CHAPTER 61--S.F.No. 2934

An act relating to human services; modifying provisions governing disability services, aging services, health care, behavioral health, substance use disorder, the Opioid Prescribing Improvement Program, human services licensing, and direct care and treatment; establishing the Department of Direct Care and Treatment; making technical and conforming changes; establishing certain grants; requiring reports; appropriating money; amending Minnesota Statutes 2022, sections 4.046, subdivisions 6, 7; 15.01; 15.06, subdivision 1; 43A.08, subdivision 1a; 179A.54, by adding a subdivision; 241.021, subdivision 1; 241.31, subdivision 5; 241.415; 245.037; 245.91, subdivision 4; 245A.03, subdivision 7; 245A.04, subdivision 7; 245A.07, by adding subdivisions; 245A.10, subdivision 6, by adding a subdivision; 245A.11, subdivisions 7, 7a; 245A.13, subdivisions 1, 2, 3, 5, 6, 7, 9; 245D.03, subdivision 1; 245G.02, subdivision 2; 245G.08, subdivision 3; 245G.09, subdivision 3; 245G.22, subdivision 15, as amended if enacted; 246.54, subdivisions 1a, 1b; 252.27, subdivision 2a; 252.50, subdivision 2; 253B.10, subdivision 1; 254B.01, by adding a subdivision; 254B.05, subdivisions 1, 5; 256.01, subdivision 19; 256.042, subdivisions 1, 2; 256.043, subdivisions 3, 3a; 256.975, subdivision 6; 256.9754; 256B.04, by adding a subdivision; 256B.056, subdivision 3; 256B.057, subdivision 9; 256B.0625, subdivisions 17, 17a, 17b, 18h, 22, by adding a subdivision; 256B.0638, subdivisions 1, 2, 4, 5, by adding a subdivision; 256B.0659, subdivisions 1, 12, 19, 24, by adding a subdivision; 256B.073, subdivision 3, by adding a subdivision; 256B.0759, subdivision 2; 256B.0911, subdivision 13; 256B.0913, subdivisions 4, 5; 256B.0917, subdivision 1b; 256B.092, subdivision 1a; 256B.0949, subdivision 15; 256B.14, subdivision 2; 256B.49, subdivision 13; 256B.4905, subdivision 4a; 256B.4911, by adding a subdivision; 256B.4912, by adding subdivisions; 256B.4914, subdivisions 3, as amended, 4, 5, 5a, 5b, 6, 6a, 6b, 6c, 7a, 7b, 7c, 8, 9, 10, 10a, 10c, 12, 14, by adding subdivisions; 256B.5012, by adding subdivisions; 256B.766; 256B.85, subdivision 7, by adding a subdivision; 256B.851, subdivisions 3, 5, 6; 256D.425, subdivision 1; 256I.05, by adding subdivisions; 256M.42; 256R.17, subdivision 2; 256R.25; 256R.47; 256R.53, by adding a subdivision; 256S.15, subdivision 2; 256S.18, by adding a subdivision; 256S.19, subdivision 3; 256S.21; 256S.2101, subdivision 1; 256S.211; 256S.212; 256S.213; 256S.214; 256S.215, subdivisions 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17; 268.19, subdivision 1; Laws 2019, chapter 63, article 3, section 1, as amended; Laws 2021, chapter 30, article 12, section 5, as amended; Laws 2021, First Special Session chapter 7, article 16, section 28, as amended; article 17, sections 8; 16; proposing coding for new law in Minnesota Statutes, chapters 121A; 245; 245A; 245D; 252; 254B; 256; 256B; 256I; 256R; 325F; proposing coding for new law as Minnesota Statutes, chapter 246C; repealing Minnesota Statutes 2022, sections 245G.05, subdivision 2; 245G.06, subdivision 2; 246.18, subdivisions 2, 2a; 256B.0759, subdivision 6; 256B.0917, subdivisions 1a, 6, 7a, 13; 256B.4914, subdivisions 6b, 9a; 256S.19, subdivision 4; 256S.2101, subdivision 2.

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

ARTICLE 1

DISABILITY SERVICES

Section 1. Minnesota Statutes 2022, section 179A.54, is amended by adding a subdivision to read:

Subd. 11. **Home Care Orientation Trust.** (a) The state and an exclusive representative certified pursuant to this section may establish a joint labor and management trust, referred to as the Home Care

Orientation Trust, for the exclusive purpose of rendering voluntary orientation training to individual providers of direct support services who are represented by the exclusive representative.

(b) Financial contributions by the state to the Home Care Orientation Trust must be made by the state pursuant to a collective bargaining agreement negotiated under this section. All such financial contributions by the state must be held in trust for the purpose of paying, from principal, from income, or from both, the costs associated with developing, delivering, and promoting voluntary orientation training for individual providers of direct support services working under a collective bargaining agreement and providing services through a covered program under section 256B.0711. The Home Care Orientation Trust must be administered, managed, and otherwise controlled jointly by a board of trustees composed of an equal number of trustees appointed by the state and trustees appointed by the exclusive representative under this section. The trust shall not be an agent of either the state or of the exclusive representative.

(c) Trust administrative, management, legal, and financial services may be provided to the board of trustees by a third-party administrator, financial management institution, other appropriate entity, or any combination thereof, as designated by the board of trustees from time to time, and those services must be paid from the money held in trust and created by the state's financial contributions to the Home Care Orientation Trust.

(d) The state is authorized to purchase liability insurance for members of the board of trustees appointed by the state.

(e) Financial contributions to or participation in the management or administration of the Home Care Orientation Trust must not be considered an unfair labor practice under section 179A.13, or a violation of Minnesota law.

Sec. 2. Minnesota Statutes 2022, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing

movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care; or

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 or elderly waiver plan under chapter 256S and residing in the customized living setting ~~before July 1, 2022,~~ for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until ~~June 30~~ December 31, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people ~~under the brain injury or community access for disability inclusion waiver plans under section 256B.49~~ in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available data required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers

or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2022, section 245A.11, subdivision 7, is amended to read:

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

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

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

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

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

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

(d) ~~A variance granted by the commissioner according to this subdivision before January 1, 2014, to a license holder for an adult foster care home must transfer with the license when the license converts to a community residential setting license under chapter 245D. The terms and conditions of the variance remain in effect as approved at the time the variance was granted~~ The variance requirements under this subdivision for alternative overnight supervision do not apply to community residential settings licensed under chapter 245D.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 4. Minnesota Statutes 2022, section 245A.11, subdivision 7a, is amended to read:

Subd. 7a. **Alternate overnight supervision technology; adult foster care ~~and community residential setting~~ licenses.** (a) The commissioner may grant an applicant or license holder an adult foster care ~~or community residential setting~~ license for a residence that does not have a caregiver in the residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, or section 245D.02, subdivision 33b, but uses monitoring technology to alert the license holder when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, or applicable requirements under chapter 245D, and the requirements under this subdivision. The license printed by the commissioner must state in bold and large font:

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

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

(b) Applications for a license under this section must be submitted directly to the Department of Human Services licensing division. The licensing division must immediately notify the county licensing agency.

The licensing division must collaborate with the county licensing agency in the review of the application and the licensing of the program.

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

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

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

(2) explain the discharge process when a resident served by the program requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours that the license holder is on site;

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

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

(i) a description of the triggering incident;

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

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

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

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

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

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill to be conducted for which the effectiveness of the response protocol under paragraph (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

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

(e) The license holder must document and include in the license application which response alternative under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program:

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

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

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

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

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

(iv) each resident's individualized plan of care, support plan under sections 256B.0913, subdivision 8; 256B.092, subdivision 1b; 256B.49, subdivision 15; and 256S.10, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on site for that resident.

(f) Each resident's placement agreement, individual service agreement, and plan must clearly state that the adult foster care ~~or community residential setting~~ license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program under paragraph (e), clause (1) or (2); and a signed informed consent from each resident served by the program or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

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

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

(3) how the caregivers or direct support staff are trained on the use of the technology;

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

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

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

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

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

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

(i) For the purposes of paragraphs (d) through (h), "license holder" has the meaning under section 245A.02, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

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

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

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

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

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

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

(1) oversight by a caregiver or direct support staff as specified in the individual resident's place agreement or support plan and awareness of the resident's needs and activities; and

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

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 5. Minnesota Statutes 2022, section 245D.03, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter.

The licensing standards in this chapter govern the provision of basic support services and intensive support services.

(b) Basic support services provide the level of assistance, supervision, and care that is necessary to ensure the health and welfare of the person and do not include services that are specifically directed toward the training, treatment, habilitation, or rehabilitation of the person. Basic support services include:

(1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, developmental disabilities, and elderly waiver plans, excluding out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000, subpart 4;

(2) adult companion services as defined under the brain injury, community access for disability inclusion, community alternative care, and elderly waiver plans, excluding adult companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

(3) personal support as defined under the developmental disabilities waiver plan;

(4) 24-hour emergency assistance, personal emergency response as defined under the community access for disability inclusion and developmental disabilities waiver plans;

(5) night supervision services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(6) homemaker services as defined under the community access for disability inclusion, brain injury, community alternative care, developmental disabilities, and elderly waiver plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only;

(7) individual community living support under section 256S.13; and

(8) individualized home supports services as defined under the brain injury, community alternative care, and community access for disability inclusion, and developmental disabilities waiver plans.

(c) Intensive support services provide assistance, supervision, and care that is necessary to ensure the health and welfare of the person and services specifically directed toward the training, habilitation, or rehabilitation of the person. Intensive support services include:

(1) intervention services, including:

(i) positive support services as defined under the brain injury and community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(ii) in-home or out-of-home crisis respite services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans; and

(iii) specialist services as defined under the current brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(2) in-home support services, including:

(i) in-home family support and supported living services as defined under the developmental disabilities waiver plan;

(ii) independent living services training as defined under the brain injury and community access for disability inclusion waiver plans;

(iii) semi-independent living services;

(iv) individualized home support with training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(v) individualized home support with family training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(3) residential supports and services, including:

(i) supported living services as defined under the developmental disabilities waiver plan provided in a family or corporate child foster care residence, a family adult foster care residence, a community residential setting, or a supervised living facility;

(ii) foster care services as defined in the brain injury, community alternative care, and community access for disability inclusion waiver plans provided in a family or corporate child foster care residence, a family adult foster care residence, or a community residential setting;

(iii) community residential services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans provided in a corporate child foster care residence, a community residential setting, or a supervised living facility;

(iv) family residential services as defined in the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans provided in a family child foster care residence or a family adult foster care residence; ~~and~~

(v) residential services provided to more than four persons with developmental disabilities in a supervised living facility, including ICFs/DD; and

(vi) life sharing as defined in the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(4) day services, including:

(i) structured day services as defined under the brain injury waiver plan;

(ii) day services under sections 252.41 to 252.46, and as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(iii) day training and habilitation services under sections 252.41 to 252.46, and as defined under the developmental disabilities waiver plan; and

(iv) prevocational services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(5) employment exploration services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(6) employment development services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(7) employment support services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(8) integrated community support as defined under the brain injury and community access for disability inclusion waiver plans beginning January 1, 2021, and community alternative care and developmental disabilities waiver plans beginning January 1, 2023.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 6. **[245D.261] COMMUNITY RESIDENTIAL SETTINGS; REMOTE OVERNIGHT SUPERVISION.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given, unless otherwise specified.

(b) "Resident" means an adult residing in a community residential setting.

(c) "Technology" means:

(1) enabling technology, which is a device capable of live two-way communication or engagement between a resident and direct support staff at a remote location; or

(2) monitoring technology, which is the use of equipment to oversee, monitor, and supervise an individual who receives medical assistance waiver or alternative care services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S.

Subd. 2. **Documentation of permissible remote overnight supervision.** A license holder providing remote overnight supervision in a community residential setting in lieu of on-site direct support staff must comply with the requirements of this chapter, including the requirement under section 245D.02, subdivision 33b, paragraph (a), clause (3), that the absence of direct support staff from the community residential setting while services are being delivered must be documented in the resident's support plan or support plan addendum.

Subd. 3. **Provider requirements for remote overnight supervision; commissioner notification.** (a) A license holder providing remote overnight supervision in a community residential setting must:

(1) use technology;

(2) notify the commissioner of the community residential setting's intent to use technology in lieu of on-site staff. The notification must:

(i) indicate a start date for the use of technology; and

(ii) attest that all requirements under this section are met and policies required under subdivision 4 are available upon request;

(3) clearly state in each person's support plan addendum that the community residential setting is a program without the in-person presence of overnight direct support;

(4) include with each person's support plan addendum the license holder's protocols for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program; and

(5) include in each person's support plan addendum the person's maximum permissible response time as determined by the person's support team.

(b) Upon being notified via technology that an incident has occurred that may jeopardize the health, safety, or rights of a resident, the license holder must document an evaluation of the need for the physical presence of a staff member. If a physical presence is needed, a staff person, volunteer, or contractor must be on site to respond to the situation within the resident's maximum permissible response time.

(c) A license holder must notify the commissioner if remote overnight supervision technology will no longer be used by the license holder.

(d) Upon receipt of notification of use of remote overnight supervision or discontinuation of use of remote overnight supervision by a license holder, the commissioner shall notify the county licensing agency and update the license.

Subd. 4. **Required policies and procedures for remote overnight supervision.** (a) A license holder providing remote overnight supervision must have policies and procedures that:

(1) protect the residents' health, safety, and rights;

(2) explain the discharge process if a person served by the program requires in-person supervision or other services that cannot be provided by the license holder due to the limited hours that direct support staff are on site, including information explaining that if a resident provides informed consent to the use of monitoring technology but later revokes their consent, the resident may be subject to a service termination in accordance with section 245D.10, subdivision 3a;

(3) ensure that services may not be terminated for any person or resident currently served by the program and receiving in-person services solely because the person declines to provide informed consent to the initial change to the use of monitoring technology as required under subdivision 5;

(4) explain the backup system for technology in times of electrical outages or other equipment malfunctions;

(5) explain how the license holder trains the direct support staff on the use of the technology; and

(6) establish a plan for dispatching emergency response personnel to the site in the event of an identified emergency.

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

(c) When no physical presence response is completed for a three-month period, the license holder must conduct a physical presence response drill. The effectiveness of the response protocol must be reviewed and documented.

Subd. 5. **Consent to use of monitoring technology.** If a license holder uses monitoring technology in a community residential setting, the license holder must obtain a signed informed consent form from each resident served by the program or the resident's legal representative documenting the resident's or legal

representative's agreement to use of the specific monitoring technology used in the setting. The informed consent form documenting this agreement must also explain:

(1) how the license holder uses monitoring technology to provide remote supervision;

(2) the risks and benefits of using monitoring technology;

(3) how the license holder protects each resident's privacy while monitoring technology is being used in the setting; and

(4) how the license holder protects each resident's privacy when the monitoring technology system electronically records personally identifying data.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 7. **[252.54] STATEWIDE DISABILITY EMPLOYMENT TECHNICAL ASSISTANCE CENTER.**

The commissioner must establish a statewide technical assistance center to provide resources and assistance to programs, people, and families to support individuals with disabilities to achieve meaningful and competitive employment in integrated settings. Duties of the technical assistance center include but are not limited to:

(1) offering provider business model transition support to ensure ongoing access to employment and day services;

(2) identifying and providing training on innovative, promising, and emerging practices;

(3) maintaining a resource clearinghouse to serve as a hub of information to ensure programs, people, and families have access to high-quality materials and information;

(4) fostering innovation and actionable progress by providing direct technical assistance to programs; and

(5) cultivating partnerships and mentorship across support programs, people, and families in the exploration of and successful transition to competitive, integrated employment.

Sec. 8. **[252.55] LEAD AGENCY EMPLOYMENT FIRST CAPACITY BUILDING GRANTS.**

The commissioner shall establish a grant program to expand lead agency capacity to support people with disabilities to contemplate, explore, and maintain competitive, integrated employment options. Allowable uses of money include:

(1) enhancing resources and staffing to support people and families in understanding employment options and navigating service options;

(2) implementing and testing innovative approaches to better support people with disabilities and their families in achieving competitive, integrated employment; and

(3) other activities approved by the commissioner.

Sec. 9. Minnesota Statutes 2022, section 256.01, subdivision 19, is amended to read:

Subd. 19. **Grants for ~~case management~~ supportive services to persons with HIV or AIDS.** The commissioner may award grants to eligible vendors for the development, implementation, and evaluation of ~~case management~~ supportive services for individuals infected with the human immunodeficiency virus. HIV/AIDS ~~case management~~ supportive services will be provided to increase access to cost effective health care services, to reduce the risk of HIV transmission, to ensure that basic client needs are met, and to increase client access to needed community supports or services.

Sec. 10. **[256.4764] LONG-TERM SERVICES AND SUPPORTS WORKFORCE INCENTIVE GRANTS.**

Subdivision 1. **Grant program established.** The commissioner of human services shall establish grants for long-term services and supports providers and facilities to assist with recruiting and retaining direct support professionals.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Commissioner" means the commissioner of human services.

(c) "Eligible employer" means an organization enrolled in a Minnesota health care program that is:

(1) a provider of home and community-based services under Minnesota Statutes, chapter 245D;

(2) a facility certified as an intermediate care facility for persons with developmental disabilities;

(3) a nursing facility under section 256R.02, subdivision 33;

(4) a provider of personal care assistance services under section 256B.0659;

(5) a provider of community first services and supports under section 256B.85;

(6) a provider of early intensive developmental and behavioral intervention services under section 256B.0949;

(7) a provider of home care services as defined under section 256B.0651, subdivision 1, paragraph (d);

(8) an eligible financial management services provider serving people through consumer-directed community supports under chapter 256S and sections 256B.092 and 256B.49, or consumer support grants under section 256.476; or

(9) a provider of customized living services as defined in section 256S.02.

(d) "Eligible worker" means a worker who earns $30 per hour or less and is currently employed or recruited to be employed by an eligible employer.

Subd. 3. **Allowable uses of grant money.** (a) Grantees must use grant money to provide payments to eligible workers for the following purposes:

(1) retention, recruitment, and incentive payments;

(2) postsecondary loan and tuition payments;

(3) child care costs;

(4) transportation-related costs;

(5) personal care assistant background study costs; and

(6) other costs associated with retaining and recruiting workers, as approved by the commissioner.

(b) Eligible workers may receive cumulative payments up to $1,000 per year from the workforce incentive grant account and all other state money intended for the same purpose.

(c) The commissioner must develop a grant cycle distribution plan that allows for equitable distribution of money among eligible employers. The commissioner's determination of the grant awards and amounts is final and is not subject to appeal.

