

Sec. 2. Minnesota Statutes 1994, section 62D.12, is amended by adding a subdivision to read:

Subd. 18. No health maintenance organization shall fail to comply with the special reinstatement privilege provided under section 62A.04, subdivision 2, clause (4), for the Medicare-related coverage referred to in that clause.

Presented to the governor April 20, 1995

Signed by the governor April 21, 1995, 1:48 p.m.

CHAPTER 76—S.F.No. 566

An act relating to education; allowing the residential program operated by independent school district No. 518 to remain open until July 1, 1996; amending Laws 1994, chapter 643, section 14, subdivision 8.

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

Section 1. Laws 1994, chapter 643, section 14, subdivision 8, is amended to read:

Subd. 8. Lakeview School ~~2,070,000~~ 1,700,000

For a grant to independent school district No. 518, Worthington, to acquire land, construct, and equip three up to five cottages at no more than \$340,000 each to meet the residential needs of children attending the Lakeview school. The district may use a portion of the grant to purchase, improve, and equip existing buildings for use as cottages if appropriate. The commissioner of education shall not award the grant until the school district can demonstrate to the commissioner's satisfaction that appropriate department of human services approval, including licensure, will be granted.

Sec. 2. **RESIDENTIAL PROGRAM OPERATED BY INDEPENDENT SCHOOL DISTRICT NO. 518.**

Subdivision 1. DURATION OF RESIDENTIAL PROGRAM. The residential program serving not more than 20 persons, operated by independent school district No. 518, Worthington, may stay in operation without licensure by the

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commissioner of human services no later than July 1, 1996, provided the program complies with the requirements in this section. The commissioner of human services need not pay any of the costs of operating the residential program before it is licensed. The maximum capacity of the program is 20 persons.

Subd. 2. DEFINITION. "Controlling individual," for purposes of this section, is defined in Minnesota Statutes, section 245A.02, subdivision 5a.

Subd. 3. REQUIREMENTS. The controlling individual of the residential program shall:

(a) comply with the following:

(1) Minnesota Rules, parts 9543.3000 to 9543.3090;

(2) Minnesota Rules, parts 9525.2700 to 9525.2810;

(3) Minnesota Rules, parts 9525.0215 to 9525.0355;

(4) Minnesota Rules, parts 9555.8000 to 9555.8500;

(5) Minnesota Rules, parts 4665.0100 to 4665.9900;

(6) Minnesota Statutes, section 626.556;

(7) Minnesota Statutes, section 626.557;

(8) Minnesota Statutes, section 245.94, subdivision 2a; and

(9) any other laws applicable to the residential program not specified in clauses (1) to (8);

(b) allow access to the residential program by the department of human services and department of health, in accordance with Minnesota Statutes, sections 245A.04, subdivision 5, and 144.653, subdivisions 2 and 3, respectively;

(c) allow access to the physical plant and grounds by officials charged with the responsibility of enforcing health, safety, and building codes, and comply with the health, safety, and building codes; and

(d) not accept any new referrals for long-term placement that exceed 90 days without the written approval of the commissioners of health, human services, and education.

Subd. 4. POWERS AND DUTIES OF COMMISSIONERS. The commissioner of education shall offer technical assistance to the controlling individual of the residential program to facilitate the process by which the program can obtain future financial assistance to continue with the plan to move the individuals currently in the residential program to different settings, and any other technical assistance, as requested by the controlling individual.

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The commissioners of human services and health may grant waivers and variances as necessary under Minnesota Statutes, section 245A.04, subdivision 9, and Minnesota Rules, part 4665.0600, respectively.

Subd. 5. CORRECTION ORDERS. (a) If either the commissioner of health or human services finds that the program has failed to comply with an applicable law or rule, and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, either commissioner may issue a correction order to the controlling individual. The correction order must state:

- (1) the conditions that constitute a violation of the law or rule;
- (2) the specific law or rule violated; and
- (3) the time allowed to correct each violation.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in subdivision 7 prior to issuing a correction order or fine.

Subd. 6. RECONSIDERATION. If the controlling individual believes that the contents of the commissioner's correction order are in error, the controlling individual may ask the appropriate commissioner to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be in writing, delivered by certified mail, and:

- (1) specify the parts of the correction order that are alleged to be in error;
- (2) explain why they are in error; and
- (3) include documentation to support the allegation of error.

A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal.

Subd. 7. SANCTION. If, upon reinspection, the commissioner of human services or health finds that the program has not corrected the violations specified in the correction order, that commissioner may impose an appropriate sanction. The most serious sanction imposed is the closure of the physical plant of the residential program. The commissioner may secure an injunction against the continuing operation of the program of a controlling individual who does not comply with applicable law or rule. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

Subd. 8. IMMEDIATE CLOSURE IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS. If the controlling individual's failure to comply with applicable law or rule of either the department of health or

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the department of human services has placed the health, safety, or rights of persons served by the program in imminent danger, the commissioner of that agency shall act immediately to close the physical plant of the residential program. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by the controlling individual for the program. A notice stating the reasons for the immediate suspension and informing the controlling individual of the right to a contested case hearing under Minnesota Statutes, chapter 14, must be delivered by personal service to the address shown on the application or the last known address of the controlling individual. The controlling individual may appeal an order immediately closing the program. The appeal of an order immediately closing the physical plant of the residential program must be made in writing by certified mail and must be received by the commissioner within five calendar days after the program receives notice that the license has been immediately suspended. Notwithstanding a pending appeal to close the residential program, a controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately close the physical plant of the residential program.

Sec. 3. STUDY OF EXPANSION TO MEET RESPITE CARE AND INDEPENDENT LIVING SKILLS NEEDS.

The commissioner of human services, in cooperation with the commissioners of education and health and the ombudsman for mental health and mental retardation, shall study the need for and methods for expanding the total number of beds at the Lakeview school site to 35. The study shall consider the need for periodic and scheduled respite care, and independent living skills services, for persons with developmental disabilities. The study may consider meeting some or all of the need for additional beds by developing or expanding capacity elsewhere in the area. The commissioner of human services shall report to the legislature with recommendations by January 1, 1996.

Sec. 4. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor April 20, 1995

Signed by the governor April 21, 1995, 2:50 p.m.

CHAPTER 77—S.F.No. 133

An act relating to state lands; authorizing the private sale of certain tax-forfeited lands bordering public waters in Cook and St. Louis counties.

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

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