473 of the Social Security Act. The agency or entity assuming responsibility for the child is responsible for the nonfederal share of the adoption assistance payment.

Subd. 6. **Exclusions.** The commissioner shall not enter into an adoption assistance agreement with:

(1) a child's biological parent or stepparent;

(2) a child's relative, according to section 260C.007, subdivision 26b or 27, with whom the child resided immediately prior to child welfare involvement unless:

(i) the child was in the custody of a Minnesota county or Tribal agency pursuant to an order under chapter 260C or equivalent provisions of Tribal code and the agency had placement and care responsibility for permanency planning for the child; and

(ii) the child is under guardianship of the commissioner of children, youth, and families according to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota Tribal court after termination of parental rights, suspension of parental rights, or a finding by the Tribal court that the child cannot safely return to the care of the parent;

(3) a child's legal custodian or guardian who is now adopting the child;

(4) an individual adopting a child who is the subject of a direct adoptive placement under section 259.47 or the equivalent in Tribal code; or

(5) an individual who is adopting a child who is not a citizen or resident of the United States and was either adopted in another country or brought to this country for the purposes of adoption.

History: *2012 c 216 art 3 s 3; art 6 s 13; 2015 c 78 art 1 s 12; 2024 c 80 art 8 s 70*

259A.12 NO NEW EXECUTION OF ADOPTION ASSISTANCE AGREEMENTS.

After November 26, 2014, new adoption assistance agreements must not be executed under this section. Agreements that were signed on or before November 26, 2014, and were not in effect because the adoption finalization of the child did not occur on or before November 26, 2014, must be renegotiated according to the terms of Northstar Care for Children under sections 142A.60 to 142A.612. Agreements signed and in effect on or before November 26, 2014, must continue according to the terms of this section and applicable rules for the duration of the agreement, unless the commissioner and the adoptive parents choose to renegotiate the agreements under Northstar Care for Children consistent with section 142A.612, subdivision 7. After November 26, 2014, this section and associated rules must be referred to as the pre-Northstar Care for Children adoption assistance program and shall apply to children whose adoption assistance agreements were in effect on or before November 26, 2014, and whose adoptive parents have not renegotiated their agreements according to the terms of Northstar Care for Children.

History: *2013 c 108 art 17 s 19; 2024 c 80 art 1 s 96; 2024 c 115 art 16 s 34*

259A.15 ESTABLISHMENT OF ADOPTION ASSISTANCE ELIGIBILITY.

Subdivision 1. **Adoption assistance certification.** (a) The child-placing agency shall certify a child as eligible for adoption assistance according to requirements and procedures, and on forms prescribed by the commissioner. Documentation from a qualified expert must be provided to verify that a child meets the special needs criteria in section 259A.10, subdivision 2.

(b) Expert documentation of a disability is limited to evidence deemed appropriate by the commissioner and must be submitted with the certification. Examples of appropriate documentation include, but are not limited to, medical records, psychological assessments, educational or early childhood evaluations, court findings, and social and medical history.

(c) Documentation that the child is an at-risk child must be submitted according to requirements and procedures prescribed by the commissioner.

Subd. 2. **Adoption assistance agreement.** (a) An adoption assistance agreement is a binding contract between the adopting parent, the child-placing agency, and the commissioner. The agreement outlines the benefits to be provided on behalf of an eligible child.

(b) In order to receive adoption assistance benefits, a written agreement on a form prescribed by the commissioner must be signed by the parent, an approved representative from the child-placing agency, and the commissioner prior to the effective date of the adoption decree. No later than 30 days after the parent is approved for the adoptive placement, the agreement must be negotiated with the parent as required in section 259A.25, subdivision 1. Adoption assistance must be approved or denied by the commissioner no later than 15 business days after the receipt of a complete adoption assistance application prescribed by the commissioner. A fully executed copy of the signed agreement must be given to each party. Termination or

disruption of the adoptive placement preceding adoption finalization makes the agreement with that parent void.

(c) The agreement must specify the following:

(1) the duration of the agreement;

(2) the nature and amount of any payment, services, and assistance to be provided under the agreement;

(3) the child's eligibility for Medicaid services;

(4) the terms of the payment;

(5) eligibility for reimbursement of nonrecurring expenses associated with adopting the child, to the extent that the total cost does not exceed $2,000 per child;

(6) that the agreement will remain in effect regardless of the state in which the adoptive parent resides at any given time;

(7) provisions for modification of the terms of the agreement; and

(8) the effective date of the agreement.