Subd. 4. **Attestation.** As a condition of obtaining grant payments under this section, an eligible employer must attest and agree to the following:

(1) the employer is an eligible employer;

(2) the total number of eligible employees;

(3) the employer will distribute the entire value of the grant to eligible workers allowed under this section;

(4) the employer will create and maintain records under subdivision 6;

(5) the employer will not use the money appropriated under this section for any purpose other than the purposes permitted under this section; and

(6) the entire value of any grant amounts will be distributed to eligible workers identified by the employer.

Subd. 5. **Distribution plan; report.** (a) Each grantee shall prepare, and upon request submit to the commissioner, a distribution plan that specifies the amount of money the grantee expects to receive and how that money will be distributed for recruitment and retention purposes for eligible employees. Within 60 days of receiving the grant, the grantee must post the distribution plan and leave it posted for a period of at least six months in an area of the grantee's operation to which all direct support professionals have access.

(b) Within 12 months of receiving a grant under this section, each grantee that receives a grant shall submit a report to the commissioner that includes the following information:

(1) a description of how grant money was distributed to eligible employees; and

(2) the total dollar amount distributed.

(c) Failure to submit the report under paragraph (b) may result in recoupment of grant money.

Subd. 6. **Audits and recoupment.** (a) The commissioner may perform an audit under this section up to six years after a grant is awarded to ensure:

(1) the grantee used the money solely for allowable purposes under subdivision 3;

(2) the grantee was truthful when making attestations under subdivision 4; and

(3) the grantee complied with the conditions of receiving a grant under this section.

(b) If the commissioner determines that a grantee used grant money for purposes not authorized under this section, the commissioner must treat any amount used for a purpose not authorized under this section as an overpayment. The commissioner must recover any overpayment.

Subd. 7. **Grants not to be considered income.** (a) Notwithstanding any law to the contrary, grant awards under this section must not be considered income, assets, or personal property for purposes of determining eligibility or recertifying eligibility for:

(1) child care assistance programs under chapter 119B;

(2) general assistance, Minnesota supplemental aid, and food support under chapter 256D;

(3) housing support under chapter 256I;

(4) the Minnesota family investment program and diversionary work program under chapter 256J; and

(5) economic assistance programs under chapter 256P.

(b) The commissioner must not consider grant awards under this section as income or assets under section 256B.056, subdivision 1a, paragraph (a), 3, or 3c, or for persons with eligibility determined under section 256B.057, subdivision 3, 3a, 3b, 4, or 9.

Subd. 8. **Income tax subtractions.** (a) For the purposes of this section, "subtraction" has the meaning given in section 290.0132, subdivision 1, and the rules in that subdivision apply for this section. The definitions in section 290.01 apply to this section.

(b) The amount of a payment received under this section is a subtraction.

(c) Payments under this section and Laws 2021, First Special Session chapter 7, article 17, section 20, as amended, are excluded from income as defined in sections 290.0674, subdivision 2a, and 290A.03, subdivision 3.

Subd. 9. **Account created.** A workforce incentive grant account is created in the special revenue fund. Appropriations made for grants and payments administered under this section may be transferred to this account. Amounts in the account are appropriated to the commissioner of human services. Appropriations transferred to this account cancel and are returned to the fund of origin on the date the original appropriations would have lapsed.

Subd. 10. **Nursing facilities; applicable credit.** The commissioner must treat grant payments awarded under this section as an applicable credit as defined under section 256R.10, subdivision 6.

Subd. 11. **Self-directed services workforce.** Payments administered under this section, including reimbursements for paid family medical leave premiums, do not constitute a change in a term or condition for individual providers as defined in section 256B.0711 in covered programs and are not subject to the state's obligation to meet and negotiate under chapter 179A.

Sec. 11. **[256.4773] TECHNOLOGY FOR HOME GRANT.**

Subdivision 1. **Establishment.** The commissioner must establish a technology for home grant program that provides assistive technology consultations and resources for people with disabilities who want to stay in their own home, move to their own home, or remain in a less restrictive residential setting. The grant program may be administered using a team approach that allows multiple professionals to assess and meet

a person's assistive technology needs. The team may include but is not limited to occupational therapists, physical therapists, speech therapists, nurses, and engineers.

Subd. 2. **Eligible applicants.** An eligible applicant is a person who uses or is eligible for home care services under section 256B.0651, home and community-based services under section 256B.092 or 256B.49, personal care assistance under section 256B.0659, or community first services and supports under section 256B.85, and who meets one of the following conditions:

(1) lives in the applicant's own home and may benefit from assistive technology for safety, communication, community engagement, or independence;

(2) is currently seeking to live in the applicant's own home and needs assistive technology to meet that goal; or

(3) resides in a residential setting under section 256B.4914, subdivision 3, and is seeking to reduce reliance on paid staff to live more independently in the setting.

Subd. 3. **Allowable grant activities.** The technology for home grant program must provide at-home, in-person assistive technology consultation and technical assistance to help people with disabilities live more independently. Allowable activities include but are not limited to:

(1) consultations in people's homes, workplaces, or community locations;

(2) connecting people to resources to help them live in their own homes, transition to their own homes, or live more independently in residential settings;

(3) conducting training for and set up and installation of assistive technology; and

(4) participating on a person's care team to develop a plan to ensure assistive technology goals are met.

Subd. 4. **Data collection and outcomes.** Grantees must provide data summaries to the commissioner for the purpose of evaluating the effectiveness of the grant program. The commissioner must identify outcome measures to evaluate program activities to assess whether the grant programs help people transition to or remain in the least restrictive setting.

Sec. 12. Minnesota Statutes 2022, section 256B.0659, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

(b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(c) "Behavior," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section. "Level I behavior" means physical aggression ~~towards~~ toward self, others, or destruction of property that requires the immediate response of another person.

(d) "Complex health-related needs," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section.

(e) "Critical activities of daily living," effective January 1, 2010, means transferring, mobility, eating, and toileting.

(f) "Dependency in activities of daily living" means a person requires assistance to begin and complete one or more of the activities of daily living.

(g) "Extended personal care assistance service" means personal care assistance services included in a service plan under one of the home and community-based services waivers authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state plan personal care assistance services for participants who:

(1) need assistance provided periodically during a week, but less than daily will not be able to remain in their homes without the assistance, and other replacement services are more expensive or are not available when personal care assistance services are to be reduced; or

(2) need additional personal care assistance services beyond the amount authorized by the state plan personal care assistance assessment in order to ensure that their safety, health, and welfare are provided for in their homes.

(h) "Health-related procedures and tasks" means procedures and tasks that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care assistant.

(i) "Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community. For purposes of this paragraph, traveling includes driving and accompanying the recipient in the recipient's chosen mode of transportation and according to the recipient's personal care assistance care plan.

(j) "Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

(k) "Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

(l) "Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes a personal care assistance provider organization, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

(m) "Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

(n) "Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

(o) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(p) "Self-administered medication" means medication taken orally, by injection, nebulizer, or insertion, or applied topically without the need for assistance.

(q) "Service plan" means a written summary of the assessment and description of the services needed by the recipient.

(r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental

insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts.

EFFECTIVE DATE. This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. Minnesota Statutes 2022, section 256B.0659, subdivision 12, is amended to read:

Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal care assistance services for a recipient must be documented daily by each personal care assistant, on a time sheet form approved by the commissioner. All documentation may be web-based, electronic, or paper documentation. The completed form must be submitted on a monthly basis to the provider and kept in the recipient's health record.

(b) The activity documentation must correspond to the personal care assistance care plan and be reviewed by the qualified professional.

(c) The personal care assistant time sheet must be on a form approved by the commissioner documenting time the personal care assistant provides services in the home. The following criteria must be included in the time sheet:

(1) full name of personal care assistant and individual provider number;

(2) provider name and telephone numbers;

(3) full name of recipient and either the recipient's medical assistance identification number or date of birth;

(4) consecutive dates, including month, day, and year, and arrival and departure times with a.m. or p.m. notations;

(5) signatures of recipient or the responsible party;

(6) personal signature of the personal care assistant;

(7) any shared care provided, if applicable;

(8) a statement that it is a federal crime to provide false information on personal care service billings for medical assistance payments; ~~and~~

(9) dates and location of recipient stays in a hospital, care facility, or incarceration; and

(10) any time spent traveling, as described in subdivision 1, paragraph (i), including start and stop times with a.m. and p.m. designations, the origination site, and the destination site.

EFFECTIVE DATE. This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 14. Minnesota Statutes 2022, section 256B.0659, is amended by adding a subdivision to read:

Subd. 14a. **Qualified professional; remote supervision.** (a) For recipients with chronic health conditions or severely compromised immune systems, a qualified professional may conduct the supervision required under subdivision 14 via two-way interactive audio and visual telecommunication if, at the recipient's request, the recipient's primary health care provider:

(1) determines that remote supervision is appropriate; and

(2) documents the determination under clause (1) in a statement of need or other document that is subsequently included in the recipient's personal care assistance care plan.

(b) Notwithstanding any other provision of law, a care plan developed or amended via remote supervision may be executed by electronic signature.

(c) A personal care assistance provider agency must not conduct its first supervisory visit for a recipient or complete its initial personal care assistance care plan via a remote visit.

(d) A recipient may request to return to in-person supervisory visits at any time.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 15. Minnesota Statutes 2022, section 256B.0659, subdivision 19, is amended to read:

Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under personal care assistance choice, the recipient or responsible party shall:

(1) recruit, hire, schedule, and terminate personal care assistants according to the terms of the written agreement required under subdivision 20, paragraph (a);

(2) develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;

(3) orient and train the personal care assistant with assistance as needed from the qualified professional;

(4) supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;

(5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;

(6) engage in an annual reassessment as required in subdivision 3a to determine continuing eligibility and service authorization; ~~and~~

(7) use the same personal care assistance choice provider agency if shared personal assistance care is being used.~~;~~ and

(8) ensure that a personal care assistant driving the recipient under subdivision 1, paragraph (i), has a valid driver's license and the vehicle used is registered and insured according to Minnesota law.

(b) The personal care assistance choice provider agency shall:

(1) meet all personal care assistance provider agency standards;

(2) enter into a written agreement with the recipient, responsible party, and personal care assistants;

(3) not be related as a parent, child, sibling, or spouse to the recipient or the personal care assistant; and

(4) ensure arm's-length transactions without undue influence or coercion with the recipient and personal care assistant.

(c) The duties of the personal care assistance choice provider agency are to:

(1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including but not limited to purchasing and maintaining workers' compensation, unemployment insurance, surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including but not limited to workers' compensation, unemployment insurance, and labor market data required under section 256B.4912, subdivision 1a;

(2) bill the medical assistance program for personal care assistance services and qualified professional services;

(3) request and complete background studies that comply with the requirements for personal care assistants and qualified professionals;

(4) pay the personal care assistant and qualified professional based on actual hours of services provided;

(5) withhold and pay all applicable federal and state taxes;

(6) verify and keep records of hours worked by the personal care assistant and qualified professional;

(7) make the arrangements and pay taxes and other benefits, if any, and comply with any legal requirements for a Minnesota employer;

(8) enroll in the medical assistance program as a personal care assistance choice agency; and

(9) enter into a written agreement as specified in subdivision 20 before services are provided.

EFFECTIVE DATE. This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 16. Minnesota Statutes 2022, section 256B.0659, subdivision 24, is amended to read:

Subd. 24. **Personal care assistance provider agency; general duties.** A personal care assistance provider agency shall:

(1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;

(2) comply with general medical assistance coverage requirements;

(3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;

(4) comply with background study requirements;

(5) verify and keep records of hours worked by the personal care assistant and qualified professional;

(6) not engage in any agency-initiated direct contact or marketing in person, by phone, or other electronic means to potential recipients, guardians, or family members;

(7) pay the personal care assistant and qualified professional based on actual hours of services provided;

(8) withhold and pay all applicable federal and state taxes;

(9) document that the agency uses a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation;

(10) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(11) enter into a written agreement under subdivision 20 before services are provided;

(12) report suspected neglect and abuse to the common entry point according to section 256B.0651;

(13) provide the recipient with a copy of the home care bill of rights at start of service;

(14) request reassessments at least 60 days prior to the end of the current authorization for personal care assistance services, on forms provided by the commissioner;

(15) comply with the labor market reporting requirements described in section 256B.4912, subdivision 1a; ~~and~~

(16) document that the agency uses the additional revenue due to the enhanced rate under subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements under subdivision 11, paragraph (d); and

(17) ensure that a personal care assistant driving a recipient under subdivision 1, paragraph (i), has a valid driver's license and the vehicle used is registered and insured according to Minnesota law.

EFFECTIVE DATE. This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 17. Minnesota Statutes 2022, section 256B.0911, subdivision 13, is amended to read:

Subd. 13. **MnCHOICES assessor qualifications, training, and certification.** (a) The commissioner shall develop and implement a curriculum and an assessor certification process.

(b) MnCHOICES certified assessors must:

(1) either have a bachelor's degree in social work, nursing with a public health nursing certificate, or other closely related field ~~with at least one year of home and community-based experience~~ or be a registered nurse with at least two years of home and community-based experience; and

(2) have received training and certification specific to assessment and consultation for long-term care services in the state.

(c) Certified assessors shall demonstrate best practices in assessment and support planning, including person-centered planning principles, and have a common set of skills that ensures consistency and equitable access to services statewide.

(d) Certified assessors must be recertified every three years.

Sec. 18. Minnesota Statutes 2022, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. **Case management services.** (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the person-centered support plan under subdivision 1b;

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options, including all service options available under the waiver plan;

(3) consulting with relevant medical experts or service providers;

(4) assisting the person in the identification of potential providers of chosen services, including:

(i) providers of services provided in a non-disability-specific setting;

(ii) employment service providers;

(iii) providers of services provided in settings that are not controlled by a provider; and

(iv) providers of financial management services;

(5) assisting the person to access services and assisting in appeals under section 256.045;

(6) coordination of services, if coordination is not provided by another service provider;

(7) evaluation and monitoring of the services identified in the support plan, which must incorporate at least one annual face-to-face visit by the case manager with each person; and

(8) reviewing support plans and providing the lead agency with recommendations for service authorization based upon the individual's needs identified in the support plan.

(c) Case management service activities that are provided to the person with a developmental disability shall be provided directly by county agencies or under contract. If a county agency contracts for case management services, the county agency must provide each recipient of home and community-based services who is receiving contracted case management services with the contact information the recipient may use to file a grievance with the county agency about the quality of the contracted services the recipient is receiving from a county-contracted case manager. Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has a financial interest in the provision of any other services included in the recipient's support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision 10.

(d) Case managers are responsible for service provisions listed in paragraphs (a) and (b). Case managers shall collaborate with consumers, families, legal representatives, and relevant medical experts and service providers in the development and annual review of the person-centered support plan and habilitation plan.

(e) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the

effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

(1) phasing out the use of prohibited procedures;

(2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline; and

(3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(f) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ~~ten~~ 20 hours of case management education and disability-related training each year. The education and training must include person-centered planning, informed choice, cultural competency, employment planning, community living planning, self-direction options, and use of technology supports. By August 1, 2024, all case managers must complete an employment support training course identified by the commissioner of human services. For case managers hired after August 1, 2024, this training must be completed within the first six months of providing case management services. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 10. Case managers must document completion of training in a system identified by the commissioner.

Sec. 19. Minnesota Statutes 2022, section 256B.0949, subdivision 15, is amended to read:

Subd. 15. **EIDBI provider qualifications.** (a) A QSP must be employed by an agency and be:

(1) a licensed mental health professional who has at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development; or

(2) a developmental or behavioral pediatrician who has at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in the areas of ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development.

(b) A level I treatment provider must be employed by an agency and:

(1) have at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development or an equivalent combination of documented coursework or hours of experience; and

(2) have or be at least one of the following:

(i) a master's degree in behavioral health or child development or related fields including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy from an accredited college or university;

(ii) a bachelor's degree in a behavioral health, child development, or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy, from an accredited college or university, and advanced certification in a treatment modality recognized by the department;

(iii) a board-certified behavior analyst; or

(iv) a board-certified assistant behavior analyst with 4,000 hours of supervised clinical experience that meets all registration, supervision, and continuing education requirements of the certification.

(c) A level II treatment provider must be employed by an agency and must be:

(1) a person who has a bachelor's degree from an accredited college or university in a behavioral or child development science or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy; and meets at least one of the following:

(i) has at least 1,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development or a combination of coursework or hours of experience;

(ii) has certification as a board-certified assistant behavior analyst from the Behavior Analyst Certification Board;

(iii) is a registered behavior technician as defined by the Behavior Analyst Certification Board; or

(iv) is certified in one of the other treatment modalities recognized by the department; or

(2) a person who has:

(i) an associate's degree in a behavioral or child development science or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy from an accredited college or university; and

(ii) at least 2,000 hours of supervised clinical experience in delivering treatment to people with ASD or a related condition. Hours worked as a mental health behavioral aide or level III treatment provider may be included in the required hours of experience; or

(3) a person who has at least 4,000 hours of supervised clinical experience in delivering treatment to people with ASD or a related condition. Hours worked as a mental health behavioral aide or level III treatment provider may be included in the required hours of experience; or

(4) a person who is a graduate student in a behavioral science, child development science, or related field and is receiving clinical supervision by a QSP affiliated with an agency to meet the clinical training requirements for experience and training with people with ASD or a related condition; or

(5) a person who is at least 18 years of age and who:

(i) is fluent in a non-English language or is an individual certified by a Tribal Nation;

(ii) completed the level III EIDBI training requirements; and

(iii) receives observation and direction from a QSP or level I treatment provider at least once a week until the person meets 1,000 hours of supervised clinical experience.

(d) A level III treatment provider must be employed by an agency, have completed the level III training requirement, be at least 18 years of age, and have at least one of the following:

(1) a high school diploma or commissioner of education-selected high school equivalency certification;

(2) fluency in a non-English language or Tribal Nation certification;

(3) one year of experience as a primary personal care assistant, community health worker, waiver service provider, or special education assistant to a person with ASD or a related condition within the previous five years; or

(4) completion of all required EIDBI training within six months of employment.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 20. Minnesota Statutes 2022, section 256B.49, subdivision 13, is amended to read:

Subd. 13. **Case management.** (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application. The case management service activities provided must include:

(1) finalizing the person-centered written support plan within the timelines established by the commissioner and section 256B.0911, subdivision 29;

(2) informing the recipient or the recipient's legal guardian or conservator of service options, including all service options available under the waiver plans;

(3) assisting the recipient in the identification of potential service providers of chosen services, including:

(i) available options for case management service and providers;

(ii) providers of services provided in a non-disability-specific setting;

(iii) employment service providers;

(iv) providers of services provided in settings that are not community residential settings; and

(v) providers of financial management services;

(4) assisting the recipient to access services and assisting with appeals under section 256.045; and

(5) coordinating, evaluating, and monitoring of the services identified in the service plan.

