

CHAPTER 6—S.F.No. 5

An act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors of a noncontroversial nature; amending Minnesota Statutes 1992, sections 16B.42, subdivision 1; 115C.02, subdivision 14, as amended; 116.76, subdivision 1, as amended; 116.77, as amended; 116.82, subdivision 3, as amended; 124.914, subdivision 4, as added; 256.969, by adding subdivisions, as amended; 256B.057, subdivision 1, as amended; 256B.0625, by adding a subdivision, as amended; 256B.0913, subdivision 5, as amended; 256B.0915, subdivision 3; 256B.0915, subdivision 3, as amended; 256D.02, subdivision 5, as amended; 256D.051, subdivision 6, as amended; 257.071, subdivision 1, as amended; 260.191, subdivisions 3a and 3b, as added; 295.50, subdivisions 3 and 4, as amended, and by adding subdivisions; 295.51, subdivision 1, as amended; 295.52, by adding a subdivision; 295.53, subdivision 3, as amended, and by adding a subdivision; 295.54, as amended; 298.28, subdivision 4, as amended; 477A.013, subdivision 1; Laws 1992, chapter 549, article 9, section 19, as amended; Laws 1993, chapter 206, sections 8, subdivision 1; 25; chapter 340, section 60; chapter 345, article 1, sections 2, subdivision 2; and 8, subdivision 1; article 2, section 5, subdivision 2; chapter 372, section 8; 1993 Special Session H.F. No. 1, article 3, section 29, subdivision 1; article 4, sections 4, subdivision 5; 6, subdivision 6; repealing Laws 1993, chapter 224, article 1, section 31; and chapter 337, section 16.

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

Section 1. Minnesota Statutes 1992, section 16B.42, subdivision 1, is amended to read:

Subdivision 1. **COMPOSITION.** The commissioner of administration shall appoint an intergovernmental information systems advisory council, to serve at the pleasure of the commissioner of administration, consisting of 25 members. Fourteen members shall be appointed or elected officials of local governments, seven shall be representatives of state agencies, and four shall be selected from the community at large. Further, the council shall be composed of (1) two members from each of the following groups: counties outside of the seven county metropolitan area, cities of the second and third class outside the metropolitan area, cities of the second and third class within the metropolitan area, and cities of the fourth class; (2) one member from each of the following groups: the metropolitan council, an outstate regional body, counties within the metropolitan area, cities of the first class, school districts in the metropolitan area, and school districts outside the metropolitan area; (3) one member each from the state departments of administration, education, human services, revenue, planning and the legislative auditor; (4) one member from the office of the state auditor; and (5) four members from the state community at large. To the extent permitted by resources the commissioner shall furnish staff and other assistance as requested by the council. The terms, compensation, and removal of members of the advisory council shall be as provided in section 15.059, but the council does not expire until June 30, ~~1993~~ 1995.

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Sec. 2. Minnesota Statutes 1992, section 115C.02, subdivision 14, as amended by Laws 1993, chapter 341, section 3, is amended to read:

Subd. 14. **TANK.** "Tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is, or has been, used to contain or dispense petroleum.

"Tank" does not include:

(1) a mobile storage tank ~~with a capacity of 500 gallons or less used to transport petroleum only on the person's private property and which is used only for home heating fuel from one location to another, except a mobile storage tank with a capacity of 500 gallons or less used only to transport home heating fuel on private property;~~ or

(2) pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29.

Sec. 3. Minnesota Statutes 1992, section 116.76, subdivision 1, as amended by Laws 1993, chapter 206, section 3, is amended to read:

Subdivision 1. **APPLICABILITY.** The definitions in this section apply to sections 116.76 to ~~116.82~~ 116.83.

Sec. 4. Minnesota Statutes 1992, section 116.77, as amended by Laws 1993, chapter 206, section 4, is amended to read:

116.77 **COVERAGE.**

Sections 116.75 to ~~116.82~~ 116.83 and 609.671, subdivision 10, cover any person, including a veterinarian, who generates, treats, stores, transports, or disposes of infectious or pathological waste but not including infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically provided, sections 116.75 to 116.83 do not limit or alter treatment or disposal methods for infectious or pathological waste.

Sec. 5. Minnesota Statutes 1992, section 116.82, subdivision 3, as amended by Laws 1993, chapter 206, section 5, is amended to read:

Subd. 3. **LOCAL ENFORCEMENT.** Sections 116.76 to 116.81 may be enforced by a county by delegation of enforcement authority granted to the commissioner of health and the agency in section ~~444.99~~ 116.83. Separate enforcement actions may not be brought by a state agency and a county for the same violations. The state or county may not bring an action that is being enforced by the federal Office of Safety and Health Administration.

Sec. 6. Minnesota Statutes 1992, section 124.914, subdivision 4, as added by Laws 1993, chapter 224, article 6, section 17, is amended to read:

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Subd. 4. **1992 OPERATING DEBT.** (a) Each year, a district that has filed a plan pursuant to section 121.917, subdivision 4, may levy, with the approval of the commissioner, to eliminate a deficit in the net unappropriated balance in the operating funds of the district, determined as of June 30, 1992, and certified and adjusted by the commissioner. Each year this levy may be an amount not to exceed the greater ~~lesser~~ of:

(1) an amount raised by a levy of a net tax rate of one percent times the adjusted net tax capacity; or

(2) \$100,000.