(d) The agreement is effective on the date of the adoption decree.

Subd. 3. **Assessment tool.** An assessment tool prescribed by the commissioner must be completed for any child who has a documented disability that necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to children of the same age. This assessment tool must be submitted with the adoption assistance certification and establishes eligibility for the amount of assistance requested.

History: *2012 c 216 art 3 s 4*

259A.20 BENEFITS AND PAYMENTS.

Subdivision 1. **General information.** (a) Payments to parents under adoption assistance must be made monthly.

(b) Payments must commence when the commissioner receives the adoption decree from the court, the child-placing agency, or the parent. Payments must be made according to requirements and procedures prescribed by the commissioner.

(c) Payments shall only be made to the adoptive parent specified on the agreement. If there is more than one adoptive parent, both parties must be listed as the payee unless otherwise specified in writing according to requirements and procedures prescribed by the commissioner.

(d) Payment must be considered income and resource attributable to the child. Payment must not be assigned or transferred to another party. Payment is exempt from garnishment, except as permissible under the laws of the state where the child resides.

Subd. 2. **Medical assistance eligibility.** Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

Subd. 3. **Payments.** (a) The basic maintenance payments must be made according to the following schedule for all children except those eligible for adoption assistance based on being an at-risk child:

Birth through age five	up to $247 per month
Age six through age 11	up to $277 per month
Age 12 through age 14	up to $307 per month
Age 15 and older	up to $337 per month

A child must receive the maximum payment amount for the child's age, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(b) Supplemental needs payments, in addition to basic maintenance payments, are available based on the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following amounts:

Level I	up to $150 per month
Level II	up to $275 per month
Level III	up to $400 per month
Level IV	up to $500 per month

A child's level shall be assessed on an assessment tool prescribed by the commissioner. A child must receive the maximum payment for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

Subd. 4. **Reimbursement for special nonmedical expenses.** (a) Reimbursement for special nonmedical expenses is available to children, except those eligible for adoption assistance based on being an at-risk child.

(b) Reimbursements under this paragraph shall be made only after the adoptive parent documents that the requested service was denied by the local social service agency, community agencies, the local school district, the local public health department, the parent's insurance provider, or the child's program. The denial must be for an eligible service or qualified item under the program requirements of the applicable agency or organization.

(c) Reimbursements must be previously authorized, adhere to the requirements and procedures prescribed by the commissioner, and be limited to:

(1) child care for a child age 12 and younger, or for a child age 13 or 14 who has a documented disability that requires special instruction for and services by the child care provider. Child care reimbursements may be made if all available adult caregivers are employed, unemployed due to a disability as defined in section 259A.01, subdivision 14, or attending educational or vocational training programs. Documentation from a qualified expert that is dated within the last 12 months must be provided to verify the disability. If a parent is attending an educational or vocational training program, child care reimbursement is limited to no more than the time necessary to complete the credit requirements for an associate or baccalaureate degree as determined by the educational institution. Child care reimbursement is not limited for an adoptive parent completing basic or remedial education programs needed to prepare for postsecondary education or employment;

(2) respite care provided for the relief of the child's parent up to 504 hours of respite care annually;

(3) camping up to 14 days per state fiscal year for a child to attend a special needs camp. The camp must be accredited by the American Camp Association as a special needs camp in order to be eligible for camp reimbursement;

(4) postadoption counseling to promote the child's integration into the adoptive family that is provided by the placing agency during the first year following the date of the adoption decree. Reimbursement is limited to 12 sessions of postadoption counseling;

(5) family counseling that is required to meet the child's special needs. Reimbursement is limited to the prorated portion of the counseling fees allotted to the family when the adoptive parent's health insurance or Medicaid pays for the child's counseling but does not cover counseling for the rest of the family members;

(6) home modifications to accommodate the child's special needs upon which eligibility for adoption assistance was approved. Reimbursement is limited to once every five years per child;

(7) vehicle modifications to accommodate the child's special needs upon which eligibility for adoption assistance was approved. Reimbursement is limited to once every five years per family; and

(8) burial expenses up to $1,000, if the special needs, upon which eligibility for adoption assistance was approved, resulted in the death of the child.

(d) The adoptive parent shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption assistance unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

History: *2012 c 216 art 3 s 5; 2013 c 108 art 3 s 36*

259A.25 DETERMINATION OF ADOPTION ASSISTANCE BENEFITS AND PAYMENT.