(b) The case manager may delegate certain aspects of the case management service activities to another individual provided there is oversight by the case manager. The case manager may not delegate those aspects which require professional judgment including:

(1) finalizing the person-centered support plan;

(2) ongoing assessment and monitoring of the person's needs and adequacy of the approved person-centered support plan; and

(3) adjustments to the person-centered support plan.

(c) Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has any financial interest in the provision of any other services included in the recipient's support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision 10.

(d) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

(1) phasing out the use of prohibited procedures;

(2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline; and

(3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(e) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ~~ten~~ 20 hours of case management education and disability-related training each year. The education and training must include person-centered planning, informed choice, cultural competency, employment planning, community living planning, self-direction options, and use of technology supports. By August 1, 2024, all case managers must complete an employment support training course identified by the commissioner of human services. For case managers hired after August 1, 2024, this training must be completed within the first six months of providing case management services. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 10. Case managers shall document completion of training in a system identified by the commissioner.

Sec. 21. Minnesota Statutes 2022, section 256B.4905, subdivision 4a, is amended to read:

Subd. 4a. **Informed choice in employment policy.** It is the policy of this state that working-age individuals who have disabilities:

(1) can work and achieve competitive integrated employment with appropriate services and supports, as needed;

(2) make informed choices about their postsecondary education, work, and career goals; ~~and~~

(3) will be offered the opportunity to make an informed choice, at least annually, to pursue postsecondary education or to work and earn a competitive wage~~.~~; and

(4) will be offered benefits planning assistance and supports to understand available work incentive programs and to understand the impact of work on benefits.

Sec. 22. **[256B.4906] SUBMINIMUM WAGES IN HOME AND COMMUNITY-BASED SERVICES REPORTING.**

(a) A provider of home and community-based services for people with developmental disabilities under section 256B.092 or home and community-based services for people with disabilities under section 256B.49 that holds a credential listed in clause (1) or (2) as of August 1, 2023, must submit to the commissioner of human services data on individuals who are currently being paid subminimum wages or were being paid subminimum wages by the provider organization as of August 1, 2023:

(1) a certificate through the United States Department of Labor under United States Code, title 29, section 214(c), of the Fair Labor Standards Act authorizing the payment of subminimum wages to workers with disabilities; or

(2) a permit by the Minnesota Department of Labor and Industry under section 177.28.

(b) The report required under paragraph (a) must include the following data about each individual being paid subminimum wages:

(1) name;

(2) date of birth;

(3) identified race and ethnicity;

(4) disability type;

(5) key employment status measures as determined by the commissioner; and

(6) key community-life engagement measures as determined by the commissioner.

(c) The information in paragraph (b) must be submitted in a format determined by the commissioner.

(d) A provider must submit the data required under this section annually on a date specified by the commissioner. The commissioner must give a provider at least 30 calendar days to submit the data following notice of the due date. If a provider fails to submit the requested data by the date specified by the commissioner, the commissioner may delay medical assistance reimbursement until the requested data is submitted.

(e) Individually identifiable data submitted to the commissioner under this section are considered private data on individuals as defined by section 13.02, subdivision 12.

(f) The commissioner must analyze data annually for tracking employment and community-life engagement outcomes.

Sec. 23. Minnesota Statutes 2022, section 256B.4911, is amended by adding a subdivision to read:

Subd. 6. **Services provided by parents and spouses.** (a) This subdivision limits medical assistance payments under the consumer-directed community supports option for personal assistance services provided by a parent to the parent's minor child or by a participant's spouse. This subdivision applies to the consumer-directed community supports option available under all of the following:

(1) alternative care program;

(2) brain injury waiver;

(3) community alternative care waiver;

(4) community access for disability inclusion waiver;

(5) developmental disabilities waiver; and

(6) elderly waiver.

(b) For the purposes of this subdivision, "parent" means a parent, stepparent, or legal guardian of a minor.

(c) If multiple parents are providing personal assistance services to their minor child or children, each parent may provide up to 40 hours of personal assistance services in any seven-day period regardless of the number of children served. The total number of hours of medical assistance home and community-based services provided by all of the parents must not exceed 80 hours in a seven-day period regardless of the number of children served.

(d) If only one parent is providing personal assistance services to a minor child or children, the parent may provide up to 60 hours of medical assistance home and community-based services in a seven-day period regardless of the number of children served.

(e) If a participant's spouse is providing personal assistance services, the spouse may provide up to 60 hours of medical assistance home and community-based services in a seven-day period.

(f) This subdivision must not be construed to permit an increase in the total authorized consumer-directed community supports budget for an individual.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 24. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision to read:

Subd. 1b. **Direct support professional annual labor market survey.** (a) The commissioner shall develop and administer a survey of direct care staff who work for organizations that provide services under the following programs:

(1) home and community-based services for seniors under chapter 256S and section 256B.0913, home and community-based services for people with developmental disabilities under section 256B.092, and home and community-based services for people with disabilities under section 256B.49;

(2) personal care assistance services under section 256B.0625, subdivision 19a; community first services and supports under section 256B.85; nursing services and home health services under section 256B.0625, subdivision 6a; home care nursing services under section 256B.0625, subdivision 7; and

(3) financial management services for participants who directly employ direct-care staff through consumer support grants under section 256.476; the personal care assistance choice program under section 256B.0659, subdivisions 18 to 20; community first services and supports under section 256B.85; and the consumer-directed community supports option available under the alternative care program, the brain injury waiver, the community alternative care waiver, the community access for disability inclusion waiver, the developmental disabilities waiver, the elderly waiver, and the Minnesota senior health option, except financial management services providers are not required to submit the data listed in subdivision 1a, clauses (7) to (11).

(b) The survey must collect information about the individual experience of the direct-care staff and any other information necessary to assess the overall economic viability and well-being of the workforce.

(c) For purposes of this subdivision, "direct-care staff" means employees, including self-employed individuals and individuals directly employed by a participant in a consumer-directed service delivery option, providing direct service to participants under this section. Direct-care staff does not include executive, managerial, or administrative staff.

(d) Individually identifiable data submitted to the commissioner under this section are considered private data on individuals as defined by section 13.02, subdivision 12.

(e) The commissioner shall analyze data submitted under this section annually to assess the overall economic viability and well-being of the workforce and the impact of the state of the workforce on access to services.

Sec. 25. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision to read:

Subd. 1c. **Annual labor market report.** The commissioner shall publish annual reports on provider and state-level labor market data, including but not limited to the data outlined in subdivisions 1a and 1b.

Sec. 26. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision to read:

Subd. 16. **Rates established by the commissioner.** For homemaker services eligible for reimbursement under the developmental disabilities waiver, the brain injury waiver, the community alternative care waiver, and the community access for disability inclusion waiver, the commissioner must establish rates equal to the rates established under sections 256S.21 to 256S.215 for the corresponding homemaker services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 27. Minnesota Statutes 2022, section 256B.4914, subdivision 3, is amended to read:

Subd. 3. **Applicable services.** (a) Applicable services are those authorized under the state's home and community-based services waivers under sections 256B.092 and 256B.49, including the following, as defined in the federally approved home and community-based services plan:

(1) 24-hour customized living;

(2) adult day services;

(3) adult day services bath;

(4) community residential services;

(5) customized living;

(6) day support services;

(7) employment development services;

(8) employment exploration services;

(9) employment support services;

(10) family residential services;

(11) individualized home supports;

(12) individualized home supports with family training;

(13) individualized home supports with training;

(14) integrated community supports;

(15) life sharing;

~~(15)~~ (16) night supervision;

~~(16)~~ (17) positive support services;

~~(17)~~ (18) prevocational services;

~~(18)~~ (19) residential support services;

~~(19)~~ (20) respite services;

~~(20)~~ (21) transportation services; and

~~(21)~~ (22) other services as approved by the federal government in the state home and community-based services waiver plan.

(b) Effective January 1, 2024, or upon federal approval, whichever is later, respite services under paragraph (a), clause (20), are not an applicable service under this section.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later, except that paragraph (b) is effective the day following final enactment. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2022, section 256B.4914, subdivision 4, is amended to read:

Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and community-based waivered services, including customized rates under subdivision 12, are set by the rates management system.

(b) Data and information in the rates management system must be used to calculate an individual's rate.

(c) Service providers, with information from the support plan and oversight by lead agencies, shall provide values and information needed to calculate an individual's rate in the rates management system. The determination of service levels must be part of a discussion with members of the support team as defined in section 245D.02, subdivision 34. This discussion must occur prior to the final establishment of each individual's rate. The values and information include:

(1) shared staffing hours;

(2) individual staffing hours;

(3) direct registered nurse hours;

(4) direct licensed practical nurse hours;

(5) staffing ratios;

(6) information to document variable levels of service qualification for variable levels of reimbursement in each framework;

(7) shared or individualized arrangements for unit-based services, including the staffing ratio;

(8) number of trips and miles for transportation services; and

(9) service hours provided through monitoring technology.

(d) Updates to individual data must include:

(1) data for each individual that is updated annually when renewing service plans; and

(2) requests by individuals or lead agencies to update a rate whenever there is a change in an individual's service needs, with accompanying documentation.

(e) Lead agencies shall review and approve all services reflecting each individual's needs, and the values to calculate the final payment rate for services with variables under subdivisions 6 to ~~9a~~ 9 for each individual. Lead agencies must notify the individual and the service provider of the final agreed-upon values and rate, and provide information that is identical to what was entered into the rates management system. If a value used was mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead agencies to correct it. Lead agencies must respond to these requests. When responding to the request, the lead agency must consider:

(1) meeting the health and welfare needs of the individual or individuals receiving services by service site, identified in their support plan under section 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

(2) meeting the requirements for staffing under subdivision 2, paragraphs (h), (n), and (o); and meeting or exceeding the licensing standards for staffing required under section 245D.09, subdivision 1; and

(3) meeting the staffing ratio requirements under subdivision 2, paragraph (o), and meeting or exceeding the licensing standards for staffing required under section 245D.31.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 29. Minnesota Statutes 2022, section 256B.4914, subdivision 5, is amended to read:

Subd. 5. **Base wage index; establishment and updates.** (a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services. For purposes of calculating the base wage, Minnesota-specific wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in the Occupational Handbook must be used.

(b) The commissioner shall update the base wage index in subdivision 5a, publish these updated values, and load them into the rate management system as follows:

(1) on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2019;

(2) on ~~November~~ January 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics ~~available as of December 31, 2021~~ published in March 2022; and

(3) on ~~July~~ January 1, 2026, and every two years thereafter, based on wage data by SOC from the Bureau of Labor Statistics ~~available 30 months and one day~~ published in the spring approximately 21 months prior to the scheduled update.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 30. Minnesota Statutes 2022, section 256B.4914, subdivision 5a, is amended to read:

Subd. 5a. **Base wage index; calculations.** The base wage index must be calculated as follows:

(1) for supervisory staff, 100 percent of the median wage for community and social services specialist (SOC code 21-1099), with the exception of the supervisor of positive supports professional, positive supports analyst, and positive supports specialist, which is 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(2) for registered nurse staff, 100 percent of the median wage for registered nurses (SOC code 29-1141);

(3) for licensed practical nurse staff, 100 percent of the median wage for licensed practical nurses (SOC code 29-2061);

(4) for residential asleep-overnight staff, the minimum wage in Minnesota for large employers~~, with the exception of asleep-overnight staff for family residential services, which is 36 percent of the minimum wage in Minnesota for large employers~~;

(5) for residential direct care staff, the sum of:

(i) 15 percent of the subtotal of 50 percent of the median wage for home health and personal care aide (SOC code 31-1120); 30 percent of the median wage for nursing assistant (SOC code 31-1131); and 20 percent of the median wage for social and human services aide (SOC code 21-1093); and

(ii) 85 percent of the subtotal of 40 percent of the median wage for home health and personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant (SOC code ~~31-1014~~ 31-1131); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(6) for adult day services staff, 70 percent of the median wage for nursing assistant (SOC code 31-1131); and 30 percent of the median wage for home health and personal care aide (SOC code 31-1120);

(7) for day support services staff and prevocational services staff, 20 percent of the median wage for nursing assistant (SOC code 31-1131); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(8) for positive supports analyst staff, 100 percent of the median wage for substance abuse, behavioral disorder, and mental health counselor (SOC code 21-1018);

(9) for positive supports professional staff, 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(10) for positive supports specialist staff, 100 percent of the median wage for psychiatric technicians (SOC code 29-2053);

(11) for individualized home supports with family training staff, 20 percent of the median wage for nursing aide (SOC code 31-1131); 30 percent of the median wage for community social service specialist (SOC code 21-1099); 40 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(12) for individualized home supports with training services staff, 40 percent of the median wage for community social service specialist (SOC code 21-1099); 50 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(13) for employment support services staff, 50 percent of the median wage for rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(14) for employment exploration services staff, 50 percent of the median wage for ~~rehabilitation counselor (SOC code 21-1015)~~ education, guidance, school, and vocational counselor (SOC code 21-1012); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(15) for employment development services staff, 50 percent of the median wage for education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(16) for individualized home support without training staff, 50 percent of the median wage for home health and personal care aide (SOC code 31-1120); and 50 percent of the median wage for nursing assistant (SOC code 31-1131); and

(17) for night supervision staff, 40 percent of the median wage for home health and personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant (SOC code 31-1131); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093)~~; and~~.

~~(18) for respite staff, 50 percent of the median wage for home health and personal care aide (SOC code 31-1131); and 50 percent of the median wage for nursing assistant (SOC code 31-1014).~~

EFFECTIVE DATE. The amendment to clause (5), item (ii), the amendment to clause (14), and the amendment striking clause (18) are effective January 1, 2024, or upon federal approval, whichever is later. The amendment to clause (4) is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 31. Minnesota Statutes 2022, section 256B.4914, subdivision 5b, is amended to read:

Subd. 5b. **Standard component value adjustments.** The commissioner shall update the client and programming support, transportation, and program facility cost component values as required in subdivisions 6 to ~~9a~~ 9 and the rates identified in subdivision 19 for changes in the Consumer Price Index. The commissioner shall adjust these values higher or lower, publish these updated values, and load them into the rate management system as follows:

(1) on January 1, 2022, by the percentage change in the CPI-U from the date of the previous update to the data available on December 31, 2019;

(2) on ~~November~~ January 1, 2024, by the percentage change in the CPI-U from the date of the previous update to the data available as of December 31, ~~2021~~ 2022; and

(3) on ~~July~~ January 1, 2026, and every two years thereafter, by the percentage change in the CPI-U from the date of the previous update to the data available ~~30~~ 24 months and one day prior to the scheduled update.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later, except that the amendment striking the cross-reference to subdivision 9a and the amendments to clauses (2) and (3) are effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 32. Minnesota Statutes 2022, section 256B.4914, subdivision 6, is amended to read:

Subd. 6. **Residential support services; generally.** (a) For purposes of this section, residential support services includes 24-hour customized living services, community residential services, customized living services, ~~family residential services,~~ and integrated community supports.

(b) A unit of service for residential support services is a day. Any portion of any calendar day, within allowable Medicaid rules, where an individual spends time in a residential setting is billable as a day. The number of days authorized for all individuals enrolling in residential support services must include every day that services start and end.

(c) When the available shared staffing hours in a residential setting are insufficient to meet the needs of an individual who enrolled in residential support services after January 1, 2014, then individual staffing hours shall be used.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 33. Minnesota Statutes 2022, section 256B.4914, subdivision 6a, is amended to read:

Subd. 6a. **Community residential services; component values and calculation of payment rates.** (a) Component values for community residential services are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) general administrative support ratio: 13.25 percent;

(6) program-related expense ratio: 1.3 percent; and

(7) absence and utilization factor ratio: 3.9 percent.

(b) Payments for community residential services must be calculated as follows:

(1) determine the number of shared direct staffing and individual direct staffing hours to meet a recipient's needs provided on site or through monitoring technology;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of shared direct staffing and individual direct staffing hours provided on site or through monitoring technology and nursing hours by the appropriate staff wages;

(6) multiply the number of shared direct staffing and individual direct staffing hours provided on site or through monitoring technology and nursing hours by the product of the supervision span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), excluding any shared direct staffing and individual direct staffing hours provided through monitoring technology, and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost, excluding any shared direct staffing and individual hours provided through monitoring technology, by one plus the employee-related cost ratio;

(9) for client programming and supports, add $2,260.21 divided by 365. The commissioner shall update the amount in this clause as specified in subdivision 5b;

(10) for transportation, if provided, add $1,742.62 divided by 365, or $3,111.81 divided by 365 if customized for adapted transport, based on the resident with the highest assessed need. The commissioner shall update the amounts in this clause as specified in subdivision 5b;

(11) subtotal clauses (8) to (10) and the direct staffing cost of any shared direct staffing and individual direct staffing hours provided through monitoring technology that was excluded in clause (8);

(12) sum the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(13) divide the result of clause (11) by one minus the result of clause (12). This is the total payment amount; and

(14) adjust the result of clause (13) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 34. Minnesota Statutes 2022, section 256B.4914, subdivision 6b, is amended to read:

Subd. 6b. **Family residential services; component values and calculation of payment rates.** (a) Component values for family residential services are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) general administrative support ratio: 3.3 percent;

(6) program-related expense ratio: 1.3 percent; and

(7) absence factor: 1.7 percent.

(b) Payments for family residential services must be calculated as follows:

(1) determine the number of shared direct staffing and individual direct staffing hours to meet a recipient's needs provided on site or through monitoring technology;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of shared direct staffing and individual direct staffing hours provided on site or through monitoring technology and nursing hours by the appropriate staff wages;

(6) multiply the number of shared direct staffing and individual direct staffing hours provided on site or through monitoring technology and nursing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), excluding any shared direct staffing and individual direct staffing hours provided through monitoring technology, and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost, excluding any shared and individual direct staffing hours provided through monitoring technology, by one plus the employee-related cost ratio;

(9) for client programming and supports, add $2,260.21 divided by 365. The commissioner shall update the amount in this clause as specified in subdivision 5b;

(10) for transportation, if provided, add $1,742.62 divided by 365, or $3,111.81 divided by 365 if customized for adapted transport, based on the resident with the highest assessed need. The commissioner shall update the amounts in this clause as specified in subdivision 5b;

(11) subtotal clauses (8) to (10) and the direct staffing cost of any shared direct staffing and individual direct staffing hours provided through monitoring technology that was excluded in clause (8);

(12) sum the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(13) divide the result of clause (11) by one minus the result of clause (12). This is the total payment rate; and

(14) adjust the result of clause (13) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 35. Minnesota Statutes 2022, section 256B.4914, subdivision 6c, is amended to read:

Subd. 6c. **Integrated community supports; component values and calculation of payment rates.** (a) Component values for integrated community supports are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) general administrative support ratio: 13.25 percent;

(6) program-related expense ratio: 1.3 percent; and

(7) absence and utilization factor ratio: 3.9 percent.