This amount shall be reduced by referendum revenue authorized under section 124A.03 pursuant to the plan filed under section 121.917. However, the total amount of this levy for all years it is made shall not exceed the amount of the deficit in the net unappropriated balance in the operating funds of the district as of June 30, 1992. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(b) A district, if eligible, may levy under this subdivision or subdivision 2 or 3, or under section 122.531, subdivision 4a, or Laws 1992, chapter 499, article 7, sections 16 or 17, but not under more than one.

(c) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(d) Any district that levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivision 2, in that same year.

Sec. 7. Minnesota Statutes 1992, section 256.969, subdivision 9a, as amended by Laws 1993, chapter 20, section 2, and amended by 1993 Special Session H.F. No. 1, article 5, section 21, is amended to read:

Subd. 9a. **DISPROPORTIONATE POPULATION ADJUSTMENTS UNTIL JULY 1, 1993.** (a) For admissions occurring between January 1, 1993, and June 30, 1993, the adjustment under this subdivision shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of one standard deviation above the arithmetic mean. The adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service, and the result must be multiplied by 1.1. The provisions of this paragraph are effective only if federal matching funds are not available for all adjustments under this subdivision and it is necessary to implement ratable reductions under subdivision ~~9b~~ 9.

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Sec. 8. Minnesota Statutes 1992, section 256.969, subdivision 22, as added by Laws 1993, chapter 20, section 5, and amended by 1993 Special Session H.F. No. 1, article 5, section 23, is amended to read:

Subd. 22. **HOSPITAL PAYMENT ADJUSTMENT.** For admissions occurring from January 1, 1993, until June 30, 1993, the commissioner shall adjust the medical assistance payment paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment under clause (1) for that hospital by 1.1. Any payment under this clause must be reduced by the amount of any payment received under subdivision 9a. For purposes of this subdivision, medical assistance does not include general assistance medical care.

This subdivision is effective only if federal matching funds are not available for all adjustments under this subdivision and it is necessary to implement ratable reductions under subdivision 9b 2.

Sec. 9. Minnesota Statutes 1992, section 256B.057, subdivision 1, as amended by Laws 1993, chapter 345, article 9, section 11, is amended to read:

Subdivision 1. **PREGNANT WOMEN AND INFANTS.** An infant less than one year of age or a pregnant woman who has written verification of a positive pregnancy test from a physician or licensed registered nurse, is eligible for medical assistance if countable family income is equal to or less than 275 percent of the federal poverty guideline for the same family size. For purposes of this subdivision, "countable family income" means the amount of income considered available using the methodology of the AFDC program, except for the earned income disregard and employment deductions. An amount equal to the amount of earned income exceeding 275 percent of the federal poverty guideline, up to a maximum of the amount by which the combined total of 185 percent of the federal poverty guideline plus the earned income disregards and deductions of the AFDC program exceeds 275 percent of the federal poverty guideline will be deducted for pregnant women and infants less than one year of age. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3.

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An infant born on or after January 1, 1991, to a woman who was eligible for and receiving medical assistance on the date of the child's birth shall continue to be eligible for medical assistance without redetermination until the child's first birthday, as long as the child remains in the woman's household.

Sec. 10. **CHILD WELFARE TARGETED CASE MANAGEMENT.** Minnesota Statutes 1992, section 256B.0625, subdivision 32, as added to section 256B.0625 by 1993 Special Session H.F. No. 1, article 3, section 23, is amended to read:

Subd. 32. **CHILD WELFARE TARGETED CASE MANAGEMENT.** Medical assistance, subject to federal approval, covers child welfare targeted case management services as defined in section 256B.094 to children under age 21 who have been assessed and determined in accordance with section ~~256F.10~~ 256F.095 to be:

(1) at risk of placement or in placement as defined in section 257.071, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section 626.556, subdivision 10e; or

(3) in need of protection or services as defined in section 260.015, subdivision 2a.

Sec. 11. The repeal of Minnesota Statutes, section 256B.0629 by Laws 1993, chapter 339 is of no effect and the section is reenacted.

Sec. 12. **STATUTORY REFERENCE.** Minnesota Statutes 1992, section 256B.0913, subdivision 5, as amended by 1993 Special Session H.F. No. 1, article 5, section 63, is amended to read:

Subd. 5. **SERVICES COVERED UNDER ALTERNATIVE CARE.** (a) Alternative care funding may be used for payment of costs of:

- (1) adult foster care;
- (2) adult day care;
- (3) home health aide;
- (4) homemaker services;
- (5) personal care;
- (6) case management;
- (7) respite care;
- (8) assisted living;

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- (9) residential care services;
- (10) care-related supplies and equipment;
- (11) meals delivered to the home;
- (12) transportation;
- (13) skilled nursing;
- (14) chore services;
- (15) companion services;
- (16) nutrition services; and
- (17) training for direct informal caregivers.

(b) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs. (c) Unless specified in statute, the service standards for alternative care services shall be the same as the service standards defined in the elderly waiver. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the alternative care program.

(d) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care daily rate shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed 75 percent of the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other alternative care services to be authorized by the case manager.

(e) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(f) Costs for supplies and equipment that exceed \$150 per item per month must have prior approval from the commissioner. A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor.