Subdivision 1. **Negotiation of adoption assistance agreement.** (a) A monthly payment is provided as part of the adoption assistance agreement to support the care of a child who has manifested special needs. The amount of the payment made on behalf of a child eligible for adoption assistance is determined through negotiation between the adoptive parent and the child-placing agency on behalf of the commissioner. The negotiation shall take into consideration the circumstances of the adopting parent and the needs of the child being adopted. The income of the adoptive parent must not be taken into consideration when determining eligibility for adoption assistance or the amount of the payments under section 259A.20. At the written request of the adoptive parent, the amount of the payment in the agreement may be renegotiated when there is a change in the child's needs or the family's circumstances.

(b) The adoption assistance agreement of a child who is identified as an at-risk child must not include a monthly payment unless and until the potential disability upon which the eligibility for the agreement was based has manifested during childhood.

Subd. 2. **Renegotiation of adoption assistance agreement.** (a) An adoptive parent of a child with an adoption assistance agreement may request renegotiation of the agreement when there is a change in the needs of the child or in the family's circumstances. When an adoptive parent requests renegotiation of the agreement, a reassessment of the child must be completed by: (1) the responsible social services agency in the child's county of residence; or (2) the child-placing agency that facilitated the adoption when the child's residence is out of state. If the reassessment indicates that the child's needs have changed, the child-placing agency, on behalf of the commissioner and the parent, shall renegotiate the agreement to include a payment of the level determined appropriate through the reassessment process using the assessment tool prescribed by the commissioner according to section 259A.15, subdivision 3. The agreement must not be renegotiated

unless the commissioner and the parent mutually agree to the changes. The effective date of any renegotiated agreement must be determined according to requirements and procedures prescribed by the commissioner.

(b) An adoptive parent of a child with an adoption assistance agreement based on the child being an at-risk child may request renegotiation of the agreement to include a monthly payment. The parent must have written documentation from a qualified expert that the potential disability upon which eligibility for adoption assistance was approved has manifested. Documentation of the disability must be limited to evidence deemed appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of the child must be conducted using an assessment tool prescribed by the commissioner according to section 259A.15, subdivision 3. The reassessment must be used to renegotiate the agreement to include an appropriate monthly payment. The agreement must not be renegotiated unless the commissioner and the adoptive parent mutually agree to the changes. The effective date of any renegotiated agreement must be determined according to requirements and procedures prescribed by the commissioner.

Subd. 3. **Child income or income attributable to the child.** No income received by a child will be considered in determining a child's adoption assistance payment amount. If a child for whom a parent is receiving adoption assistance is also receiving Supplemental Security Income (SSI) or Retirement, Survivors, Disability Insurance (RSDI), the certifying agency shall inform the adoptive parent that the child's adoption assistance must be reported to the Social Security Administration.

History: *2012 c 216 art 3 s 6*

259A.30 REPORTING RESPONSIBILITIES.

Subdivision 1. **Notification of change.** (a) An adoptive parent who has an adoption assistance agreement shall keep the agency administering the program informed of changes in status or circumstances that would make the child ineligible for the payments or eligible for payments in a different amount.

(b) As long as the agreement is in effect, the adoptive parent agrees to notify the agency administering the program in writing within 30 days of any of the following changes:

(1) the child's or adoptive parent's legal name;

(2) the family's address;

(3) the child's legal custody status;

(4) the child's completion of high school, if this occurs after the child attains age 18;

(5) the end of an adoptive parent's legal responsibility to support the child based on termination of parental rights of the adoptive parent, transfer of guardianship to another person, or transfer of permanent legal and physical custody to another person;

(6) the end of an adoptive parent's financial support of the child;

(7) the death of the child;

(8) the death of the adoptive parent;

(9) the child enlists in the military;

(10) the child gets married;

(11) the child becomes an emancipated minor through legal action;

(12) the adoptive parents separate or divorce;

(13) the child is residing outside the adoptive home for a period of more than 30 consecutive days; and

(14) the child's status upon which eligibility for extension under section 259A.45, subdivision 2 or 3, was based.

Subd. 2. **Correct and true information.** If the adoptive parent reports information the adoptive parent knows is untrue, the adoptive parent fails to notify the commissioner of changes that may affect eligibility, or the agency administering the program receives information the adoptive parent did not report, the adoptive parent may be investigated for theft and, if charged and convicted, shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5).

History: *2012 c 216 art 3 s 7*

259A.35 TERMINATION OF AGREEMENT.