(b) Payments for integrated community supports must be calculated as follows:

(1) determine the number of shared direct staffing and individual direct staffing hours to meet a recipient's needs. The base shared direct staffing hours must be eight hours divided by the number of people receiving support in the integrated community support setting, and the individual direct staffing hours must be the average number of direct support hours provided directly to the service recipient;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of shared direct staffing and individual direct staffing hours in clause (1) by the appropriate staff wages;

(6) multiply the number of shared direct staffing and individual direct staffing hours in clause (1) by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6) and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost by one plus the employee-related cost ratio;

(9) for client programming and supports, add $2,260.21 divided by 365. The commissioner shall update the amount in this clause as specified in subdivision 5b;

(10) add the results of clauses (8) and (9);

(11) add the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(12) divide the result of clause (10) by one minus the result of clause (11). This is the total payment amount; and

(13) adjust the result of clause (12) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 36. Minnesota Statutes 2022, section 256B.4914, subdivision 7a, is amended to read:

Subd. 7a. **Adult day services; component values and calculation of payment rates.** (a) Component values for adult day services are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 5.6 percent;

(6) client programming and support ratio: 7.4 percent, updated as specified in subdivision 5b;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 1.8 percent; and

(9) absence and utilization factor ratio: 9.4 percent.

(b) A unit of service for adult day services is either a day or 15 minutes. A day unit of service is six or more hours of time spent providing direct service.

(c) Payments for adult day services must be calculated as follows:

(1) determine the number of units of service and the staffing ratio to meet a recipient's needs;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of day program direct staffing hours and nursing hours by the appropriate staff wage;

(6) multiply the number of day program direct staffing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing rate;

(8) for program plan support, multiply the result of clause (7) by one plus the program plan support ratio;

(9) for employee-related expenses, multiply the result of clause (8) by one plus the employee-related cost ratio;

(10) for client programming and supports, multiply the result of clause (9) by one plus the client programming and support ratio;

(11) for program facility costs, add $19.30 per week with consideration of staffing ratios to meet individual needs, updated as specified in subdivision 5b;

(12) for adult day bath services, add $7.01 per 15 minute unit;

(13) this is the subtotal rate;

(14) sum the standard general administrative rate support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(15) divide the result of clause (13) by one minus the result of clause (14). This is the total payment amount; and

(16) adjust the result of clause (15) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 37. Minnesota Statutes 2022, section 256B.4914, subdivision 7b, is amended to read:

Subd. 7b. **Day support services; component values and calculation of payment rates.** (a) Component values for day support services are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 5.6 percent;

(6) client programming and support ratio: 10.37 percent, updated as specified in subdivision 5b;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 1.8 percent; and

(9) absence and utilization factor ratio: 9.4 percent.

(b) A unit of service for day support services is 15 minutes.

(c) Payments for day support services must be calculated as follows:

(1) determine the number of units of service and the staffing ratio to meet a recipient's needs;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of day program direct staffing hours and nursing hours by the appropriate staff wage;

(6) multiply the number of day program direct staffing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing rate;

(8) for program plan support, multiply the result of clause (7) by one plus the program plan support ratio;

(9) for employee-related expenses, multiply the result of clause (8) by one plus the employee-related cost ratio;

(10) for client programming and supports, multiply the result of clause (9) by one plus the client programming and support ratio;

(11) for program facility costs, add $19.30 per week with consideration of staffing ratios to meet individual needs, updated as specified in subdivision 5b;

(12) this is the subtotal rate;

(13) sum the standard general administrative rate support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(14) divide the result of clause (12) by one minus the result of clause (13). This is the total payment amount; and

(15) adjust the result of clause (14) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 38. Minnesota Statutes 2022, section 256B.4914, subdivision 7c, is amended to read:

Subd. 7c. **Prevocational services; component values and calculation of payment rates.** (a) Component values for prevocational services are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 5.6 percent;

(6) client programming and support ratio: 10.37 percent, updated as specified in subdivision 5b;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 1.8 percent; and

(9) absence and utilization factor ratio: 9.4 percent.

(b) A unit of service for prevocational services is either a day or 15 minutes. A day unit of service is six or more hours of time spent providing direct service.

(c) Payments for prevocational services must be calculated as follows:

(1) determine the number of units of service and the staffing ratio to meet a recipient's needs;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of day program direct staffing hours and nursing hours by the appropriate staff wage;

(6) multiply the number of day program direct staffing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing rate;

(8) for program plan support, multiply the result of clause (7) by one plus the program plan support ratio;

(9) for employee-related expenses, multiply the result of clause (8) by one plus the employee-related cost ratio;

(10) for client programming and supports, multiply the result of clause (9) by one plus the client programming and support ratio;

(11) for program facility costs, add $19.30 per week with consideration of staffing ratios to meet individual needs, updated as specified in subdivision 5b;

(12) this is the subtotal rate;

(13) sum the standard general administrative rate support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(14) divide the result of clause (12) by one minus the result of clause (13). This is the total payment amount; and

(15) adjust the result of clause (14) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 39. Minnesota Statutes 2022, section 256B.4914, subdivision 8, is amended to read:

Subd. 8. **Unit-based services with programming; component values and calculation of payment rates.** (a) For the purpose of this section, unit-based services with programming include employment exploration services, employment development services, employment support services, individualized home supports with family training, individualized home supports with training, and positive support services provided to an individual outside of any service plan for a day program or residential support service.

(b) Component values for unit-based services with programming are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 15.5 percent;

(6) client programming and support ratio: 4.7 percent, updated as specified in subdivision 5b;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 6.1 percent; and

(9) absence and utilization factor ratio: 3.9 percent.

(c) A unit of service for unit-based services with programming is 15 minutes.

(d) Payments for unit-based services with programming must be calculated as follows, unless the services are reimbursed separately as part of a residential support services or day program payment rate:

(1) determine the number of units of service to meet a recipient's needs;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of direct staffing hours by the appropriate staff wage;

(6) multiply the number of direct staffing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing rate;

(8) for program plan support, multiply the result of clause (7) by one plus the program plan support ratio;

(9) for employee-related expenses, multiply the result of clause (8) by one plus the employee-related cost ratio;

(10) for client programming and supports, multiply the result of clause (9) by one plus the client programming and support ratio;

(11) this is the subtotal rate;

(12) sum the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(13) divide the result of clause (11) by one minus the result of clause (12). This is the total payment amount;

(14) for services provided in a shared manner, divide the total payment in clause (13) as follows:

(i) for employment exploration services, divide by the number of service recipients, not to exceed five;

(ii) for employment support services, divide by the number of service recipients, not to exceed six; ~~and~~

(iii) for individualized home supports with training and individualized home supports with family training, divide by the number of service recipients, not to exceed ~~two~~ three; and

(iv) for night supervision, divide by the number of service recipients, not to exceed two; and

(15) adjust the result of clause (14) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 40. Minnesota Statutes 2022, section 256B.4914, subdivision 9, is amended to read:

Subd. 9. **Unit-based services without programming; component values and calculation of payment rates.** (a) For the purposes of this section, unit-based services without programming include individualized home supports without training and night supervision provided to an individual outside of any service plan for a day program or residential support service. Unit-based services without programming do not include respite.

(b) Component values for unit-based services without programming are:

(1) competitive workforce factor: ~~4.7~~ 6.7 percent;

(2) supervisory span of control ratio: 11 percent;

(3) employee vacation, sick, and training allowance ratio: 8.71 percent;

(4) employee-related cost ratio: 23.6 percent;

(5) program plan support ratio: 7.0 percent;

(6) client programming and support ratio: 2.3 percent, updated as specified in subdivision 5b;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 2.9 percent; and

(9) absence and utilization factor ratio: 3.9 percent.

(c) A unit of service for unit-based services without programming is 15 minutes.

(d) Payments for unit-based services without programming must be calculated as follows unless the services are reimbursed separately as part of a residential support services or day program payment rate:

(1) determine the number of units of service to meet a recipient's needs;

(2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 to 5a;

(3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;

(4) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);

(5) multiply the number of direct staffing hours by the appropriate staff wage;

(6) multiply the number of direct staffing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

(7) combine the results of clauses (5) and (6), and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing rate;

(8) for program plan support, multiply the result of clause (7) by one plus the program plan support ratio;

(9) for employee-related expenses, multiply the result of clause (8) by one plus the employee-related cost ratio;

(10) for client programming and supports, multiply the result of clause (9) by one plus the client programming and support ratio;

(11) this is the subtotal rate;

(12) sum the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;

(13) divide the result of clause (11) by one minus the result of clause (12). This is the total payment amount;

(14) for individualized home supports without training provided in a shared manner, divide the total payment amount in clause (13) by the number of service recipients, not to exceed ~~two~~ three; and

(15) adjust the result of clause (14) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 41. Minnesota Statutes 2022, section 256B.4914, subdivision 10, is amended to read:

Subd. 10. **Evaluation of information and data.** (a) The commissioner shall, within available resources, conduct research and gather data and information from existing state systems or other outside sources on the following items:

(1) differences in the underlying cost to provide services and care across the state;

(2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and units of transportation for all day services, which must be collected from providers using the rate management worksheet and entered into the rates management system; and

(3) the distinct underlying costs for services provided by a license holder under sections 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided by a license holder certified under section 245D.33.

(b) The commissioner, in consultation with stakeholders, shall review and evaluate the following values already in subdivisions 6 to ~~9a~~ 9, or issues that impact all services, including, but not limited to:

(1) values for transportation rates;

(2) values for services where monitoring technology replaces staff time;

(3) values for indirect services;

(4) values for nursing;

(5) values for the facility use rate in day services, and the weightings used in the day service ratios and adjustments to those weightings;

(6) values for workers' compensation as part of employee-related expenses;

(7) values for unemployment insurance as part of employee-related expenses;

(8) direct care workforce labor market measures;

(9) any changes in state or federal law with a direct impact on the underlying cost of providing home and community-based services;

(10) outcome measures, determined by the commissioner, for home and community-based services rates determined under this section; and

(11) different competitive workforce factors by service, as determined under subdivision 10b.

(c) The commissioner shall report to the chairs and the ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance with the information and data gathered under paragraphs (a) and (b) on January 15, 2021, with a full report, and a full report once every four years thereafter.

(d) Beginning July 1, 2022, the commissioner shall renew analysis and implement changes to the regional adjustment factors once every six years. Prior to implementation, the commissioner shall consult with stakeholders on the methodology to calculate the adjustment.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 42. Minnesota Statutes 2022, section 256B.4914, subdivision 10a, is amended to read:

Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure that wage values and component values in subdivisions 5 to ~~9a~~ 9 reflect the cost to provide the service. As determined by the commissioner, in consultation with stakeholders identified in subdivision 17, a provider enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner to support research on the cost of providing services that have rates determined by the disability waiver rates system. Requested cost data may include, but is not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any five-year period, a provider must submit cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner shall provide each provider a 90-day notice prior to its submission due date. If a provider fails to submit required reporting data, the commissioner shall provide notice to providers that have not provided required data 30 days after the required submission date, and a second notice for providers who have not provided required data 60 days after the required submission date. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments shall be made once data is received by the commissioner.

(c) The commissioner shall conduct a random validation of data submitted under paragraph (a) to ensure data accuracy. The commissioner shall analyze cost documentation in paragraph (a) and provide recommendations for adjustments to cost components.

(d) The commissioner shall analyze cost data submitted under paragraph (a) and, in consultation with stakeholders identified in subdivision 17, may submit recommendations on component values and inflationary factor adjustments to the chairs and ranking minority members of the legislative committees with jurisdiction over human services once every four years beginning January 1, 2021. The commissioner shall make recommendations in conjunction with reports submitted to the legislature according to subdivision 10, paragraph (c). The commissioner shall release cost data in an aggregate form. Cost data from individual providers must not be released except as provided for in current law.

(e) ~~The commissioner shall release cost data in an aggregate form, and cost data from individual providers shall not be released except as provided for in current law.~~ The commissioner shall use data collected in paragraph (a) to determine the compliance with requirements identified under subdivision 10d. The commissioner shall identify providers who have not met the thresholds identified under subdivision 10d on the Department of Human Services website for the year for which the providers reported their costs.

~~(f) The commissioner, in consultation with stakeholders identified in subdivision 17, shall develop and implement a process for providing training and technical assistance necessary to support provider submission of cost documentation required under paragraph (a).~~

EFFECTIVE DATE. This section is effective January 1, 2025, except that the amendment striking the cross-reference to subdivision 9a is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 43. Minnesota Statutes 2022, section 256B.4914, subdivision 10c, is amended to read:

Subd. 10c. **Reporting and analysis of competitive workforce factor.** (a) Beginning February 1, ~~2021~~ 2025, and every two years thereafter, the commissioner shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance an analysis of the competitive workforce factor.

(b) The report must include ~~recommendations to update the competitive workforce factor using~~:

(1) the most recently available wage data by SOC code for the weighted average wage for direct care staff for residential services and direct care staff for day services;

(2) the most recently available wage data by SOC code of the weighted average wage of comparable occupations; and

(3) workforce data as required under subdivision 10b.

(c) ~~The commissioner shall not recommend an increase or decrease of the competitive workforce factor from the current value by more than two percentage points. If, after a biennial analysis for the next report, the competitive workforce factor is less than or equal to zero, the commissioner shall recommend a competitive workforce factor of zero.~~ This subdivision expires June 30, 2031.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 44. Minnesota Statutes 2022, section 256B.4914, is amended by adding a subdivision to read:

Subd. 10d. **Direct care staff; compensation.** (a) A provider paid with rates determined under subdivision 6 must use a minimum of 66 percent of the revenue generated by rates determined under that subdivision for direct care staff compensation.

(b) A provider paid with rates determined under subdivision 7 must use a minimum of 45 percent of the revenue generated by rates determined under that subdivision for direct care compensation.

(c) A provider paid with rates determined under subdivision 8 or 9 must use a minimum of 60 percent of the revenue generated by rates determined under those subdivisions for direct care compensation.

(d) Compensation under this subdivision includes:

(1) wages;

(2) taxes and workers' compensation;

(3) health insurance;

(4) dental insurance;

(5) vision insurance;

(6) life insurance;

(7) short-term disability insurance;

(8) long-term disability insurance;

(9) retirement spending;

(10) tuition reimbursement;

(11) wellness programs;

(12) paid vacation time;

(13) paid sick time; or

(14) other items of monetary value provided to direct care staff.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 45. Minnesota Statutes 2022, section 256B.4914, subdivision 12, is amended to read:

Subd. 12. **Customization of rates for individuals.** (a) For persons determined to have higher needs based on being deaf or hard-of-hearing, the direct-care costs must be increased by an adjustment factor prior to calculating the rate under subdivisions 6 to ~~9a~~ 9. The customization rate with respect to deaf or hard-of-hearing persons shall be $2.50 per hour for waiver recipients who meet the respective criteria as determined by the commissioner.

(b) For the purposes of this section, "deaf and hard-of-hearing" means:

(1) the person has a developmental disability and:

(i) an assessment score which indicates a hearing impairment that is severe or that the person has no useful hearing;

(ii) an expressive communications score that indicates the person uses single signs or gestures, uses an augmentative communication aid, or does not have functional communication, or the person's expressive communications is unknown; and

(iii) a communication score which indicates the person comprehends signs, gestures, and modeling prompts or does not comprehend verbal, visual, or gestural communication, or that the person's receptive communication score is unknown; or

(2) the person receives long-term care services and has an assessment score that indicates the person hears only very loud sounds, the person has no useful hearing, or a determination cannot be made; and the person receives long-term care services and has an assessment that indicates the person communicates needs with sign language, symbol board, written messages, gestures, or an interpreter; communicates with inappropriate content, makes garbled sounds or displays echolalia, or does not communicate needs.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 46. Minnesota Statutes 2022, section 256B.4914, subdivision 14, is amended to read:

Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead agencies must identify individuals with exceptional needs that cannot be met under the disability waiver rate system. The commissioner shall use that information to evaluate and, if necessary, approve an alternative payment rate for those individuals. Whether granted, denied, or modified, the commissioner shall respond to all exception requests in writing. The commissioner shall include in the written response the basis for the action and provide notification of the right to appeal under paragraph (h).

(b) Lead agencies must act on an exception request within 30 days and notify the initiator of the request of their recommendation in writing. A lead agency shall submit all exception requests along with its recommendation to the commissioner.

(c) An application for a rate exception may be submitted for the following criteria:

(1) an individual has service needs that cannot be met through additional units of service;

(2) an individual's rate determined under subdivisions 6 to ~~9a~~ 9 is so insufficient that it has resulted in an individual receiving a notice of discharge from the individual's provider; or

(3) an individual's service needs, including behavioral changes, require a level of service which necessitates a change in provider or which requires the current provider to propose service changes beyond those currently authorized.

(d) Exception requests must include the following information:

(1) the service needs required by each individual that are not accounted for in subdivisions 6 to ~~9a~~ 9;

(2) the service rate requested and the difference from the rate determined in subdivisions 6 to ~~9a~~ 9;

(3) a basis for the underlying costs used for the rate exception and any accompanying documentation; and

(4) any contingencies for approval.

(e) Approved rate exceptions shall be managed within lead agency allocations under sections 256B.092 and 256B.49.

(f) Individual disability waiver recipients, an interested party, or the license holder that would receive the rate exception increase may request that a lead agency submit an exception request. A lead agency that denies such a request shall notify the individual waiver recipient, interested party, or license holder of its decision and the reasons for denying the request in writing no later than 30 days after the request has been made and shall submit its denial to the commissioner in accordance with paragraph (b). The reasons for the denial must be based on the failure to meet the criteria in paragraph (c).

(g) The commissioner shall determine whether to approve or deny an exception request no more than 30 days after receiving the request. If the commissioner denies the request, the commissioner shall notify the lead agency and the individual disability waiver recipient, the interested party, and the license holder in writing of the reasons for the denial.