(g) For purposes of this section, residential care services are services which are provided to individuals living in residential care homes. Residential care homes are currently licensed as board and lodging establishments and are registered with the department of health as providing special services. Residential

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care services are defined as "supportive services" and "health-related services." "Supportive services" means the provision of up to 24-hour supervision and oversight. Supportive services includes: (1) transportation, when provided by the residential care center only; (2) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature; (3) assisting clients in setting up meetings and appointments; (4) assisting clients in setting up medical and social services; (5) providing assistance with personal laundry, such as carrying the client's laundry to the laundry room. Assistance with personal laundry does not include any laundry, such as bed linen, that is included in the room and board rate. Health-related services are limited to minimal assistance with dressing, grooming, and bathing and providing reminders to residents to take medications that are self-administered or providing storage for medications, if requested. Individuals receiving residential care services cannot receive both personal care services and residential care services.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to clients who reside in the same apartment building of three or more units. Assisted living services are defined as up to 24-hour supervision, and oversight, supportive services as defined in clause (1), individualized home care aide tasks as defined in clause (2), and individualized home management tasks as defined in clause (3) provided to residents of a residential center living in their units or apartments with a full kitchen and bathroom. A full kitchen includes a stove, oven, refrigerator, food preparation counter space, and a kitchen utensil storage compartment. Assisted living services must be provided by the management of the residential center or by providers under contract with the management or with the county.

(1) Supportive services include:

- (i) socialization, when socialization is part of the plan of care, has specific goals and outcomes established, and is not diversional or recreational in nature;
- (ii) assisting clients in setting up meetings and appointments; and
- (iii) providing transportation, when provided by the residential center only.

Individuals receiving assisted living services will not receive both assisted living services and homemaking or personal care services. Individualized means services are chosen and designed specifically for each resident's needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

(2) Home care aide tasks means:

- (i) preparing modified diets, such as diabetic or low sodium diets;
- (ii) reminding residents to take regularly scheduled medications or to perform exercises;

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(iii) household chores in the presence of technically sophisticated medical equipment or episodes of acute illness or infectious disease;

(iv) household chores when the resident's care requires the prevention of exposure to infectious disease or containment of infectious disease; and

(v) assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the resident is ambulatory, and if the resident has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices.

(3) Home management tasks means:

(i) housekeeping;

(ii) laundry;

(iii) preparation of regular snacks and meals; and

(iv) shopping.

A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

Reimbursement for assisted living services and residential care services shall be made by the lead agency to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, except for alternative care assisted living projects established under ~~chapter Laws 1988, chapter 689, article 2, section 256,~~ whose rates may not exceed 65 percent of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover rent and direct food costs.

(i) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency

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to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Sec. 13. Minnesota Statutes 1992, section 256B.0915, subdivision 3, as amended by 1993 Special Session H.F. No. 1, article 5, subdivision 72, is amended to read:

Subd. 3. LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING. (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under medical assistance case mix reimbursement system. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) Expenditures for extended medical supplies and equipment that cost over \$150 per month for both the elderly waiver and the disabled waiver must have the commissioner's prior approval.

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(e) For the fiscal year beginning on July 1, 1993, and for subsequent fiscal years, the commissioner of human services shall not provide automatic annual inflation adjustments for home- and community-based waived services. The commissioner of finance shall include as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11 annual adjustments in reimbursement rates for home- and community-based waived services, based on the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set. The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) The adult foster care daily rate for the elderly and disabled waivers shall be negotiated between the county agency and the foster care provider. The rate established under this section shall not exceed the state average monthly nursing home payment for the case mix classification to which the individual receiving foster care is assigned, and it must allow for other waiver and medical assistance home care services to be authorized by the case manager.

(g) The assisted living and residential care service rates for elderly and disabled waivers shall be made to the vendor as a monthly rate negotiated with the county agency. The rate shall not exceed the nonfederal share of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate of the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, except for alternative care assisted living projects established under Laws 1988, chapter 689, article 2, section 256, whose rates may not exceed 65 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly medical assistance nursing facility payment rate for the case mix resident class to which the elderly or disabled client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The rate may not cover direct rent or food costs.

(h) The county shall negotiate individual rates with vendors and may be reimbursed for actual costs up to the greater of the county's current approved rate or 60 percent of the maximum rate in fiscal year 1994 and 65 percent of the maximum rate in fiscal year 1995 for each service within each program.

(i) On July 1, 1993, the commissioner shall increase the maximum rate for home-delivered meals to \$4.50 per meal.

(j) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information

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System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(k) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 14. DEFINITION OF FAMILIES: RESIDENTIAL LEAD PAINT DISPOSAL EFFECTIVE DATE. Minnesota Statutes 1992, section 256D.02, subdivision 5, as amended by 1993 Special Session H.F. No. 1, article 6, section 27, is amended to read:

Subd. 5. "Family" means the applicant or recipient and the following persons who reside with the applicant or recipient:

(1) the applicant's spouse;

(2) any minor child of whom the applicant is a parent, stepparent, or legal custodian, and that child's minor siblings, including half-siblings and stepsiblings;

(3) the other parent of the applicant's minor child or children together with that parent's minor children, and, if that parent is a minor, his or her parents, stepparents, legal guardians, and minor siblings; and

(4) if the applicant or recipient is a minor, the minor's parents, stepparents, or legal guardians, and any other minor children for whom those parents, stepparents, or legal guardians are financially responsible.

For the period July 1, 1993, to June 30, 1995, a minor child who is temporarily absent from the applicant's or recipient's home due to placement in foster care paid for from state or local funds, but who is expected to return within six months of the month of departure, is considered to be residing with the applicant or recipient.

A "family" must contain at least one minor child and at least one of that child's natural or adoptive parents, stepparents, or legal custodians.