Subdivision 1. **Reasons for termination.** (a) An adoption assistance agreement shall terminate in any of the following circumstances:

(1) the child has attained the age of 18, or up to age 21, when the child meets a condition for extension as outlined in section 259A.45, subdivision 1;

(2) the child has not attained the age of 18, but the commissioner determines the adoptive parent is no longer legally responsible for support of the child;

(3) the commissioner determines the adoptive parent is no longer providing financial support to the child up to age 21;

(4) the death of the child; or

(5) the adoptive parent requests in writing termination of the adoption assistance agreement.

(b) An adoptive parent is considered no longer legally responsible for support of the child in any of the following circumstances:

(1) parental rights to the child are legally terminated or a court accepted the parent's consent to adoption under chapter 260C;

(2) permanent legal and physical custody or guardianship of the child is transferred to another individual;

(3) the death of adoptive parent;

(4) the child enlists in the military;

(5) the child gets married; or

(6) the child is determined an emancipated minor through legal action.

Subd. 2. **Death of adoptive parent or adoption dissolution.** The adoption assistance agreement ends upon death or termination of parental rights of both adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption. The child's adoption assistance eligibility may be continued according to section 259A.40.

Subd. 3. **Termination notice for parent.** The commissioner shall provide the child's parent written notice of termination of payment. Termination notices must be sent according to the requirements and procedures prescribed by the commissioner.

History: *2012 c 216 art 3 s 8*

259A.40 ASSIGNMENT OF ADOPTION ASSISTANCE AGREEMENT.

Subdivision 1. **Continuing child's eligibility for title IV-E adoption assistance in a subsequent adoption.** (a) The child maintains eligibility for title IV-E adoption assistance in a subsequent adoption if the following criteria are met:

(1) the child is determined to be a child with special needs as outlined in section 259A.10, subdivision 2; and

(2) the subsequent adoptive parent resides in Minnesota.

(b) If the child had a title IV-E adoption assistance agreement prior to the death of the adoptive parent or dissolution of the adoption, and the subsequent adoptive parent resides outside of Minnesota, the state is not responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and making any adoption assistance payments outlined in the new agreement unless a state agency in Minnesota has responsibility for placement and care of the child at the time of the subsequent adoption. If there is no state agency in Minnesota that has responsibility for placement and care of the child at the time of the subsequent adoption, it is the public child welfare agency in the subsequent adoptive parent's residence that is responsible for determining whether the child meets the definition of special needs and entering into the adoption assistance agreement.

Subd. 2. **Assigning a child's adoption assistance to a court-appointed guardian.** (a) State-funded adoption assistance may be continued with the written consent of the commissioner to an individual who is a guardian appointed by a court for the child upon the death of both the adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption, unless the child is under the custody of a child-placing agency.

(b) Temporary assignment of adoption assistance may be approved by the commissioner for a maximum of six consecutive months from the death of the parent or parents and must adhere to the requirements and procedures prescribed by the commissioner. If, within six months, the child has not been adopted by a person agreed upon by the commissioner, or if a court has not appointed a legal guardian under either section 260C.325 or 524.5-313, or similar law of another jurisdiction, the adoption assistance shall terminate. Upon assignment of payments pursuant to this subdivision, funding shall be from state funds only.

History: *2012 c 216 art 3 s 9*

259A.45 EXTENSION OF ADOPTION ASSISTANCE AGREEMENT.

Subdivision 1. **General requirements.** (a) Under certain limited circumstances, a child may qualify for extension of the adoption assistance agreement beyond the date the child attains age 18, up to the date the child attains the age of 21.

(b) A request for extension of the adoption assistance agreement must be completed in writing and submitted, including all supporting documentation, by the adoptive parent at least 60 calendar days prior to the date that the current agreement will terminate.

(c) A signed amendment to the current adoption assistance agreement must be fully executed between the adoptive parent and the commissioner at least ten business days prior to the termination of the current agreement. The request for extension and the fully executed amendment must be made according to the requirements and procedures prescribed by the commissioner, including documentation of eligibility, and on forms prescribed by the commissioner.

(d) If a child-placing agency is certifying a child for adoption assistance and the child will attain the age of 18 within 60 calendar days of submission, the request for extension must be completed in writing and submitted, including all supporting documentation, with the adoption assistance application.