(h) The individual disability waiver recipient may appeal any denial of an exception request by either the lead agency or the commissioner, pursuant to sections 256.045 and 256.0451. When the denial of an exception request results in the proposed demission of a waiver recipient from a residential or day habilitation program, the commissioner shall issue a temporary stay of demission, when requested by the disability waiver recipient, consistent with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary stay shall remain in effect until the lead agency can provide an informed choice of appropriate, alternative services to the disability waiver.

(i) Providers may petition lead agencies to update values that were entered incorrectly or erroneously into the rate management system, based on past service level discussions and determination in subdivision 4, without applying for a rate exception.

(j) The starting date for the rate exception will be the later of the date of the recipient's change in support or the date of the request to the lead agency for an exception.

(k) The commissioner shall track all exception requests received and their dispositions. The commissioner shall issue quarterly public exceptions statistical reports, including the number of exception requests received and the numbers granted, denied, withdrawn, and pending. The report shall include the average amount of time required to process exceptions.

(l) Approved rate exceptions remain in effect in all cases until an individual's needs change as defined in paragraph (c).

(m) Rates determined under subdivision 19 are ineligible for rate exceptions.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later, except that paragraph (m) is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 47. Minnesota Statutes 2022, section 256B.4914, is amended by adding a subdivision to read:

Subd. 19. **Payments for family residential and life sharing services.** The commissioner shall establish rates for family residential services and life sharing services based on a person's assessed need, as described in the federally-approved waiver plans. Rates for life sharing services must be ten percent higher than the corresponding family residential services rate.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 48. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision to read:

Subd. 19. **ICF/DD rate increase effective January 1, 2024.** (a) Effective January 1, 2024, the daily operating payment rate for a class A intermediate care facility for persons with developmental disabilities is increased by $40.

(b) Effective January 1, 2024, the daily operating payment rate for a class B intermediate care facility for persons with developmental disabilities is increased by $40.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 49. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision to read:

Subd. 20. **ICF/DD minimum daily operating payment rates.** (a) The minimum daily operating payment rate for a class A intermediate care facility for persons with developmental disabilities is $275.

(b) The minimum daily operating payment rate for a class B intermediate care facility for persons with developmental disabilities is $316.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 50. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision to read:

Subd. 21. **ICF/DD rate increases after January 1, 2025.** Beginning January 1, 2025, and every year thereafter, the rates under this section must be updated for the percentage change in the Consumer Price Index (CPI-U) from the previous July 1 to the data available 12 months and one day prior.

EFFECTIVE DATE. This section is effective January 1, 2025, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 51. Minnesota Statutes 2022, section 256B.85, subdivision 7, is amended to read:

Subd. 7. **Community first services and supports; covered services.** Services and supports covered under CFSS include:

(1) assistance to accomplish activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related procedures and tasks through hands-on assistance to accomplish the task or constant supervision and cueing to accomplish the task;

(2) assistance to acquire, maintain, or enhance the skills necessary for the participant to accomplish activities of daily living, instrumental activities of daily living, or health-related tasks;

(3) expenditures for items, services, supports, environmental modifications, or goods, including assistive technology. These expenditures must:

(i) relate to a need identified in a participant's CFSS service delivery plan; and

(ii) increase independence or substitute for human assistance, to the extent that expenditures would otherwise be made for human assistance for the participant's assessed needs;

(4) observation and redirection for behavior or symptoms where there is a need for assistance;

(5) back-up systems or mechanisms, such as the use of pagers or other electronic devices, to ensure continuity of the participant's services and supports;

(6) services provided by a consultation services provider as defined under subdivision 17, that is under contract with the department and enrolled as a Minnesota health care program provider;

(7) services provided by an FMS provider as defined under subdivision 13a, that is an enrolled provider with the department;

(8) CFSS services provided by a support worker who is a parent, stepparent, or legal guardian of a participant under age 18, or who is the participant's spouse. ~~These support workers shall not:~~ Covered services under this clause are subject to the limitations described in subdivision 7b; and

~~(i) provide any medical assistance home and community-based services in excess of 40 hours per seven-day period regardless of the number of parents providing services, combination of parents and spouses providing services, or number of children who receive medical assistance services; and~~

~~(ii) have a wage that exceeds the current rate for a CFSS support worker including the wage, benefits, and payroll taxes; and~~

(9) worker training and development services as described in subdivision 18a.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 52. Minnesota Statutes 2022, section 256B.85, is amended by adding a subdivision to read:

Subd. 7b. **Services provided by parents and spouses.** (a) This subdivision applies to services and supports described in subdivision 7, clause (8).

(b) If multiple parents are support workers providing CFSS services to their minor child or children, each parent may provide up to 40 hours of medical assistance home and community-based services in any seven-day period regardless of the number of children served. The total number of hours of medical assistance home and community-based services provided by all of the parents must not exceed 80 hours in a seven-day period regardless of the number of children served.

(c) If only one parent is a support worker providing CFSS services to the parent's minor child or children, the parent may provide up to 60 hours of medical assistance home and community-based services in a seven-day period regardless of the number of children served.

(d) If a participant's spouse is a support worker providing CFSS services, the spouse may provide up to 60 hours of medical assistance home and community-based services in a seven-day period.

(e) Paragraphs (b) to (d) must not be construed to permit an increase in either the total authorized service budget for an individual or the total number of authorized service units.

(f) A parent or participant's spouse must not receive a wage that exceeds the current rate for a CFSS support worker, including wages, benefits, and payroll taxes.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 53. Minnesota Statutes 2022, section 256B.851, subdivision 3, is amended to read:

Subd. 3. **Payment rates; base wage index.** When initially establishing the base wage component values, the commissioner must use the Minnesota-specific median wage for the standard occupational classification (SOC) codes published by the Bureau of Labor Statistics in the edition of the Occupational Handbook ~~available January 1,~~ published in March 2021. The commissioner must calculate the base wage component values as follows for:

(1) personal care assistance services, CFSS, extended personal care assistance services, and extended CFSS. The base wage component value equals the median wage for personal care aide (SOC code 31-1120);

(2) enhanced rate personal care assistance services and enhanced rate CFSS. The base wage component value equals the product of median wage for personal care aide (SOC code 31-1120) and the value of the enhanced rate under section 256B.0659, subdivision 17a; and

(3) qualified professional services and CFSS worker training and development. The base wage component value equals the sum of 70 percent of the median wage for registered nurse (SOC code 29-1141), 15 percent of the median wage for health care social worker (SOC code 21-1099), and 15 percent of the median wage for social and human service assistant (SOC code 21-1093).

EFFECTIVE DATE. This section is effective January 1, 2024, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 54. Minnesota Statutes 2022, section 256B.851, subdivision 5, is amended to read:

Subd. 5. **Payment rates; component values.** (a) The commissioner must use the following component values:

(1) employee vacation, sick, and training factor, 8.71 percent;

(2) employer taxes and workers' compensation factor, 11.56 percent;

(3) employee benefits factor, 12.04 percent;

(4) client programming and supports factor, 2.30 percent;

(5) program plan support factor, 7.00 percent;

(6) general business and administrative expenses factor, 13.25 percent;

(7) program administration expenses factor, 2.90 percent; and

(8) absence and utilization factor, 3.90 percent.

(b) For purposes of implementation, the commissioner shall use the following implementation components:

(1) personal care assistance services and CFSS: ~~75.45~~ 88.19 percent;

(2) enhanced rate personal care assistance services and enhanced rate CFSS: ~~75.45~~ 88.19 percent; and

(3) qualified professional services and CFSS worker training and development: ~~75.45~~ 88.19 percent.

(c) Effective January 1, 2025, for purposes of implementation, the commissioner shall use the following implementation components:

(1) personal care assistance services and CFSS: 92.08 percent;

(2) enhanced rate personal care assistance services and enhanced rate CFSS: 92.08 percent; and

(3) qualified professional services and CFSS worker training and development: 92.08 percent.

(d) The commissioner shall use the following worker retention components:

(1) for workers who have provided fewer than 1,001 cumulative hours in personal care assistance services or CFSS, the worker retention component is zero percent;

(2) for workers who have provided between 1,001 and 2,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 2.17 percent;

(3) for workers who have provided between 2,001 and 6,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 4.36 percent;

(4) for workers who have provided between 6,001 and 10,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 7.35 percent; and

(5) for workers who have provided more than 10,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 10.81 percent.

(e) The commissioner shall define the appropriate worker retention component based on the total number of units billed for services rendered by the individual provider since July 1, 2017. The worker retention component must be determined by the commissioner for each individual provider and is not subject to appeal.

EFFECTIVE DATE. The amendments to paragraph (b) are effective January 1, 2024, or 90 days after federal approval, whichever is later. Paragraph (b) expires January 1, 2025, or 90 days after federal approval of paragraph (c), whichever is later. Paragraphs (c) to (e) are effective January 1, 2025, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 55. Minnesota Statutes 2022, section 256B.851, subdivision 6, is amended to read:

Subd. 6. **Payment rates; rate determination.** (a) The commissioner must determine the rate for personal care assistance services, CFSS, extended personal care assistance services, extended CFSS, enhanced rate personal care assistance services, enhanced rate CFSS, qualified professional services, and CFSS worker training and development as follows:

(1) multiply the appropriate total wage component value calculated in subdivision 4 by one plus the employee vacation, sick, and training factor in subdivision 5;

(2) for program plan support, multiply the result of clause (1) by one plus the program plan support factor in subdivision 5;

(3) for employee-related expenses, add the employer taxes and workers' compensation factor in subdivision 5 and the employee benefits factor in subdivision 5. The sum is employee-related expenses. Multiply the product of clause (2) by one plus the value for employee-related expenses;

(4) for client programming and supports, multiply the product of clause (3) by one plus the client programming and supports factor in subdivision 5;

(5) for administrative expenses, add the general business and administrative expenses factor in subdivision 5, the program administration expenses factor in subdivision 5, and the absence and utilization factor in subdivision 5;

(6) divide the result of clause (4) by one minus the result of clause (5). The quotient is the hourly rate;

(7) multiply the hourly rate by the appropriate implementation component under subdivision 5. This is the adjusted hourly rate; and

(8) divide the adjusted hourly rate by four. The quotient is the total adjusted payment rate.

(b) In processing claims, the commissioner shall incorporate the worker retention component specified in subdivision 5, by multiplying one plus the total adjusted payment rate by the appropriate worker retention component under subdivision 5, paragraph (d).

~~(b)~~ (c) The commissioner must publish the total ~~adjusted~~ final payment rates.

EFFECTIVE DATE. This section is effective January 1, 2025, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 56. Minnesota Statutes 2022, section 256D.425, subdivision 1, is amended to read:

Subdivision 1. **Persons entitled to receive aid.** A person who is aged, blind, or 18 years of age or older and disabled and who is receiving supplemental security benefits under Title XVI on the basis of age, blindness, or disability (or would be eligible for such benefits except for excess income) is eligible for a payment under the Minnesota supplemental aid program, if the person's net income is less than the standards in section 256D.44. A person who is receiving benefits under the Minnesota supplemental aid program in the month prior to becoming eligible under section 1619(b) of the Social Security Act is eligible for a payment under the Minnesota supplemental aid program while they remain in section 1619(b) status. Persons who are not receiving Supplemental Security Income benefits under Title XVI of the Social Security Act or disability insurance benefits under Title II of the Social Security Act due to exhausting time limited benefits are not eligible to receive benefits under the MSA program. Persons who are not receiving Social Security or other maintenance benefits for failure to meet or comply with the Social Security or other maintenance program requirements are not eligible to receive benefits under the MSA program. Persons who are found ineligible for Supplemental Security Income because of excess income, but whose income is within the limits of the Minnesota supplemental aid program, must have blindness or disability determined by the state medical review team.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 57. Minnesota Statutes 2022, section 256S.2101, subdivision 1, is amended to read:

Subdivision 1. **Phase-in for disability waiver customized living rates.** All rates and rate components for community access for disability inclusion customized living and brain injury customized living under section 256B.4914 ~~shall~~ must be the sum of ~~ten~~ 29.6 percent of the rates calculated under sections 256S.211 to 256S.215 and ~~90~~ 70.4 percent of the rates calculated using the rate methodology in effect as of June 30, 2017.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 58. Minnesota Statutes 2022, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

(7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(8) the Department of Labor and Industry and the Commerce Fraud Bureau in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;

(9) the Department of Human Services and the Office of Inspector General and its agents within the Department of Human Services, including county fraud investigators, for investigations related to recipient or provider fraud and employees of providers when the provider is suspected of committing public assistance fraud;

(10) the Department of Human Services for the purpose of evaluating medical assistance services and supporting program improvement;

~~(10)~~ (11) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program and other cash assistance programs, the Supplemental Nutrition Assistance Program, and the Supplemental Nutrition Assistance Program Employment and Training program by providing data on recipients and former recipients of Supplemental Nutrition Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under chapter 256D;

~~(11)~~ (12) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

~~(12)~~ (13) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

~~(13)~~ (14) the United States Immigration and Customs Enforcement has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

~~(14)~~ (15) the Department of Health for the purposes of epidemiologic investigations;

~~(15)~~ (16) the Department of Corrections for the purposes of case planning and internal research for preprobation, probation, and postprobation employment tracking of offenders sentenced to probation and preconfinement and postconfinement employment tracking of committed offenders;

~~(16)~~ (17) the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201; and

~~(17)~~ (18) the Office of Higher Education for purposes of supporting program improvement, system evaluation, and research initiatives including the Statewide Longitudinal Education Data System.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under

statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 59. **PROVIDER CAPACITY GRANTS FOR RURAL AND UNDERSERVED COMMUNITIES.**

Subdivision 1. **Establishment and authority.** (a) The commissioner of human services shall award grants to organizations that provide community-based services to rural or underserved communities. The grants must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and shall work with the commissioners of management and budget and administration to mitigate barriers in accessing grant money.

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services or that serve historically underserved communities throughout the state.

Subd. 2. **Eligibility.** An eligible applicant for the capacity grants under subdivision 1 is an organization or provider that serves, or will serve, rural or underserved communities and:

(1) provides, or will provide, home and community-based services in the state; or

(2) serves, or will serve, as a connector for communities to available home and community-based services.

Subd. 3. **Allowable grant activities.** Grants under this section must be used by recipients for the following activities:

(1) expanding existing services;

(2) increasing access in rural or underserved areas;

(3) creating new home and community-based organizations;

(4) connecting underserved communities to benefits and available services; or

(5) building new or expanded infrastructure to access medical assistance reimbursement.

Sec. 60. **NEW AMERICAN LEGAL, SOCIAL SERVICES, AND LONG-TERM CARE WORKFORCE GRANT PROGRAM.**

Subdivision 1. **Definition.** "New American" means an individual born abroad and the individual's children, irrespective of immigration status.

Subd. 2. **Grant program established.** The commissioner of human services shall establish a new American legal, social services, and long-term care workforce grant program for organizations that serve and support new Americans:

(1) in seeking or maintaining legal or citizenship status to legally obtain or retain employment in any field or industry; or

(2) to provide specialized services and supports to new Americans to enter the long-term care workforce.

Subd. 3. **Eligible grantees.** (a) The commissioner shall select grantees as provided in this subdivision.

(b) Eligible applicants for a grant under this section must demonstrate the qualifications, legal or other expertise, cultural competency, and experience in working with new Americans necessary to perform the activities required under subdivision 4 statewide or in discreet portions of the state.

(c) Eligible applicants seeking to provide services include governmental units, federally recognized Tribal Nations, nonprofit organizations as defined under section 501(c)(3) of the Internal Revenue Code, for-profit organizations, and legal services organizations specializing in obtaining visas for health care workers.

(d) Eligible applicants seeking to provide supports for new Americans to obtain or maintain employment must demonstrate expertise and capacity to provide training, peer mentoring, supportive services, workforce development, and other services to develop and implement strategies for recruiting and retaining qualified employees.

(e) The commissioner shall prioritize:

(1) for applicants providing legal or social services, organizations that serve populations in areas of the state where worker shortages are most acute or for whom existing legal services and social services during the legal process or while seeking qualified legal assistance are unavailable or insufficient; and

(2) for applicants providing supports for new Americans to obtain or maintain employment in the long-term care workforce, applications from joint labor management programs.

Subd. 4. **Allowable uses of grant money.** (a) Organizations receiving grant money under this section must provide one or more of the following:

(1) intake, assessment, referral, orientation, legal advice, or representation to new Americans to seek or maintain legal or citizenship status and secure or maintain legal authorization for employment in the United States;

(2) social services designed to help eligible populations meet their immediate basic needs during the process of seeking or maintaining legal status and legal authorization for employment, including but not limited to accessing housing, food, employment or employment training, education, course fees, community orientation, transportation, child care, and medical care. Social services may also include navigation services to address ongoing needs once immediate basic needs have been met; or

(3) specialized activities targeted to individuals to support recruitment and connection to long-term care employment opportunities including:

(i) developing connections to employment with long-term care employers and potential employees;

(ii) providing recruitment, training, guidance, mentorship, and other support services necessary to encourage employment, employee retention, and successful community integration;

(iii) providing career education, wraparound support services, and job skills training in high-demand health care and long-term care fields;

(iv) paying for program expenses related to long-term care professions, including but not limited to hiring instructors and navigators, space rentals, and supportive services to help participants attend classes. Allowable uses for supportive services include but are not limited to:

(A) course fees;

(B) child care costs;

(C) transportation costs;

(D) tuition fees;

(E) financial coaching fees;

(F) mental health supports; and

(G) uniform costs incurred as a direct result of participating in classroom instruction or training; or

(v) repaying student loan debt directly incurred as a result of pursuing a qualifying course of study or training.

Subd. 5. **Reporting.** (a) Grant recipients under this section must collect and report to the commissioner information on program participation and program outcomes. The commissioner shall determine the form and timing of reports.

(b) Grant recipients providing immigration legal services under this section must collect and report to the commissioner data that are consistent with the requirements established for the advisory committee established by the supreme court under Minnesota Statutes, section 480.242, subdivision 1.

Subd. 6. **Impact study and evaluation.** (a) The commissioner shall conduct a study of the long-term care workforce portion of the grant program under this section to assess the impacts on new Americans served by the grant program and may evaluate the following:

(1) employee retention;

(2) employee compensation;

(3) career advancement and mobility;

(4) career satisfaction; and

(5) safety in the workplace.

(b) By June 30, 2027, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services finance and policy on the impacts on new Americans engaged in the grant program, based on the results of the evaluation under paragraph (a). Where feasible, the report must include recommendations to improve the experience of new Americans in the long-term care workforce.