Sec. 15. STATUTORY REFERENCES. Minnesota Statutes 1992, section 256D.051, subdivision 6, as amended by 1993 Special Session H.F. No. 1, article 6, section 32, is amended to read:

Subd. 6. **SERVICE COSTS.** The commissioner shall reimburse 92 percent of county agency expenditures for providing work readiness services including direct participation expenses and administrative costs, except as provided in section 256.017. State work readiness funds shall be used only to pay the county agency's and work readiness service provider's actual costs of providing partici-

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pant support services, direct program services, and program administrative costs for persons who participate in work readiness services. Beginning July 1, 1991, the average annual reimbursable cost for providing work readiness services to a recipient for whom an individualized employability development plan is not completed must not exceed \$60 for the work readiness services, and \$223 for necessary recipient support services such as transportation or child care needed to participate in work readiness services. If an individualized employability development plan has been completed, the average annual reimbursable cost for providing work readiness services must not exceed \$283, except that the total annual average reimbursable cost shall not exceed \$804 for recipients who participate in a pilot project work experience program under section ~~56~~ 55, for all services and costs necessary to implement the plan, including the costs of training, employment search assistance, placement, work experience, on-the-job training, other appropriate activities, the administrative and program costs incurred in providing these services, and necessary recipient support services such as tools, clothing, and transportation needed to participate in work readiness services. Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 16. Minnesota Statutes 1992, section 257.071, subdivision 1, as amended by Laws 1993, chapter 291, section 2, is amended to read:

Subdivision 1. **PLACEMENT; PLAN.** A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or ~~family~~ foster care as defined in section 260.015, subdivision 7.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) The specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;

(2) The specific actions to be taken by the parent or parents of the child to

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eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) The visitation rights and obligations of the parent or parents or other relatives as defined in section 260.181, if such visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) The date on which the child is expected to be returned to the home of the parent or parents;

(7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

(8) Notice to the parent or parents that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260.

The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.

Sec. 17. Minnesota Statutes 1992, section 260.191, subdivision 3a, as added by Laws 1993, chapter 291, section 20, is amended to read:

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Subd. 3a. **COURT REVIEW OF OUT-OF-HOME PLACEMENTS.** If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall review the out-of-home placement at least every six months to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. The court shall review agency efforts pursuant to section 257.072, subdivision 1, and order that the efforts continue if the agency has failed to perform the duties under that section. The court shall review the case plan and may modify the case plan as provided under subdivisions 1e and 2. If the court orders continued out-of-home placement, the court shall notify the parents of the provisions of subdivision 3b.

Sec. 18. Minnesota Statutes 1992, section 260.191, subdivision 3b, as added by Laws 1993, chapter 291, section 21, is amended to read:

Subd. 3b. **REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.** (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall conduct a hearing to determine the permanent status of the child not later than 12 months after the child was placed out of the home of the parent. Not later than 30 days prior to this hearing the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to sections 260.135 and 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this section. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

If the child is not returned to the home, the dispositions available for permanent placement determination are permanent legal and physical custody to a relative, adoption, or permanent foster care. The court may order a child into permanent foster care only if it finds that neither an award of legal and physical custody to a relative, termination of parental rights, nor adoption is in the child's best interests.

(b) The court may extend the time period for determination of permanent placement to 18 months after the child was placed in a residential facility if:

(1) there is a substantial probability that the child will be returned home within the next six months;

(2) the agency has not made reasonable, or, in the case of an Indian child, active efforts, to correct the conditions that form the basis of the out-of-home placement; or

(3) extraordinary circumstances exist precluding a permanent placement determination, in which case the court shall make written findings documenting

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the extraordinary circumstances and order one subsequent review after six months to determine permanent placement.

(c) If the court determines that an adoptive placement is in the best interests of the child, the social service agency shall file a petition for termination of parental rights under section 260.231. Nothing in this subdivision waives the requirements of sections 260.221 to 260.245 with respect to termination of parental rights.

(d) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(e) Once a permanent placement determination has been made and permanent placement has been established, further reviews are only necessary if otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent placement. These reviews must take place no less frequently than every six months.

(f) An order under this subdivision must include the following detailed findings:

- (1) how the child's best interests are served by the order;
- (2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;
- (3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement;
- (4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and
- (5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

If the court orders the child placed in permanent foster care, the court shall make findings that neither an award of legal and physical custody to a relative, termination of parental rights, nor adoption is in the child's best interests.

A court finding that extraordinary circumstances exist precluding a permanent placement determination must be supported by detailed factual findings regarding those circumstances.

Sec. 19. Minnesota Statutes 1992, section 295.50, subdivision 3, as amended by Laws 1993, chapter 345, article 13, section 3, is amended to read:

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Subd. 3. **GROSS REVENUES.** "Gross revenues" are total amounts received in money or otherwise by:

- (1) a resident hospital for patient services;
- (2) a resident surgical center for patient services;
- (3) a nonresident hospital for patient services provided to patients domiciled in Minnesota;
- (4) a nonresident surgical center for patient services provided to patients domiciled in Minnesota;
- (5) a resident health care provider, other than a staff model health carrier, for patient services;
- (6) a nonresident health care provider for patient services provided to an individual domiciled in Minnesota;
- (7) a wholesale drug distributor for sale or distribution of prescription drugs that are delivered: (i) to a Minnesota resident by a wholesale drug distributor who is a nonresident pharmacy directly, by common carrier, or by mail; or (ii) in Minnesota by the wholesale drug distributor, by common carrier, or by mail, unless the prescription drugs are delivered to another wholesale drug distributor. Prescription drugs do not include nutritional products as defined in Minnesota Rules, part 9505.0325; ~~and~~
- (8) a staff model health carrier as gross premiums for enrollees, copayments, deductibles, coinsurance, and fees for patient services covered under its contracts with groups and enrollees;

(9) a resident pharmacy for medical supplies, appliances, and equipment;
and

(10) a nonresident pharmacy for medical supplies, appliances, and equipment.