Subd. 2. **Extension past age 18 for child adopted after 16th birthday.** A child who has attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement up to the date the child attains age 21 if the child is:

(1) dependent on the adoptive parent for care and financial support; and

(2)(i) completing a secondary education program or a program leading to an equivalent credential;

(ii) enrolled in an institution that provides postsecondary or vocational education;

(iii) participating in a program or activity designed to promote or remove barriers to employment;

(iv) employed for at least 80 hours per month; or

(v) incapable of doing any of the activities described in items (i) to (iv) due to a medical condition where incapability is supported by documentation from an expert according to the requirements and procedures prescribed by the commissioner.

Subd. 3. **Extension past age 18 for child adopted prior to 16th birthday.** A child who has not attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement up to the date the child attains the age of 21 if the child is:

(1) dependent on the adoptive parent for care and financial support; and

(2)(i) enrolled in a secondary education program or a program leading to the equivalent; or

(ii) incapable of sustaining employment because of the continuation of a physical or mental disability, upon which eligibility for adoption assistance was approved.

History: *2012 c 216 art 3 s 10*

259A.50 OVERPAYMENTS OF ADOPTION ASSISTANCE.

An amount of adoption assistance paid to an adoptive parent in excess of the payment that was actually due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the parent or provider. Adoption assistance amounts covered by this section include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

History: *2012 c 216 art 3 s 11*

259A.55 APPEALS AND FAIR HEARINGS.

Subdivision 1. **Appeals for denials, modifications, or terminations.** An adoptive parent or a prospective adoptive parent has the right to appeal to the commissioner under section 142A.20 for reasons including, but not limited to, when eligibility for adoption assistance is denied, when a specific payment or reimbursement is modified or denied, and when the agreement for an eligible child is terminated. A prospective adoptive parent who disagrees with a decision by the commissioner prior to finalization of the adoption may request review of the decision by the commissioner, or may appeal the decision under section 142A.20.

Subd. 2. **Extenuating circumstances.** (a) An adoption assistance agreement must be signed and fully executed prior to the court order that finalizes the adoption. An adoptive parent who believes that extenuating circumstances exist, as to why the adoption was finalized prior to fully executing an adoption assistance agreement, may request a fair hearing. The parent has the responsibility to prove the existence of extenuating circumstances, such as:

(1) relevant facts regarding the child were known by the child-placing agency and not presented to the parent prior to finalization of the adoption; or

(2) the child-placing agency failed to advise a potential parent about the availability of adoption assistance for a child in the county-paid foster care system.

(b) If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the adoption was finalized, the effective date and any associated federal financial participation shall be retroactive to the date of the request for a fair hearing.

History: *2012 c 216 art 3 s 12; 2024 c 80 art 1 s 96*

259A.65 INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE.

Subdivision 1. **Purpose.** It is the purpose and policy of the state of Minnesota to:

(1) enter into interstate agreements with agencies of other states to safeguard and protect the interests of children covered by an adoption assistance agreement when they are adopted across state lines or move to another state after adoption finalization; and

(2) provide a framework for uniformity and consistency in administrative procedures when a child with special needs is adopted by a family in another state and for children adopted in Minnesota who move to another state.

Subd. 2. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them, unless the context clearly indicates otherwise.

(a) "Adoption assistance state" means the state that certifies eligibility for Medicaid in an adoption assistance agreement.

(b) "Resident state" means the state where the adopted child is a resident.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

Subd. 3. **Compacts authorized.** The commissioner is authorized to develop, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement Medicaid for children with adoption assistance agreements.

Subd. 4. **Contents of compacts.** (a) A compact must include:

(1) a provision allowing all states to join the compact;

(2) a provision for withdrawal from the compact upon written notice to the parties, effective one year after the notice is provided;

(3) a requirement that the protections afforded under the compact continue in force for the duration of the adoption assistance from a party state other than the one in which the adopted child is a resident;

(4) a requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parent and the state child welfare agency of the state that provides the adoption assistance, and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parent and the state agency providing the adoption assistance; and

(5) other provisions necessary and appropriate for the proper administration of the compact.

(b) A compact may contain provisions establishing requirements and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parent are in a state other than the one responsible for or providing the services or funds to pay part or all of the costs.

Subd. 5. **Duties of commissioner of human services regarding medical assistance.** (a) The commissioner of human services shall:

(1) provide Minnesota medical assistance for an adopted child who is title IV-E eligible;

(2) provide Minnesota medical assistance for an adopted child who is not title IV-E eligible who:

(i) was determined to have a special need for medical or rehabilitative care;

(ii) is living in another state; and

(iii) is covered by an adoption assistance agreement made by the commissioner for medical coverage or benefits when the child is not eligible for Medicaid in the child's residence state;

(3) consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; and

(4) process and make payments on claims for the recipient in the same manner as for other recipients of medical assistance.