Sec. 61. **SUPPORTED-DECISION-MAKING PROGRAMS.**

Subdivision 1. **Authorization.** The commissioner of human services shall award general operating grants to public and private nonprofit organizations, counties, and Tribes to provide and promote supported decision making.

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms in this section have the meanings given.

(b) "Supported decision making" has the meaning given in section 524.5-102, subdivision 16a.

(c) "Supported-decision-making services" means services provided to help an individual consider, access, or develop supported decision making, potentially as an alternative to more restrictive forms of decision making, including guardianship and conservatorship. The services may be provided to the individual, family members, or trusted support people. The individual may currently be a person subject to guardianship or conservatorship, but the services must not be used to help a person access a guardianship or conservatorship.

Subd. 3. **Grants.** (a) The grants must be distributed as follows:

(1) at least 75 percent of the grant money must be used to fund programs or organizations that provide supported-decision-making services;

(2) no more than 20 percent of the grant money may be used to fund county or Tribal programs that provide supported-decision-making services; and

(3) no more than five percent of the grant money may be used to fund programs or organizations that do not provide supported-decision-making services but do promote the use and advancement of supported decision making.

(b) The grants must be distributed in a manner to promote racial and geographic diversity in the populations receiving services as determined by the commissioner.

Subd. 4. **Evaluation and report.** By December 1, 2024, the commissioner must submit to the chairs and ranking minority members of the legislative committees with jurisdiction over human services finance and policy an interim report on the impact and outcomes of the grants, including the number of grants awarded and the organizations receiving the grants. The interim report must include any available evidence of how grantees were able to increase utilization of supported decision making and reduce or avoid more restrictive forms of decision making such as guardianship and conservatorship. By December 1, 2025, the commissioner must submit to the chairs and ranking minority members of the legislative committees with jurisdiction over human services finance and policy a final report on the impact and outcomes of the grants, including any updated information from the interim report and the total number of people served by the grants. The final report must also detail how the money was used to achieve the requirements in subdivision 3, paragraph (b).

Subd. 5. **Applications.** Any public or private nonprofit agency may apply to the commissioner for a grant under subdivision 3, paragraph (a), clause (1) or (3). Any county or Tribal agency in Minnesota may apply to the commissioner for a grant under subdivision 3, paragraph (a), clause (2). The application must be submitted in a form approved by the commissioner.

Subd. 6. **Duties of grantees.** Every public or private nonprofit agency, county, or Tribal agency that receives a grant to provide or promote supported decision making must comply with rules related to the administration of the grants.

Sec. 62. **APPROVAL OF CORPORATE FOSTER CARE MORATORIUM EXCEPTIONS.**

(a) The commissioner of human services may approve or deny corporate foster care moratorium exceptions requested under Minnesota Statutes, section 245A.03, subdivision 7, paragraph (a), clause (5), prior to approval of a service provider's home and community-based services license under Minnesota Statutes,

chapter 245D. Approval of the moratorium exception must not be construed as final approval of a service provider's home and community-based services or community residential setting license.

(b) Approval under paragraph (a) must be available only for service providers that have requested a home and community-based services license under Minnesota Statutes, chapter 245D.

(c) Approval under paragraph (a) must be rescinded if the service provider's application for a home and community-based services or community residential setting license is denied.

(d) This section expires December 31, 2023.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 63. **EARLY INTENSIVE DEVELOPMENTAL AND BEHAVIORAL INTERVENTION LICENSURE STUDY.**

(a) The commissioner of human services must review the medical assistance early intensive developmental and behavioral intervention (EIDBI) service and evaluate the need for licensure or other regulatory modifications. At a minimum, the evaluation must include:

(1) an examination of current Department of Human Services-licensed programs that are similar to EIDBI;

(2) an environmental scan of licensure requirements for Medicaid autism programs in other states; and

(3) consideration of health and safety needs for populations with autism and related conditions.

(b) The commissioner must consult with interested stakeholders, including self-advocates who use EIDBI services, EIDBI providers, parents of youth who use EIDBI services, and advocacy organizations. The commissioner must convene stakeholder meetings to obtain feedback on licensure or regulatory recommendations.

Sec. 64. **MEMORANDUMS OF UNDERSTANDING.**

The memorandums of understanding with Service Employees International Union Healthcare Minnesota and Iowa, submitted by the commissioner of management and budget on February 27, 2023, are ratified.

Sec. 65. **SELF-DIRECTED WORKER CONTRACT RATIFICATION.**

The labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota and Iowa, submitted to the Legislative Coordinating Commission on February 27, 2023, is ratified.

Sec. 66. **BUDGET INCREASE FOR CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

(a) Effective January 1, 2024, or upon federal approval, whichever is later, consumer-directed community support budgets identified in the waiver plans under Minnesota Statutes, sections 256B.092 and 256B.49, and chapter 256S; and the alternative care program under Minnesota Statutes, section 256B.0913, must be increased by 8.49 percent.

(b) Effective January 1, 2025, or upon federal approval, whichever is later, consumer-directed community support budgets identified in the waiver plans under Minnesota Statutes, sections 256B.092 and 256B.49,

and chapter 256S; and the alternative care program under Minnesota Statutes, section 256B.0913, must be increased by 4.53 percent.

Sec. 67. **DIRECT CARE SERVICE CORPS PILOT PROJECT.**

Subdivision 1. **Establishment.** The Metropolitan Center for Independent Living must develop a pilot project establishing the Minnesota Direct Care Service Corps. The pilot project must utilize financial incentives to attract postsecondary students to work as personal care assistants or direct support professionals. The Metropolitan Center for Independent Living must establish the financial incentives and minimum work requirements to be eligible for incentive payments. The financial incentive must increase with each semester that the student participates in the Minnesota Direct Care Service Corps.

Subd. 2. **Pilot sites.** (a) Pilot sites must include one postsecondary institution in the seven-county metropolitan area and at least one postsecondary institution outside of the seven-county metropolitan area. If more than one postsecondary institution outside the metropolitan area is selected, one must be located in northern Minnesota and the other must be located in southern Minnesota.

(b) After satisfactorily completing the work requirements for a semester, the pilot site or its fiscal agent must pay students the financial incentive developed for the pilot project.

Subd. 3. **Evaluation and report.** (a) The Metropolitan Center for Independent Living must contract with a third party to evaluate the pilot project's impact on health care costs, retention of personal care assistants, and patients' and providers' satisfaction of care. The evaluation must include the number of participants, the hours of care provided by participants, and the retention of participants from semester to semester.

(b) By January 15, 2025, the Metropolitan Center for Independent Living must report the findings under paragraph (a) to the chairs and ranking minority members of the legislative committees with jurisdiction over human services finance and policy.

Sec. 68. **RATE INCREASE FOR HOME CARE SERVICES.**

(a) The commissioner of human services shall increase payment rates for home health agency services under Minnesota Statutes, section 256B.0653, by 14.99 percent from the rates in effect on December 31, 2023.

(b) The commissioner shall increase payment rates for home care nursing under Minnesota Statutes, section 256B.0651, subdivision 2, clause (2), by 25 percent from the rates in effect on December 31, 2023.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 69. **SPECIALIZED EQUIPMENT AND SUPPLIES LIMIT INCREASE.**

Upon federal approval, the commissioner of human services must increase the annual limit for specialized equipment and supplies under Minnesota's federally approved home and community-based service waiver plans, alternative care, and essential community supports to $10,000.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 70. **DIRECTION TO COMMISSIONER; APPLICATION OF INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES RATE INCREASES.**

The commissioner of human services shall apply the rate increases under Minnesota Statutes, section 256B.5012, subdivisions 19 and 20, as follows:

(1) apply Minnesota Statutes, section 256B.5012, subdivision 19; and

(2) apply any required rate increase as required under Minnesota Statutes, section 256B.5012, subdivision 20, to the results of clause (1).

Sec. 71. **RATE INCREASE FOR CERTAIN DISABILITY WAIVER SERVICES.**

The commissioner of human services shall increase payment rates for chore services and home-delivered meals provided under Minnesota Statutes, sections 256B.092 and 256B.49, by 14.99 percent from the rates in effect on December 31, 2023.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 72. **RATE INCREASE FOR EARLY INTENSIVE DEVELOPMENTAL AND BEHAVIORAL INTERVENTION BENEFIT SERVICES.**

The commissioner of human services shall increase payment rates for early intensive developmental and behavioral intervention services under Minnesota Statutes, section 256B.0949, by 14.99 percent from the rates in effect on December 31, 2023.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 73. **RATE INCREASE FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES DAY TRAINING AND HABILITATION SERVICES.**

The commissioner of human services shall increase payment rates for day training and habilitation services under Minnesota Statutes, section 252.46, by 14.99 percent from the rates in effect on December 31, 2023.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 74. **STUDY TO EXPAND ACCESS TO SERVICES FOR PEOPLE WITH CO-OCCURRING BEHAVIORAL HEALTH CONDITIONS AND DISABILITIES.**

The commissioner of human services, in consultation with stakeholders, must evaluate options to expand services authorized under Minnesota's federally approved home and community-based waivers, including positive support, crisis respite, respite, and specialist services. The evaluation may include surveying community providers as to the barriers to meeting people's needs and options to authorize services under Minnesota's medical assistance state plan and strategies to decrease the number of people who remain in hospitals, jails, and other acute or crisis settings when they no longer meet medical or other necessity criteria.

Sec. 75. **TEMPORARY GRANT FOR SMALL CUSTOMIZED LIVING PROVIDERS.**

(a) The commissioner of human services must establish a temporary grant for:

(1) customized living providers that serve six or fewer people in a single-family home; and

(2) community residential service providers and integrated community supports providers who transitioned from providing customized living or 24-hour customized living on or after June 30, 2021.

(b) Allowable uses of grant money include physical plant updates required for community residential services or integrated community supports licensure, technical assistance to adapt business models and meet policy and regulatory guidance, and other uses approved by the commissioner. Allowable uses of grant money also include reimbursement for eligible costs incurred by a community residential service provider or integrated community supports provider directly related to the provider's transition from providing customized living or 24-hour customized living. License holders of eligible settings must apply for grant money using an application process determined by the commissioner. Grant money approved by the commissioner is a onetime award of up to $50,000 per eligible setting. To be considered for grant money, eligible license holders must submit a grant application by June 30, 2024. The commissioner may approve grant applications on a rolling basis.

Sec. 76. **DIRECTION TO COMMISSIONER; SUPPORTED-DECISION-MAKING REIMBURSEMENT STUDY.**

By December 15, 2024, the commissioner shall issue a report to the governor and the chairs and ranking minority members of the legislative committees with jurisdiction over human services finance and policy detailing how medical assistance service providers could be reimbursed for providing supported-decision-making services. The report must detail recommendations for all medical assistance programs, including all home and community-based programs, to provide for reimbursement for supported-decision-making services. The report must develop detailed provider requirements for reimbursement, including the criteria necessary to provide high-quality services. In developing provider requirements, the commissioner shall consult with all relevant stakeholders, including organizations currently providing supported-decision-making services. The report must also include strategies to promote equitable access to supported-decision-making services to individuals who are Black, Indigenous, or People of Color; people from culturally specific communities; people from rural communities; and other people who may experience barriers to accessing medical assistance home and community-based services.

Sec. 77. **DIRECTION TO COMMISSIONER; SHARED SERVICES.**

(a) By December 31, 2023, the commissioner of human services shall seek any necessary changes to home and community-based services waiver plans regarding sharing services in order to:

(1) permit shared services for chore, homemaker, and night supervision;

(2) permit existing shared services at higher ratios, including individualized home supports without training, individualized home supports with training, and individualized home supports with family training at a ratio of one staff person to three recipients;

(3) ensure that individuals who are seeking to share services permitted under the waiver plans in an own-home setting are not required to live in a licensed setting in order to share services so long as all other requirements are met; and

(4) issue guidance for shared services, including:

(i) informed choice for all individuals sharing the services;

(ii) guidance on how lead agencies and individuals shall determine that shared service is appropriate to meet the needs, health, and safety of each individual for whom the lead agency provides case management or care coordination; and

(iii) guidance clarifying that an individual's decision to share services does not reduce any determination of the individual's overall or assessed needs for services.

(b) The commissioner shall develop or provide guidance outlining:

(1) instructions for shared services support planning;

(2) person-centered approaches and informed choice in shared services support planning; and

(3) required contents of shared services agreements.

(c) The commissioner shall seek and utilize stakeholder input for any proposed changes to waiver plans and any shared services guidance.

Sec. 78. **DIRECTION TO COMMISSIONER; DISABILITY WAIVER SHARED SERVICES RATES.**

The commissioner of human services shall establish a rate system for shared homemaker services and shared chore services provided under Minnesota Statutes, sections 256B.092 and 256B.49. For two persons sharing services, the rate paid to a provider must not exceed 1-1/2 times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider must not exceed two times the rate paid for serving a single individual. These rates apply only when all of the criteria for the shared service have been met.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 79. **INTERAGENCY EMPLOYMENT SUPPORTS ALIGNMENT STUDY.**

The commissioners of human services, employment and economic development, and education must conduct an interagency alignment study on employment supports for people with disabilities. The study must evaluate:

(1) service rates;

(2) provider enrollment and monitoring standards; and

(3) eligibility processes and people's lived experience transitioning between employment programs.

Sec. 80. **MONITORING EMPLOYMENT OUTCOMES.**

By January 15, 2025, the Departments of Human Services, Employment and Economic Development, and Education must provide the chairs and ranking minority members of the legislative committees with jurisdiction over health, human services, and labor finance and policy with a plan for tracking employment outcomes for people with disabilities served by programs administered by the agencies. This plan must include any needed changes to state law to track supports received and outcomes across programs.

Sec. 81. **STUDY ON PRESUMPTIVE ELIGIBILITY FOR LONG-TERM SERVICES AND SUPPORTS.**

(a) The commissioner of human services must study presumptive financial and functional eligibility for people with disabilities and older adults in the following programs:

(1) medical assistance, alternative care, and essential community supports; and

(2) home and community-based services.

(b) The commissioner must evaluate the following in the study of presumptive eligibility within the programs listed in paragraph (a):

(1) current eligibility processes;

(2) barriers to timely eligibility determinations; and

(3) strategies to enhance access to home and community-based services in the least restrictive setting.

(c) By January 1, 2025, the commissioner must report recommendations and draft legislation to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy.

Sec. 82. **ACUTE CARE TRANSITIONS ADVISORY COUNCIL.**

Subdivision 1. **Establishment.** The commissioner of human services shall establish an Acute Care Transitions Advisory Council to advise and assist the commissioner in establishing and implementing a statewide vision and systemic approach to acute care transitions in Minnesota.

Subd. 2. **Membership.** (a) The Acute Care Transitions Advisory Council consists of the following members:

(1) two individuals or their representatives who have lived experiences with acute care transitions;

(2) two members representing home and community-based services providers;

(3) two members representing the Minnesota Hospital Association;

(4) one member representing the Minnesota Association of County Social Service Administrators;

(5) one member representing the Local Public Health Association;

(6) one member representing a Tribal government;

(7) one member representing the University of Minnesota;

(8) one member representing the State Advisory Council on Mental Health and Subcommittee on Children's Mental Health;

(9) one member representing a public sector labor union;

(10) one member representing the Minnesota County Attorney's Association;

(11) one individual who has had an acute hospital stay initiated during a crisis;

(12) one parent of a child who has had an acute hospital stay initiated during a crisis;

(13) one individual who meets the definition of a caring professional;

(14) the commissioner of human services or a designee;

(15) the commissioner of health or a designee; and

(16) the commissioner of education or a designee.

(b) To the extent possible, the advisory council members must represent diverse populations and different areas of the state.

(c) A member of the legislature may not serve as a member of the advisory council.

Subd. 3. **Cochairs; convening first meeting.** The commissioner of human services shall convene the first meeting. Advisory council members must select advisory council cochairs at the first meeting.

Subd. 4. **Compensation; expenses; reimbursement.** Advisory council members must be compensated and reimbursed for expenses as provided in Minnesota Statutes, section 15.059, subdivision 3.

Subd. 5. **Administrative support.** The commissioner of human services shall provide meeting space and administrative support to the advisory council.

Subd. 6. **Public and community engagement.** The commissioner of human services shall conduct public and community engagement to obtain information about barriers and potential solutions to transitioning patients from acute care settings to more appropriate nonacute care settings and must provide the information collected through public and community engagement to the advisory council.

Subd. 7. **Duties.** (a) By October 1, 2024, the advisory council shall develop and present to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services finance and policy and the commissioner of human services an action plan for creating a systemic approach to acute care transitions for Minnesotans. The action plan must include but is not limited to the following:

(1) recommendations to improve regional capacity for acute care transitions, including examining the roles and experience of counties and Tribes in delivering services and identifying any conflicting and duplicative roles and responsibilities among health and human services agencies, counties, and Tribes;

(2) recommendations to create a measurement and evaluation system using implementation science to analyze regional and statewide data in transitions and make ongoing recommendations for policy and program improvement; and

(3) statewide strategies for improving access to transitioning from acute care settings with a focus on addressing geographic, racial, and ethnic disparities.

(b) The advisory council may contract with a private entity or consultant as necessary to complete its duties under this section, and is exempt from state procurement process requirements under Minnesota Statutes, chapter 16C.

Subd. 8. **Limitations.** (a) In developing the action plan, the advisory council shall take into consideration the impact of its recommendations on:

(1) the existing capacity of state agencies, including staffing needs, technology resources, and existing agency responsibilities; and

(2) the capacity of county and Tribal partners.

(b) The advisory council shall not include in the action plan recommendations that may result in loss of benefits for the individuals eligible for state health and human services public programs or exacerbate health disparities and inequities in access to health care and human services.

Subd. 9. **Expiration.** The Acute Care Transitions Advisory Council expires October 2, 2024, or the day after submitting the action plan required under subdivision 7, whichever is earlier.

Sec. 83. **OVERPAYMENTS FOR DISABILITY WAIVER CUSTOMIZED LIVING SERVICES.**

(a) Notwithstanding Minnesota Statutes, section 256B.064, or any other law to the contrary, providers that received ineligible payments for customized living services under the community access for disability inclusion or brain injury waivers for people under age 55 who were not residing in the setting before January 11, 2021, must not be required to repay ineligible payments related to the age restrictions for customized living services delivered between January 11, 2021, and July 1, 2023. The state must not sanction providers for receipt of these ineligible payments or otherwise seek recovery of these payments.

(b) The state must repay with state money any amount owed to the Centers for Medicare and Medicaid Services for the federal financial participation amount received by the state for ineligible payments identified in paragraph (a).