Sec. 20. Minnesota Statutes 1992, section 295.50, subdivision 4, as amended by Laws 1993, chapter 345, article 13, section 4, is amended to read:

Subd. 4. **HEALTH CARE PROVIDER.** (a) "Health care provider" means:

(1) a person furnishing any or all of the following goods or services directly to a patient or consumer: medical, surgical, optical, visual, dental, hearing, nursing services, drugs, medical supplies, medical appliances, laboratory, diagnostic or therapeutic services, or any goods and services not listed above that qualifies for reimbursement under the medical assistance program provided under chapter 256B;

(2) a staff model health carrier; or

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(3) a licensed ambulance service; ~~or~~

(4) ~~a pharmacy as defined in section 151.01.~~

(b) Health care provider does not include hospitals, nursing homes licensed under chapter 144A, pharmacies, and surgical centers.

Sec. 21. Minnesota Statutes 1992, section 295.50, is amended by adding a subdivision to read:

Subd. 9a. NONRESIDENT PHARMACY. "Nonresident pharmacy" means a pharmacy that is physically located outside Minnesota.

Sec. 22. Minnesota Statutes 1992, section 295.50, is amended by adding a subdivision to read:

Subd. 10a. PHARMACY. "Pharmacy" means a pharmacy, as defined in section 151.01.

Sec. 23. Minnesota Statutes 1992, section 295.50, is amended by adding a subdivision to read:

Subd. 12a. RESIDENT PHARMACY. "Resident pharmacy" means a pharmacy that is physically located inside Minnesota.

Sec. 24. Minnesota Statutes 1992, section 295.51, subdivision 1, as amended by Laws 1993, chapter 345, article 13, section 11, is amended to read:

Subdivision 1. **BUSINESS TRANSACTIONS IN MINNESOTA.** A hospital, surgical center, pharmacy, or health care provider is subject to tax under sections 295.50 to 295.58 if it is "transacting business in Minnesota." A hospital, surgical center, pharmacy, or health care provider is transacting business in Minnesota only if it:

(1) maintains an office in Minnesota used in the trade or business of providing patient services or medical supplies, appliances, or equipment;

(2) has employees, representatives, or independent contractors conducting business in Minnesota related to the trade or business of providing patient services or medical supplies, appliances, or equipment;

(3) regularly provides patient services or medical supplies, appliances, or equipment to customers that receive the services in Minnesota;

(4) regularly solicits business from potential customers in Minnesota. A hospital, surgical center, pharmacy, or health care provider is presumed to regularly solicit business within Minnesota if it receives gross receipts for patient services or medical supplies, appliances, or equipment from 20 or more patients domiciled in Minnesota in a calendar year;

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(5) regularly performs services outside Minnesota the benefits of which are consumed in Minnesota;

(6) owns or leases tangible personal or real property physically located in Minnesota and used in the trade or business of providing patient services or medical supplies, appliances, or equipment; or

(7) receives medical assistance payments from the state of Minnesota.

Sec. 25. Minnesota Statutes 1992, section 295.52, is amended by adding a subdivision to read:

Subd. 1b. PHARMACY TAX. A tax is imposed on each pharmacy equal to two percent of its gross revenues.

Sec. 26. Minnesota Statutes 1992, section 295.53, subdivision 3, as amended by Laws 1993, chapter 345, article 13, section 16, is amended to read:

Subd. 3. **RESTRICTION ON ITEMIZATION.** A hospital, surgical center, pharmacy, or health care provider must not separately state the tax obligation under section 295.52 on bills provided to individual patients.

Sec. 27. Minnesota Statutes 1992, section 295.53, is amended by adding a subdivision to read:

Subd. 5. DEDUCTIONS FOR PHARMACIES. Pharmacies may deduct from their gross revenues subject to tax payments for medical supplies, appliances, and devices that are exempt under subdivision 1, except payments under subdivision 1, clauses (3), (6), (9), (11), and (14).

Sec. 28. Minnesota Statutes 1992, section 295.54, as amended by Laws 1993, chapter 345, article 13, section 18, is amended to read:

295.54 CREDIT FOR TAXES PAID TO ANOTHER STATE.

A resident hospital, resident surgical center, pharmacy, or resident health care provider who is liable for taxes payable to another state or province or territory of Canada measured by gross receipts and is subject to tax under section 295.52 is entitled to a credit for the tax paid to another state or province or territory of Canada to the extent of the lesser of (1) the tax actually paid to the other state or province or territory of Canada, or (2) the amount of tax imposed by Minnesota on the gross receipts subject to tax in the other taxing jurisdictions.

Sec. 29. Laws 1992, chapter 549, article 9, section 19, as amended by Laws 1993, chapter 345, article 13, section 22, is amended to read:

Sec. 19. [295.582] AUTHORITY.