(b) Coverage must be limited to providers authorized by Minnesota's medical assistance program, and according to Minnesota's program requirements.

Subd. 6. **Cooperation with Medicaid.** The adoptive parent shall cooperate with and abide by the Medicaid program requirements and procedures of the state which provide medical coverage.

Subd. 7. **Federal participation.** The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

History: *2012 c 216 art 3 s 13*

259A.70 MS 2020 [Repealed, 1Sp2021 c 7 art 7 s 30]

259A.75 REIMBURSEMENT OF CERTAIN AGENCY COSTS; PURCHASE OF SERVICE CONTRACTS AND TRIBAL CUSTOMARY ADOPTIONS.

Subdivision 1. **General information.** (a) Subject to the procedures required by the commissioner and the provisions of this section, a Minnesota county or Tribal agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost for contracted adoption placement services identified for a specific child that are not reimbursed under other federal or state funding sources.

(b) The commissioner may spend up to $16,000 for each purchase of service contract. Only one contract per child per adoptive placement is permitted. Funds encumbered and obligated under the contract for the child remain available until the terms of the contract are fulfilled or the contract is terminated.

(c) The commissioner shall set aside an amount not to exceed five percent of the total amount of the fiscal year appropriation from the state for the adoption assistance program to reimburse a Minnesota county or Tribal social services placing agency for child-specific adoption placement services. When adoption assistance payments for children's needs exceed 95 percent of the total amount of the fiscal year appropriation from the state for the adoption assistance program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

Subd. 2. **Purchase of service contract child eligibility criteria.** A child who is the subject of a purchase of service contract must:

(1) have the goal of adoption, which may include an adoption in accordance with Tribal law;

(2) be under the guardianship of the commissioner of children, youth, and families or be a ward of Tribal court pursuant to section 260.755, subdivision 20; and

(3) meet all of the special needs criteria according to section 142A.606, subdivision 2.

Subd. 3. **Agency eligibility criteria.** (a) A Minnesota county or Tribal social services agency shall receive reimbursement for child-specific adoption placement services for an eligible child that it purchases from a private adoption agency licensed in Minnesota or any other state or Tribal social services agency.

(b) Reimbursement for adoption services is available only for services provided prior to the date of the adoption decree.

Subd. 4. **Application and eligibility determination.** (a) A Minnesota county or Tribal social services agency may request reimbursement of costs for adoption placement services by submitting a complete purchase of service application, according to the requirements and procedures and on forms prescribed by the commissioner.

(b) The commissioner shall determine eligibility for reimbursement of adoption placement services. If determined eligible, the commissioner of children, youth, and families shall sign the purchase of service agreement, making this a fully executed contract. No reimbursement under this section shall be made to an agency for services provided prior to the fully executed contract.

(c) Separate purchase of service agreements shall be made, and separate records maintained, on each child. Only one agreement per child per adoptive placement is permitted. For siblings who are placed together, services shall be planned and provided to best maximize efficiency of the contracted hours.

Subd. 5. **Reimbursement process.** (a) The agency providing adoption services is responsible to track and record all service activity, including billable hours, on a form prescribed by the commissioner. The agency shall submit this form to the state for reimbursement after services have been completed.

(b) The commissioner shall make the final determination whether or not the requested reimbursement costs are reasonable and appropriate and if the services have been completed according to the terms of the purchase of service agreement.

Subd. 6. **Retention of purchase of service records.** Agencies entering into purchase of service contracts shall keep a copy of the agreements, service records, and all applicable billing and invoicing according to the department's record retention schedule. Agency records shall be provided upon request by the commissioner.

Subd. 7. **Tribal customary adoptions.** (a) The commissioner shall enter into grant contracts with Minnesota Tribal social services agencies to provide child-specific recruitment and adoption placement services for Indian children under the jurisdiction of Tribal court.

(b) Children served under these grant contracts must meet the child eligibility criteria in subdivision 2.

History: *2012 c 216 art 3 s 15; 2015 c 71 art 1 s 54; 2021 c 30 art 10 s 21-24; 2024 c 80 art 1 s 96; art 8 s 70; 2024 c 115 art 16 s 34*