(c) Nothing in this section prohibits the commissioner from recouping past claims due to false claims or for reasons other than ineligible payments related to age restrictions for disability waiver customized living services for people who were not residing in the setting between January 11, 2021, and July 1, 2023, or from recouping future ineligible payments for disability customized living services, including from providers who received the ineligible payments described in paragraph (a).

(d) The commissioner must update guidance and communicate with lead agencies and customized living service providers to ensure that lead agencies and providers understand the requirements for medical assistance disability waiver customized living service payments.

Sec. 84. **PERSONAL CARE ASSISTANCE COMPENSATION FOR SERVICES PROVIDED BY A PARENT OR SPOUSE.**

(a) Notwithstanding Minnesota Statutes, section 256B.0659, subdivisions 3, paragraph (a), clause (a); 11, paragraph (c); and 19, paragraph (b), clause (3), a parent, stepparent, or legal guardian of a minor who is a personal care assistance recipient or the spouse of a personal care assistance recipient may provide and be paid for providing personal care assistance services under medical assistance. The commissioner shall

seek federal approval for these payments. If federal approval is not received, the commissioner shall make payments for services rendered, prior to federal disapproval, without federal financial participation.

(b) This section expires November 11, 2023, or upon the expiration of federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval expires.

EFFECTIVE DATE. This section is effective retroactively from May 12, 2023.

Sec. 85. **REPEALER.**

(a) Minnesota Statutes 2022, section 256B.4914, subdivision 9a, is repealed.

(b) Minnesota Statutes 2022, section 256B.4914, subdivision 6b, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective January 1, 2024, or upon federal approval, whichever is later, and paragraph (b) is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

ARTICLE 2

AGING SERVICES

Section 1. Minnesota Statutes 2022, section 256.975, subdivision 6, is amended to read:

Subd. 6. **~~Indian~~ Native American elders coordinator position.** (a) The Minnesota Board on Aging shall create ~~an Indian~~ a Native American elders coordinator position~~,~~ and shall hire staff as appropriations permit for the purposes of ~~coordinating efforts with the National Indian Council on Aging and developing~~ facilitating the coordination and development of a ~~comprehensive~~ statewide Tribal-based service system for ~~Indian~~ Native American elders. ~~An Indian elder is defined for purposes of this subdivision as an Indian enrolled in a band or tribe who is 55 years or older.~~

(b) For purposes of this subdivision, the following terms have the meanings given:

(1) "Native American elder" means an individual enrolled in a federally recognized Tribe and identified as an elder according to the requirements of the individual's home Tribe; and

(2) "Tribal government" means representatives of each of the 11 federally recognized Native American Tribes located wholly or partially within the boundaries of the state of Minnesota.

(c) The statewide Tribal-based service system ~~must~~ may include the following components:

~~(1) an assessment of the program eligibility, examining the need to change the age-based eligibility criteria to need-based eligibility criteria;~~

~~(2)~~ (1) a ~~planning system that would~~ plan to grant, or make recommendations for granting, federal and state funding for statewide Tribal-based Native American programs and services;

(2) a plan to develop business initiatives involving Tribal members that will qualify for federal- and state-funded elder service contracts;

(3) a plan for statewide Tribal-based service focal points~~, senior centers, or community centers~~ for socialization and service accessibility for ~~Indian~~ Native American elders;

(4) a plan to develop and implement statewide education and public awareness ~~campaigns~~ promotions, including ~~awareness programs, sensitivity~~ cultural sensitivity training~~,~~ and public education on ~~Indian elder needs~~ Native American elders;

(5) a plan for statewide culturally appropriate information and referral services for Native American elders, including legal advice and counsel and trained advocates ~~and an Indian elder newsletter~~;

(6) a plan for a coordinated statewide Tribal-based health care system including health ~~promotion/prevention~~ promotion and prevention, in-home service, long-term care service, and health care services;

(7) a plan for ongoing ~~research involving Indian elders including needs assessment and needs analysis;~~ collection of significant data on Native American elders, including population, health, socialization, mortality, homelessness, and economic status; and

~~(8) information and referral services for legal advice or legal counsel; and~~

~~(9)~~ (8) a plan to coordinate services with existing organizations, including but not limited to the state of Minnesota, the ~~Council of~~ Minnesota Indian Affairs Council, ~~the Minnesota Indian Council of Elders,~~ the Minnesota Board on Aging, Wisdom Steps, and Minnesota Tribal governments.

Sec. 2. Minnesota Statutes 2022, section 256.9754, is amended to read:

256.9754 ~~COMMUNITY SERVICES DEVELOPMENT~~ LIVE WELL AT HOME GRANTS ~~PROGRAM~~.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Community" means a town, township, city, or targeted neighborhood within a city, or a consortium of towns, townships, cities, or targeted neighborhoods within cities.

(b) "Core home and community-based services provider" means a Faith in Action, Living at Home/Block Nurse, congregational nurse, or similar community-based program governed by a board, the majority of whose members reside within the program's service area, that organizes and uses volunteers and paid staff to deliver nonmedical services intended to assist older adults to identify and manage risks and to maintain the older adults' community living and integration in the community.

(c) "Long-term services and supports" means any service available under the elderly waiver program or alternative care grant programs, nursing facility services, transportation services, caregiver support and respite care services, and other home and community-based services identified as necessary either to maintain lifestyle choices for older adults or to support older adults to remain in their own home.

~~(b)~~ (d) "Older adult services" means any services available under the elderly waiver program or alternative care grant programs; nursing facility services; transportation services; respite services; and other community-based services identified as necessary either to maintain lifestyle choices for older Minnesotans, or to promote independence.

~~(c)~~ (e) "Older adult" refers to individuals 65 years of age and older.

Subd. 2. **Creation; purpose.** (a) The ~~community services development~~ live well at home grants ~~program is~~ are created under the administration of the commissioner of human services.

(b) The purpose of projects selected by the commissioner of human services under this section is to make strategic changes in the long-term services and supports system for older adults and people with dementia, including statewide capacity for local service development and technical assistance and statewide availability of home and community-based services for older adult services, caregiver support and respite care services, and other supports in Minnesota. These projects are intended to create incentives for new and expanded home and community-based services in Minnesota in order to:

(1) reach older adults early in the progression of older adults' need for long-term services and supports, providing them with low-cost, high-impact services that will prevent or delay the use of more costly services;

(2) support older adults to live in the most integrated, least restrictive community setting;

(3) support the informal caregivers of older adults;

(4) develop and implement strategies to integrate long-term services and supports with health care services, in order to improve the quality of care and enhance the quality of life of older adults and older adults' informal caregivers;

(5) ensure cost-effective use of financial and human resources;

(6) build community-based approaches and community commitment to delivering long-term services and supports for older adults in their own homes;

(7) achieve a broad awareness and use of lower-cost in-home services as an alternative to nursing homes and other residential services;

(8) strengthen and develop additional home and community-based services and alternatives to nursing homes and other residential services; and

(9) strengthen programs that use volunteers.

(c) The services provided by these projects are available to older adults who are eligible for medical assistance and the elderly waiver under chapter 256S, the alternative care program under section 256B.0913, or the essential community supports grant under section 256B.0922, and to older adults who have their own money to pay for services.

Subd. 3. **~~Provision of~~ Community services development grants.** The commissioner shall make community services development grants available to communities, providers of older adult services ~~identified in subdivision 1~~, or ~~to~~ a consortium of providers of older adult services~~,~~ to establish older adult services. Grants may be provided for capital and other costs including, but not limited to, start-up and training costs, equipment, and supplies related to older adult services or other residential or service alternatives to nursing facility care. Grants may also be made to renovate current buildings, provide transportation services, fund programs that would allow older adults or individuals with a disability to stay in their own homes by sharing a home, fund programs that coordinate and manage formal and informal services to older adults in their homes to enable them to live as independently as possible in their own homes as an alternative to nursing home care, or expand state-funded programs in the area.

Subd. 3a. **Priority for other grants.** The commissioner of health shall give priority to a grantee selected under subdivision 3 when awarding technology-related grants, if the grantee is using technology as part of the proposal unless that priority conflicts with existing state or federal guidance related to grant awards by the Department of Health. The commissioner of transportation shall give priority to a grantee under subdivision 3 when distributing transportation-related funds to create transportation options for older adults unless that

preference conflicts with existing state or federal guidance related to grant awards by the Department of Transportation.

Subd. 3b. **State waivers.** The commissioner of health may waive applicable state laws and rules for grantees under subdivision 3 on a time-limited basis if the commissioner of health determines that a participating grantee requires a waiver in order to achieve demonstration project goals.

Subd. 3c. **Caregiver support and respite care projects.** (a) The commissioner shall establish projects to expand the availability of caregiver support and respite care services for family and other caregivers. The commissioner shall use a request for proposals to select nonprofit entities to administer the projects. Projects must:

(1) establish a local coordinated network of volunteer and paid respite workers;

(2) coordinate assignment of respite care services to caregivers of older adults;

(3) assure the health and safety of the older adults;

(4) identify at-risk caregivers;

(5) provide information, education, and training for caregivers in the designated community; and

(6) demonstrate the need in the proposed service area, particularly where nursing facility closures have occurred or are occurring or areas with service needs identified by section 144A.351. Preference must be given for projects that reach underserved populations.

(b) Projects must clearly describe:

(1) how they will achieve their purpose;

(2) the process for recruiting, training, and retraining volunteers; and

(3) a plan to promote the project in the designated community, including outreach to older adults needing the services.

(c) Money for all projects under this subdivision may be used to:

(1) hire a coordinator to develop a coordinated network of volunteer and paid respite care services and assign workers to clients;

(2) recruit and train volunteer providers;

(3) provide information, training, and education to caregivers;

(4) advertise the availability of the caregiver support and respite care project; and

(5) purchase equipment to maintain a system of assigning workers to clients.

(d) Volunteer and caregiver training must include resources on how to support an individual with dementia.

(e) Project money may not be used to supplant existing funding sources.

Subd. 3d. **Core home and community-based services projects.** The commissioner shall select and contract with core home and community-based services providers for projects to provide services and supports

to older adults both with and without family and other informal caregivers using a request for proposals process. Projects must:

(1) have a credible public or private nonprofit sponsor providing ongoing financial support;

(2) have a specific, clearly defined geographic service area;

(3) use a practice framework designed to identify high-risk older adults and help them take action to better manage their chronic conditions and maintain their community living;

(4) have a team approach to coordination and care, ensuring that the older adult participants, participants families, and the formal and informal providers are all part of planning and providing services;

(5) provide information, support services, homemaking services, counseling, and training for the older adults and family caregivers;

(6) encourage service area or neighborhood residents and local organizations to collaborate in meeting the needs of older adults in their geographic service areas;

(7) recruit, train, and direct the use of volunteers to provide informal services and other appropriate support to older adults and their caregivers; and

(8) provide coordination and management of formal and informal services to older adults and older adults families using less expensive alternatives.

Subd. 3e. **Community service grants.** The commissioner shall award contracts for grants to public and private nonprofit agencies to establish services that strengthen a community's ability to provide a system of home and community-based services for elderly persons. The commissioner shall use a request for proposals process.

Subd. 3f. **Live Well at Home grant extensions.** (a) A current grantee under subdivision 3, 3c, 3d, or 3e may apply to the commissioner to receive on a noncompetitive basis up to two years of additional funding.

(b) To be eligible for a grant extension, a grant extension applicant must have been awarded a grant under this section within the previous five years and provide at least one eligible service in an underserved community. The grantee must submit to the commissioner a letter of intent to continue providing the eligible service after the expiration of a grant extension provided under this subdivision.

(c) The commissioner of human services must give priority to submitted letters of intent from grantees who have demonstrated success in providing chore services, homemaker services, transportation services, grocery services, caregiver supports, service coordination, or other home and community-based services to older adults in underserved communities.

(d) Notwithstanding section 16B.98, subdivision 5, paragraph (b), the commissioner may from within available appropriations extend a grant agreement up to two additional years, not to exceed seven years, for grantees the commissioner determines can successfully sustain the grantee's Live Well at Home project with the additional funds made available through the grant agreement extension.

Subd. 4. **Eligibility.** Grants may be awarded only to communities and providers or to a consortium of providers that have a local match of 50 percent of the costs for the project in the form of donations, local tax dollars, in-kind donations, fundraising, or other local matches.

Subd. 5. **Grant preference.** The commissioner of human services shall give preference when awarding grants under this section to areas where nursing facility closures have occurred or are occurring or areas with service needs identified by section 144A.351. The commissioner may award grants to the extent grant funds are available and to the extent applications are approved by the commissioner. Denial of approval of an application in one year does not preclude submission of an application in a subsequent year. The maximum grant amount is limited to $750,000.

Sec. 3. **[256.9756] CAREGIVER RESPITE SERVICES GRANTS.**

Subdivision 1. **Caregiver respite services grant program established.** The Minnesota Board on Aging must establish a caregiver respite services grant program to increase the availability of respite services for family caregivers of people with dementia and older adults and to provide information, education, and training to respite caregivers and volunteers regarding caring for people with dementia. From the money made available for this purpose, the board must award grants on a competitive basis to respite service providers, giving priority to areas of the state where there is a high need of respite services.

Subd. 2. **Eligible uses.** Grant recipients awarded grant money under this section must use a portion of the grant award as determined by the board to provide free or subsidized respite services for family caregivers of people with dementia and older adults.

Subd. 3. **Report.** By January 15, 2026, the board shall submit a progress report about the caregiver respite services grants in this section to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services finance and policy. The progress report must include metrics of the use of grant program money. This subdivision expires upon submission of the report. The board shall notify the revisor of statutes when the report is submitted.

Sec. 4. Minnesota Statutes 2022, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person is a citizen of the United States or a United States national;

(2) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility, as determined under section 256B.0911, subdivision 26, but for the provision of services under the alternative care program;

(3) the person is age 65 or older;

(4) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(5) the person is not ineligible for the payment of long-term care services by the medical assistance program due to an asset transfer penalty under section 256B.0595 or equity interest in the home exceeding $500,000 as stated in section 256B.056;

(6) the person needs long-term care services that are not funded through other state or federal funding, or other health insurance or other third-party insurance such as long-term care insurance;

(7) except for individuals described in clause (8), the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256S.18. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between

the client's monthly service limit defined under section 256S.04, and the alternative care program monthly service limit defined in this paragraph. If care-related supplies and equipment or environmental modifications and adaptations are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph;

(8) for individuals assigned a case mix classification A as described under section 256S.18, with (i) no dependencies in activities of daily living, or (ii) up to two dependencies in bathing, dressing, grooming, walking, and eating when the dependency score in eating is three or greater as determined by an assessment performed under section 256B.0911, the monthly cost of alternative care services funded by the program cannot exceed $593 per month for all new participants enrolled in the program on or after July 1, 2011. This monthly limit shall be applied to all other participants who meet this criteria at reassessment. This monthly limit shall be increased annually as described in section 256S.18. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased exceed the difference between the client's monthly service limit defined in this clause and the limit described in clause (7) for case mix classification A; ~~and~~

(9) the person is making timely payments of the assessed monthly fee. A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

(i) the appointment of a representative payee;

(ii) automatic payment from a financial account;

(iii) the establishment of greater family involvement in the financial management of payments; or

(iv) another method acceptable to the lead agency to ensure prompt fee payments~~.~~<u>; and</u>

<u>(10) for a person participating in consumer-directed community supports, the person's monthly service limit must be equal to the monthly service limits in clause (7), except that a person assigned a case mix classification L must receive the monthly service limit for case mix classification A.</u>

(b) The lead agency may extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(c) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(d) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are

provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(e) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256S.05, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 5. Minnesota Statutes 2022, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. **Services covered under alternative care.** Alternative care funding may be used for payment of costs of:

(1) adult day services and adult day services bath;

(2) home care;

(3) homemaker services;

(4) personal care;

(5) case management and conversion case management;

(6) respite care;

(7) specialized supplies and equipment;

(8) home-delivered meals;

(9) nonmedical transportation;

(10) nursing services;

(11) chore services;

(12) companion services;

(13) nutrition services;

(14) family caregiver training and education;

(15) coaching and counseling;

(16) telehome care to provide services in their own homes in conjunction with in-home visits;

(17) consumer-directed community supports ~~under the alternative care programs which are available statewide and limited to the average monthly expenditures representative of all alternative care program participants for the same case mix resident class assigned in the most recent fiscal year for which complete expenditure data is available~~;

(18) environmental accessibility and adaptations; and

(19) discretionary services, for which lead agencies may make payment from their alternative care program allocation for services not otherwise defined in this section or section 256B.0625, following approval by the commissioner.

Total annual payments for discretionary services for all clients served by a lead agency must not exceed 25 percent of that lead agency's annual alternative care program base allocation, except that when alternative care services receive federal financial participation under the 1115 waiver demonstration, funding shall be allocated in accordance with subdivision 17.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 6. Minnesota Statutes 2022, section 256B.0917, subdivision 1b, is amended to read:

Subd. 1b. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) ~~"Community" means a town; township; city; or targeted neighborhood within a city; or a consortium of towns, townships, cities, or specific neighborhoods within a city.~~

~~(c) "Core home and community-based services provider" means a Faith in Action, Living at Home Block Nurse, Congregational Nurse, or similar community-based program governed by a board, the majority of whose members reside within the program's service area, that organizes and uses volunteers and paid staff to deliver nonmedical services intended to assist older adults to identify and manage risks and to maintain their community living and integration in the community.~~

~~(d)~~ "Eldercare development partnership" means a team of representatives of county social service and public health agencies, the area agency on aging, local nursing home providers, local home care providers, and other appropriate home and community-based providers in the area agency's planning and service area.

~~(e)~~ (c) "Long-term services and supports" means any service available under the elderly waiver program or alternative care grant programs, nursing facility services, transportation services, caregiver support and respite care services, and other home and community-based services identified as necessary either to maintain lifestyle choices for older adults or to support them to remain in their own home.

~~(f)~~ (d) "Older adult" refers to an individual who is 65 years of age or older.

Sec. 7. Minnesota Statutes 2022, section 256M.42, is amended to read:

256M.42 ADULT PROTECTION GRANT ALLOCATIONS.