A hospital, surgical center, pharmacy, or health care provider that is subject

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to a tax under section 295.52 may transfer additional expense generated by section 295.52 obligations on to all third-party contracts for the purchase of health care services on behalf of a patient or consumer. The expense must not exceed two percent of the gross revenues received under the third-party contract, including copayments and deductibles paid by the individual patient or consumer. The expense must not be generated on revenues derived from payments that are excluded from the tax under section 295.53. All third-party purchasers of health care services including, but not limited to, third-party purchasers regulated under chapters 60A, 62A, 62C, 62D, 64B, or 62H, must pay the transferred expense in addition to any payments due under existing or future contracts with the hospital, surgical center, pharmacy, or health care provider, to the extent allowed under federal law. Nothing in this subdivision limits the ability of a hospital, surgical center, pharmacy, or health care provider to recover all or part of the section 295.52 obligation by other methods, including increasing fees or charges.

Sec. 30. EFFECTIVE DATE

Sections 19 to 29 are effective for services performed and goods sold after December 31, 1993.

Sec. 31. Subdivision 1. **CORRECTION.** Minnesota Statutes 1993, section 298.28, subdivision 4, as amended by Laws 1993, chapter 375, article 16, section 2, is amended to read:

Subd. 4. **SCHOOL DISTRICTS.** (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

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(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 124.918, subdivision 8, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) ~~On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (e) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a); shall be distributed to~~ Any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, shall receive a distribution according to the following formula. ~~On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b); according to the increase in the implicit price deflator. On July 15, 1989, 1990, and 1991, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). In 1992 and 1993, the amount distributed per ton shall be the same as that determined for distribution in 1991. In 1994, the amount distributed per ton shall be equal to the amount per ton distributed in 1991~~ under this paragraph increased in the same proportion as the increase between the fourth quarter of 1989 and the fourth quarter of 1992 in the implicit price deflator as defined in section 298.24, subdivision 1. On July 15, 1995, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. Each district shall receive the product of:

(i) \$175 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the sum of the amount certified pursuant to section 124A.03, subdivision 1g, in the previous year, plus the amount certified pursuant to section 124A.03, subdivision 1i, in the previous year, plus the referendum aid according to section 124A.03, subdivision 1h, for the current year, plus an amount equal to the reduction under section 124A.03, subdivision 3b, to the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

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If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of \$175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the north-east Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve \$25 times the number of pupil units in the district. It may use the money for early childhood programs or for outcome-based learning programs that enhance the academic quality of the district's curriculum. The outcome-based learning programs must be approved by the commissioner of education.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Subd. 2. **REPEALER.** Laws 1993, chapter 224, article 1, section 31, is repealed.

Subd. 3. **EFFECTIVE DATE.** Subdivisions 1 and 2 are effective for production year 1993, and thereafter.

Sec. 32. Minnesota Statutes 1992, section 477A.013, subdivision 1, is amended to read:

Subdivision 1. **TOWNS.** In calendar year 1990, each town that had levied for taxes payable in the prior year a local tax rate of at least .008 shall receive a distribution equal to 106 percent of the amount received in 1989 under this subdivision. In calendar years 1991 and 1992, each town that had levied for taxes payable in the prior year a local tax rate of at least .008 shall receive a distribution equal to the amount it received in the previous year under this subdivision less any permanent reductions made under section 477A.0132. ~~In 1993 and thereafter,~~ each town that had levied for taxes payable in the prior year a local tax rate of at least .008 shall receive a distribution equal to the amount it received in 1992 before any nonpermanent reductions made under section 477A.0132 plus \$1 per capita based on the town's population. In 1994 and thereafter each town that had levied for taxes payable in the prior year a local tax rate of at least .008 shall receive a distribution equal to the amount it received in 1993 under this section before any nonpermanent reductions made under section 477A.0132.

Sec. 33. Laws 1993, chapter 206, section 8, subdivision 1, is amended to read:

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Subdivision 1. **REMEDIES AVAILABLE.** The provisions of chapters 103I and 157 and sections 115.71 to 115.82; ~~116.76 to 116.81~~; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.121; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.491; 144.495; 144.71 to 144.76; 144.871 to 144.878; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 34. Laws 1993, chapter 206, section 25, is amended to read:

Sec. 25. REPEALER.

Minnesota Statutes 1992, sections 103I.701; 103I.705; ~~116.83~~; 144.1211; 144.386, subdivision 4; 144.73, subdivisions 2, 3, and 4; 144.76; 148.95; 157.081; 326.43; 326.53, subdivision 2; 326.63; 326.78, subdivisions 4, 6, 7, and 8; 326.79; 326.80; 327.18; and 327.24, subdivisions 1 and 2, are repealed.

Sec. 35. Laws 1993, chapter 340, section 60, is amended to read:

Sec. 60. REPEALER.

(a) Minnesota Statutes 1992, section 256.979, ~~is~~ subdivisions 1, 2, 3, and 4, are repealed.

(b) Minnesota Statutes 1992, section 609.37, is repealed.

Sec. 36. Laws 1993, chapter 345, article 1, section 2, subdivision 2, is amended to read:

Subd. 2. **PURPOSE.** Sections 62N.01 to 62N.24 allow the creation of integrated service networks that will be responsible for arranging for or delivering a full array of health care services, from routine primary and preventive care through acute inpatient hospital care, to a defined population for a fixed price from a purchaser.

Each integrated service network is accountable to keep its total revenues within the limit of growth set by the commissioner of health under section 62N.05, subdivision 2; ~~clause (1).~~ Integrated service networks can be formed by health care providers, health maintenance organizations, insurance companies, employers, or other organizations. Competition between integrated service networks on the quality and price of health care services is encouraged.

Sec. 37. Laws 1993, chapter 345, article 1, section 8, subdivision 1, is amended to read:

Subdivision 1. **UNREASONABLE EXPENSES.** No integrated service net-

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work shall incur or pay for any expense of any nature which is unreasonably high in relation to the value of the service or goods provided. The commissioner shall implement and enforce this section by rules adopted under this section.

In an effort to achieve the stated purposes of sections 62N.01 to ~~62N.22~~ 62N.24; in order to safeguard the underlying nonprofit status of integrated service networks; and to ensure that payment of integrated service network money to any person or organization results in a corresponding benefit to the integrated service network and its enrollees; when determining whether an integrated service network has incurred an unreasonable expense in relation to payments made to a person or organization, due consideration shall be given to, in addition to any other appropriate factors, whether the officers and trustees of the integrated service network have acted with good faith and in the best interests of the integrated service network in entering into, and performing under, a contract under which the integrated service network has incurred an expense. In addition to the compliance powers under subdivision 3, the commissioner has standing to sue, on behalf of an integrated service network, officers or trustees of the integrated service network who have breached their fiduciary duty in entering into and performing such contracts.

Sec. 38. Laws 1993, chapter 345, article 2, section 5, subdivision 2, is amended to read:

Subd. 2. **ESTABLISHMENT.** The commissioner of health shall establish limits on the increase in revenue for each health care provider, for calendar years 1994 and 1995. The limits must be the same as the annual rate of growth in health care spending established under section 62J.04, subdivision 1, paragraph (b). The commissioner may adjust final revenue figures for case mix complexity, inpatient to outpatient conversion, payer mix, out-of-period settlements, taxes, donations, grants, and legislative initiatives that materially change health care costs, as long as these adjustments are consistent with the methodology submitted by the health care provider to the commissioner, and approved by the commissioner as actuarially justified. The methodology to be used for adjustments must be submitted to the commissioner by September 1, 1993. A health care provider's revenues for purposes of these growth limits are net of the contributions, surcharges, taxes, and assessments listed in section 62P.04, subdivision ~~2~~ 1, that the health care provider pays.

Sec. 39. Laws 1993, chapter 372, section 8, is amended to read:

Sec. 8. **EFFECTIVE DATE.**

Sections 1 and 2 apply to all franchise contracts or franchise transfer agreements entered into or renewed on or after ~~the effective date August 1, 1993~~, and apply as of ~~July 1, 1993~~, that date to franchise contracts in effect on ~~the effective date August 1, 1993~~ that have no expiration date.

Sections 4 to 7 apply to all agreements for private label purchases entered

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into or renewed on or after July 1, 1993, and to all private label purchases occurring on or after that date.

Sec. 40. 1993 Special Session H.F. No. 1, article 3, section 29, subdivision 1, is amended to read:

Subdivision 1. FEDERAL REVENUE ENHANCEMENT. (a) DUTIES OF THE COMMISSIONER OF HUMAN SERVICES. The commissioner of human services may enter into an agreement with one or more family services collaboratives to enhance federal reimbursement under Title IV-E of the Social Security Act and federal administrative reimbursement under Title XIX of the Social Security Act. The commissioner shall have the following authority and responsibilities regarding family services collaboratives:

(1) the commissioner shall submit amendments to state plans and seek waivers as necessary to implement the provisions of this section;

(2) the commissioner shall pay the federal reimbursement earned under this subdivision to each collaborative based on their earnings. Notwithstanding section 256.025, subdivision 2, payments to collaboratives for expenditures under this subdivision will only be made of federal earnings from services provided by the collaborative;

(3) the commissioner shall review expenditures of family services collaboratives using reports specified in the agreement with the collaborative to ensure that the base level of expenditures is continued and new federal reimbursement is used to expand education, social, health, or health-related services to young children and their families;

(4) the commissioner may reduce, suspend, or eliminate a family services collaborative's obligations to continue the base level of expenditures or expansion of services if the commissioner determines that one or more of the following conditions apply:

(i) imposition of levy limits that significantly reduce available funds for social, health, or health-related services to families and children;

(ii) reduction in the net tax capacity of the taxable property eligible to be taxed by the lead county or subcontractor that significantly reduces available funds for education, social, health, or health-related services to families and children;

(iii) reduction in the number of children under age 19 in the county, collaborative service delivery area, subcontractor's district, or catchment area when compared to the number in the base year using the most recent data provided by the state demographer's office; or

(iv) termination of the federal revenue earned under the family services collaborative agreement;

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(5) the commissioner shall not use the federal reimbursement earned under this subdivision in determining the allocation or distribution of other funds to counties or collaboratives;

(6) the commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of this subdivision;

(7) the commissioner shall recover from the family services collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the family services collaborative's actions in the integrated fund, or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample; and

(8) the commissioner shall establish criteria for the family services collaborative for the accounting and financial management system that will support claims for federal reimbursement.

(b) FAMILY SERVICES COLLABORATIVE RESPONSIBILITIES. The family services collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the family services collaborative shall be the party with which the commissioner contracts. A lead county shall be designated as the fiscal agency for reporting, claiming, and receiving payments;

(2) the family services collaboratives may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement, or to expand education, social, health, or health-related services to families and children;

(3) the family services collaborative must continue the base level of expenditures for education, social, health, or health-related services to families and children from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under this subdivision, would have been available for those services, except as provided in subdivision 1, paragraph (a), clause (4). The base year for purposes of this subdivision shall be the four-quarter calendar year ending at least two calendar quarters before the first calendar quarter in which the new federal reimbursement is earned;

(4) the family services collaborative must use all new federal reimbursement resulting from federal revenue enhancement to expand expenditures for education, social, health, or health-related services to families and children beyond the base level, except as provided in subdivision 1, paragraph (a), clause (4);

(5) the family services collaborative must ensure that expenditures submit-

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ted for federal reimbursement are not made from federal funds or funds used to match other federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family services collaborative expenditures under agreement with the department, the nonfederal share of costs shall be provided by the family services collaborative from sources other than federal funds or funds used to match other federal funds;

(6) the family services collaborative must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the agreement; and

(7) the family services collaborative shall submit an annual report to the commissioner as specified in the agreement.

Sec. 41. 1993 Special Session H.F. No. 1, article 4, section 4, subdivision 5, is amended to read:

Subd. 5. **VENDOR PAYMENT.** (a) For purposes of this section, the vendor shall bill and the commissioner shall reimburse for full-day or partial-day services that would otherwise have been paid to the vendor for providing direct services provided that:

(1) the vendor provides services and payments to the business that enable the business to perform services for the client that the vendor would otherwise need to perform; and

(2) any client for whom a rate will be billed was receiving full-time services from the vendor on or before July 1, 1993, and a the rate will allow the client to work with support in a community business instead of receiving any other service from the vendor.

(b) Medical assistance reimbursement of services provided to persons receiving day training and habilitation services under this section is subject to the limitations on reimbursement for vocational services under federal law and regulation.

Sec. 42. 1993 Special Session H.F. No. 1, article 4, section 6, subdivision 6, is amended to read:

Subd. 6. **VARIANCES.** (a) A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request on forms supplied by the commissioner with the recommended payment rates. A variance to the rate maximum may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, capital costs required for continued licensure, increased insurance costs, start-up and conversion costs for supported employment, direct ser-

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vice staff salaries and benefits, transportation, and other program related costs when any of the criteria in clauses (1) to (3) is also met:

(1) change is necessary to comply with licensing citations;

(2) a significant change is approved by the commissioner under section 252.28 that is necessary to provide authorized services to new clients with very severe self-injurious or assaultive behavior, or medical conditions requiring delivery of physician-prescribed medical interventions requiring one-to-one staffing for at least 15 minutes each time they are performed, or to new clients directly discharged to the vendor's program from a regional treatment center; or

(3) a significant increase in the average level of staffing is needed to provide authorized services approved by the commissioner under section 252.28, that is necessitated by a decrease in licensed capacity or loss of clientele when counties choose alternative services under Laws 1992, chapter 513, article 9, section 41.

A variance under this paragraph may be approved only if the costs to the medical assistance program do not exceed the medical assistance costs for all clients served by the alternatives and all clients remaining in the existing services.

(b) A variance to the rate minimum may be granted when (1) the county board contracts for increased services from a vendor and for some or all individuals receiving services from the vendor lower per unit fixed costs result or (2) when the actual costs of delivering authorized service over a 12-month contract period have decreased.

(c) The written variance request under this subdivision must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates and recommended an effective date for the change in the rate.

(2) The vendor documents efforts to reallocate current staff and any additional staffing needs cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(3) The vendor documents that financial resources have been reallocated before applying for a variance. No variance may be granted for equipment, supplies, or other capital expenditures when depreciation expense for repair and replacement of such items is part of the current rate.

(4) For variances related to loss of clientele, the vendor documents the other program and administrative expenses, if any, that have been reduced.

(5) The county board submits verification of the conditions for which the variance is requested, a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

New language is indicated by underline, deletions by ~~strikeout~~.

(6) The county board's recommended payment rates do not exceed 95 percent of the greater of 125 percent of the current statewide median or 125 percent of the regional average payment rates, whichever is higher, for each of the regional commission districts under sections 462.381 to 462.396 in which the vendor is located except for the following: when a variance is recommended to allow authorized service delivery to new clients with severe self-injurious or assaultive behaviors or with medical conditions requiring delivery of physician prescribed medical interventions, or to persons being directly discharged from a regional treatment center to the vendor's program, those persons must be assigned a payment rate of 200 percent of the current statewide average rates. All other clients receiving services from the vendor must be assigned a payment rate equal to the vendor's current rate unless the vendor's current rate exceeds 95 percent of 125 percent of the statewide median or 125 percent of the regional average payment rates, whichever is higher. When the vendor's rates exceed 95 percent of 125 percent of the statewide median or 125 percent of the regional average rates, the maximum rates assigned to all other clients must be equal to the greater of 95 percent of 125 percent of the statewide median or 125 percent of the regional average rates. The maximum payment rate that may be recommended for the vendor under these conditions is determined by multiplying the number of clients at each limit by the rate corresponding to that limit and then dividing the sum by the total number of clients.

(7) The vendor has not received a variance under this subdivision in the past 12 months.

(d) The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.

Sec. 43. **EFFECTIVE DATE.**

Laws 1993, chapter 224, article 1, section 3, is effective June 1, 1993.

Sec. 44. **EFFECTIVE DATE.**

If not otherwise provided, the sections of this act that amend provisions of law passed during 1993 take effect at the same time that the provisions that they amend take effect.

Presented to the governor May 27, 1993

Signed by the governor May 27, 1993, 4:25 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.