Subdivision 1. **Formula.** (a) The commissioner shall allocate state money appropriated under this section on an annual basis to each county board ~~and tribal government approved by the commissioner to assume county agency duties~~ for adult ~~protective services or as a lead investigative agency~~ protection under section 626.557 ~~on an annual basis in an amount determined~~ and to Tribal Nations that have voluntarily chosen by resolution of Tribal government to participate in vulnerable adult protection programs according to the following formula after the award of the amounts in paragraph (c):

(1) 25 percent must be allocated to the responsible agency on the basis of the number of reports of suspected vulnerable adult maltreatment under sections 626.557 and 626.5572, ~~when the county or tribe is responsible~~ as determined by the most recent data of the commissioner; and

(2) 75 percent must be allocated to the responsible agency on the basis of the number of screened-in reports for adult protective services or vulnerable adult maltreatment investigations under sections 626.557 and 626.5572, ~~when the county or tribe is responsible~~ as determined by the most recent data of the commissioner.

(b) ~~The commissioner is precluded from changing the formula under this subdivision or recommending a change to the legislature without public review and input.~~ Notwithstanding paragraph (a), the commissioner must not award a county less than a minimum allocation established by the commissioner.

(c) To receive money under this subdivision, a participating Tribal Nation must apply to the commissioner. Of the amount appropriated for purposes of this section, the commissioner must award $100,000 to each federally recognized Tribal Nation that has applied to the commissioner and has a Tribal resolution establishing a vulnerable adult protection program. Money received by a Tribal Nation under this section must be used for its vulnerable adult protection program.

Subd. 2. **Payment.** The commissioner shall make allocations for the state fiscal year starting July 1, ~~2019~~ 2023, and to each county board or Tribal government on or before October 10, ~~2019~~ 2023. The commissioner shall make allocations under subdivision 1 to each county board or Tribal government each year thereafter on or before July 10.

Subd. 3. ~~**Prohibition on supplanting existing money**~~ **Purpose of expenditures.** Money received under this section must be used ~~for staffing for protection of vulnerable adults or~~ to meet the agency's duties under section 626.557 and to expand adult protective services to stop, prevent, and reduce risks of maltreatment for adults accepted for services under section 626.557, or for multidisciplinary teams under section 626.5571. ~~Money must not be used to supplant current county or tribe expenditures for these purposes.~~

Subd. 4. **Required expenditures.** State money must be used to expand, not supplant, county or Tribal expenditures for the fiscal year 2023 base for adult protection programs, service interventions, or multidisciplinary teams. A county receiving money under this section must maintain a level of yearly county expenditures for adult protection services under chapter 626 at least equal to that county's average expenditures for those services for calendar years 2022 and 2023.

Subd. 5. **County performance on adult protection measures.** The commissioner must set vulnerable adult protection measures and standards for money received under this section. The commissioner must require an underperforming county to demonstrate that the county designated money allocated under this section for the purpose required and implemented a reasonable strategy to improve adult protection performance, including the development of a performance improvement plan and additional remedies identified by the commissioner. The commissioner may redirect up to 20 percent of an underperforming county's money under this section toward the performance improvement plan.

Subd. 6. **American Indian adult protection.** Tribal Nations receiving money under this section must establish vulnerable adult protection measures and standards and report annually to the commissioner on these outcomes and the number of adults served.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 8. Minnesota Statutes 2022, section 256R.17, subdivision 2, is amended to read:

Subd. 2. **Case mix indices.** (a) The commissioner shall assign a case mix index to each case mix classification ~~based on the Centers for Medicare and Medicaid Services staff time measurement study~~ as determined by the commissioner of health under section 144.0724.

(b) An index maximization approach shall be used to classify residents. "Index maximization" has the meaning given in section 144.0724, subdivision 2, paragraph (c).

Sec. 9. Minnesota Statutes 2022, section 256R.25, is amended to read:

256R.25 EXTERNAL FIXED COSTS PAYMENT RATE.

(a) The payment rate for external fixed costs is the sum of the amounts in paragraphs (b) to ~~(o)~~ (p).

(b) For a facility licensed as a nursing home, the portion related to the provider surcharge under section 256.9657 is equal to $8.86 per resident day. For a facility licensed as both a nursing home and a boarding care home, the portion related to the provider surcharge under section 256.9657 is equal to $8.86 per resident day multiplied by the result of its number of nursing home beds divided by its total number of licensed beds.

(c) The portion related to the licensure fee under section 144.122, paragraph (d), is the amount of the fee divided by the sum of the facility's resident days.

(d) The portion related to development and education of resident and family advisory councils under section 144A.33 is $5 per resident day divided by 365.

(e) The portion related to scholarships is determined under section 256R.37.

(f) The portion related to planned closure rate adjustments is as determined under section 256R.40, subdivision 5, and Minnesota Statutes 2010, section 256B.436.

(g) The portion related to consolidation rate adjustments shall be as determined under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d.

(h) The portion related to single-bed room incentives is as determined under section 256R.41.

(i) The portions related to real estate taxes, special assessments, and payments made in lieu of real estate taxes directly identified or allocated to the nursing facility are the allowable amounts divided by the sum of the facility's resident days. Allowable costs under this paragraph for payments made by a nonprofit nursing facility that are in lieu of real estate taxes shall not exceed the amount which the nursing facility would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes.

(j) The portion related to employer health insurance costs is the allowable costs divided by the sum of the facility's resident days.

(k) The portion related to the Public Employees Retirement Association is the allowable costs divided by the sum of the facility's resident days.

(l) The portion related to quality improvement incentive payment rate adjustments is the amount determined under section 256R.39.

(m) The portion related to performance-based incentive payments is the amount determined under section 256R.38.

(n) The portion related to special dietary needs is the amount determined under section 256R.51.

(o) The portion related to the rate adjustments for border city facilities is the amount determined under section 256R.481.

(p) The portion related to the rate adjustment for critical access nursing facilities is the amount determined under section 256R.47.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2022, section 256R.47, is amended to read:

256R.47 RATE ADJUSTMENT FOR CRITICAL ACCESS NURSING FACILITIES.

(a) The commissioner, in consultation with the commissioner of health, may designate certain nursing facilities as critical access nursing facilities. The designation shall be granted on a competitive basis, within the limits of funds appropriated for this purpose.

(b) The commissioner shall request proposals from nursing facilities every two years. Proposals must be submitted in the form and according to the timelines established by the commissioner. In selecting applicants to designate, the commissioner, in consultation with the commissioner of health, and with input from stakeholders, shall develop criteria designed to preserve access to nursing facility services in isolated areas, rebalance long-term care, and improve quality. To the extent practicable, the commissioner shall ensure an even distribution of designations across the state.

(c) ~~The commissioner shall allow the benefits in clauses (1) to (5)~~ For nursing facilities designated as critical access nursing facilities~~:~~, the commissioner shall allow a supplemental payment above a facility's operating payment rate as determined to be necessary by the commissioner to maintain access to nursing facility services in isolated areas identified in paragraph (b). The commissioner must approve the amounts of supplemental payments through a memorandum of understanding. Supplemental payments to facilities under this section must be in the form of time-limited rate adjustments included in the external fixed costs payment rate under section 256R.25.

~~(1) partial rebasing, with the commissioner allowing a designated facility operating payment rates being the sum of up to 60 percent of the operating payment rate determined in accordance with section 256R.21, subdivision 3, and at least 40 percent, with the sum of the two portions being equal to 100 percent, of the operating payment rate that would have been allowed had the facility not been designated. The commissioner may adjust these percentages by up to 20 percent and may approve a request for less than the amount allowed;~~

~~(2) enhanced payments for leave days. Notwithstanding section 256R.43, upon designation as a critical access nursing facility, the commissioner shall limit payment for leave days to 60 percent of that nursing facility's total payment rate for the involved resident, and shall allow this payment only when the occupancy of the nursing facility, inclusive of bed hold days, is equal to or greater than 90 percent;~~

~~(3) two designated critical access nursing facilities, with up to 100 beds in active service, may jointly apply to the commissioner of health for a waiver of Minnesota Rules, part 4658.0500, subpart 2, in order to jointly employ a director of nursing. The commissioner of health shall consider each waiver request independently based on the criteria under Minnesota Rules, part 4658.0040;~~

~~(4) the minimum threshold under section 256B.431, subdivision 15, paragraph (c), shall be 40 percent of the amount that would otherwise apply; and~~

~~(5) the quality-based rate limits under section 256R.23, subdivisions 5 to 7, apply to designated critical access nursing facilities.~~

(d) Designation of a critical access nursing facility is for a maximum period of up to two years, after which the ~~benefits~~ benefit allowed under paragraph (c) shall be removed. Designated facilities may apply for continued designation.

~~(e) This section is suspended and no state or federal funding shall be appropriated or allocated for the purposes of this section from January 1, 2016, to December 31, 2019.~~

(e) The memorandum of understanding required by paragraph (c) must state that the designation of a critical access nursing facility must be removed if the facility undergoes a change of ownership as defined in section 144A.06, subdivision 2.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. Minnesota Statutes 2022, section 256R.53, is amended by adding a subdivision to read:

Subd. 3. **Nursing facility in Red Wing.** (a) The operating payment rate for a facility located in the city of Red Wing at 1412 West 4th Street is the sum of its direct care costs per standardized day, its other care-related costs per resident day, and its other operating costs per day.

(b) This subdivision expires June 30, 2025.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 12. **[256R.55] FINANCIALLY DISTRESSED NURSING FACILITY LOAN PROGRAM.**

Subdivision 1. **Financially distressed nursing facility loans.** The commissioner of human services shall establish a competitive financially distressed nursing facility loan program to provide operating loans to eligible nursing facilities. The commissioner shall initiate the application process for the loan described in this section at least once annually. A second application process may be initiated each year at the discretion of the commissioner.

Subd. 2. **Eligibility.** To be an eligible applicant for a loan under this section, a nursing facility must submit to the commissioner of human services a loan application in the form and according to the timelines established by the commissioner. In its loan application, a loan applicant must demonstrate that:

(1) the total net income of the nursing facility is not generating sufficient revenue to cover the nursing facility's operating expenses;

(2) the nursing facility is at risk of closure; and

(3) additional operating revenue is necessary to either preserve access to nursing facility services within the community or support people with complex, high-acuity support needs.

Subd. 3. **Approving loans.** The commissioner must evaluate all loan applications on a competitive basis and award loans to successful applicants within available appropriations for this purpose. The commissioner's decisions are final and not subject to appeal.

Subd. 4. **Disbursement schedule.** Successful loan applicants under this section may receive loan disbursements as a lump sum, on an agreed upon disbursement schedule, or as a time-limited line of credit. The commissioner shall approve disbursements to successful loan applicants through a memorandum of understanding. Memoranda of understanding must specify the amount and schedule of loan disbursements.

Subd. 5. **Loan administration.** The commissioner may contract with an independent third party to administer the loan program under this section.

Subd. 6. **Loan payments.** The commissioner shall negotiate the terms of the loan repayment, including the start of the repayment plan, the due date of the repayment, and the frequency of the repayment installments. Repayment installments must not begin until at least 18 months after the first disbursement date. The memoranda of understanding must specify the amount and schedule of loan payments. The repayment term must not exceed 72 months. If any loan payment to the commissioner is not paid within the time specified by the memoranda of understanding, the late payment must be assessed a penalty rate of 0.01 percent of the original loan amount each month the payment is past due. This late fee is not an allowable cost on the department's cost report. The commissioner shall have the power to abate penalties when discrepancies occur resulting from but not limited to circumstances of error and mail delivery.

Subd. 7. **Loan repayment.** (a) If a borrower is more than 60 calendar days delinquent in the timely payment of a contractual payment under this section, the provisions in paragraphs (b) to (e) apply.

(b) The commissioner may withhold some or all of the amount of the delinquent loan payment, together with any penalties due and owing on those amounts, from any money the department owes to the borrower. The commissioner may, at the commissioner's discretion, also withhold future contractual payments from any money the commissioner owes the provider as those contractual payments become due and owing. The commissioner may continue this withholding until the commissioner determines there is no longer any need to do so.

(c) The commissioner shall give prior notice of the commissioner's intention to withhold by mail, facsimile, or email at least ten business days before the date of the first payment period for which the withholding begins. The notice must be deemed received as of the date of mailing or receipt of the facsimile or electronic notice. The notice must:

(1) state the amount of the delinquent contractual payment;

(2) state the amount of the withholding per payment period;

(3) state the date on which the withholding is to begin;

(4) state whether the commissioner intends to withhold future installments of the provider's contractual payments; and

(5) state other contents as the commissioner deems appropriate.

(d) The commissioner, or the commissioner's designee, may enter into written settlement agreements with a provider to resolve disputes and other matters involving unpaid loan contractual payments or future loan contractual payments.

(e) Notwithstanding any law to the contrary, all unpaid loans, plus any accrued penalties, are overpayments for the purposes of section 256B.0641, subdivision 1. The current owner of a nursing home or boarding care home is liable for the overpayment amount owed by a former owner for any facility sold, transferred, or reorganized.

Subd. 8. **Audit.** Loan money allocated under this section are subject to audit to determine whether the money was spent as authorized under this section.

Subd. 9. **Carryforward.** Notwithstanding section 16A.28, subdivision 3, any appropriation for the purposes under this section carry forward and do not lapse until the close of the fiscal year in which this section expires.

Subd. 10. **Expiration.** This section expires June 30, 2029.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 13. Minnesota Statutes 2022, section 256S.15, subdivision 2, is amended to read:

Subd. 2. **Foster care limit.** The elderly waiver payment for the foster care service in combination with the payment for all other elderly waiver services, including case management, must not exceed the monthly case mix budget cap for the participant as specified in sections 256S.18, subdivision 3, and 256S.19, ~~subdivisions~~ subdivision 3 ~~and 4~~.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 14. Minnesota Statutes 2022, section 256S.18, is amended by adding a subdivision to read:

Subd. 3a. **Monthly case mix budget caps for consumer-directed community supports.** The monthly case mix budget caps for each case mix classification for consumer-directed community supports must be equal to the monthly case mix budget caps in subdivision 3.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 15. Minnesota Statutes 2022, section 256S.19, subdivision 3, is amended to read:

Subd. 3. **Calculation of monthly conversion budget ~~cap without consumer-directed community supports~~ caps.** (a) The elderly waiver monthly conversion budget cap for the cost of elderly waiver services ~~without consumer-directed community supports~~ must be based on the nursing facility case mix adjusted total payment rate of the nursing facility where the elderly waiver applicant currently resides for the applicant's case mix classification as determined according to section 256R.17.

(b) The elderly waiver monthly conversion budget cap for the cost of elderly waiver services ~~without consumer-directed community supports shall~~ must be calculated by multiplying the applicable nursing facility case mix adjusted total payment rate by 365, dividing by 12, and subtracting the participant's maintenance needs allowance.

(c) A participant's initially approved monthly conversion budget cap for elderly waiver services ~~without consumer-directed community supports shall~~ must be adjusted at least annually as described in section 256S.18, subdivision 5.

(d) Conversion budget caps for individuals participating in consumer-directed community supports must be set as described in paragraphs (a) to (c).

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 16. Minnesota Statutes 2022, section 256S.21, is amended to read:

256S.21 RATE SETTING; APPLICATION; EVALUATION.

Subdivision 1. **Application of rate setting.** The ~~payment~~ rate methodologies in sections 256S.2101 to 256S.215 apply to:

(1) elderly waiver, elderly waiver customized living, and elderly waiver foster care under this chapter;

(2) alternative care under section 256B.0913;

(3) essential community supports under section 256B.0922; and

(4) community access for disability inclusion customized living and brain injury customized living under section 256B.49.

Subd. 2. **Evaluation of rate setting.** (a) Beginning January 1, 2024, and every two years thereafter, the commissioner, in consultation with stakeholders, shall use all available data and resources to evaluate the following rate setting elements:

(1) the base wage index;

(2) the factors and supervision wage components; and

(3) the formulas to calculate adjusted base wages and rates.

(b) Beginning January 15, 2026, and every two years thereafter, the commissioner shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services finance and policy with a full report on the information and data gathered under paragraph (a).

Subd. 3. **Cost reporting.** (a) As determined by the commissioner, in consultation with stakeholders, a provider enrolled to provide services with rates determined under this chapter must submit requested cost data to the commissioner to support evaluation of the rate methodologies in this chapter. Requested cost data may include but are not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any five-year period, a provider must submit cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner shall provide each provider a 90-day notice prior to the provider's submission due date. If by 30 days after the required submission date a provider fails to submit required reporting data, the commissioner shall provide notice to the provider, and if by 60 days after the required submission date a provider has not provided the required data, the commissioner shall provide a second notice. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments must be made once data is received by the commissioner.

(c) The commissioner shall coordinate the cost reporting activities required under this section with the cost reporting activities directed under section 256B.4914, subdivision 10a.

(d) The commissioner shall analyze cost documentation in paragraph (a) and, in consultation with stakeholders, may submit recommendations on rate methodologies in this chapter, including ways to monitor and enforce the spending requirements directed in section 256S.2101, subdivision 3, through the reports directed by subdivision 2.

EFFECTIVE DATE. Subdivisions 1 and 2 are effective January 1, 2024, or upon federal approval, whichever is later. Subdivision 3 is effective January 1, 2025. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 17. Minnesota Statutes 2022, section 256S.211, is amended to read:

256S.211 RATE SETTING; ~~RATE ESTABLISHMENT~~ UPDATING RATES; SPENDING REQUIREMENTS.

Subdivision 1. **Establishing base wages.** When establishing and updating the base wages according to section 256S.212, the commissioner shall use standard occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in the edition of the Occupational Handbook published immediately prior to January 1, 2019, using Minnesota-specific wages taken from job descriptions.

Subd. 2. **~~Establishing~~ Updating rates.** ~~By January 1 of each year,~~ On January 1, 2024, the commissioner shall ~~establish factors,~~ update component rates~~,~~ and rates according to sections ~~256S.213 and~~ 256S.212 to 256S.215, using ~~base wages established according to section 256S.212~~ the data referenced in subdivision 1.

Subd. 3. **Updating home-delivered meals rate.** On January 1 of each year, the commissioner must update the home-delivered meals rate in section 256S.215, subdivision 15, by the percent increase in the nursing facility dietary per diem using the two most recently available nursing facility cost reports.

Subd. 4. **Spending requirements.** (a) Except for community access for disability inclusion customized living and brain injury customized living under section 256B.49, home-delivered meals, and designated disproportionate share facilities under section 256S.205, at least 80 percent of the marginal increase in revenue from the implementation of any rate adjustments under this section must be used to increase compensation-related costs for employees directly employed by the provider.

(b) For the purposes of this subdivision, compensation-related costs include:

(1) wages and salaries;

(2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, and mileage reimbursement;

(3) the employer's paid share of health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, pensions, and contributions to employee retirement accounts; and

(4) benefits that address direct support professional workforce needs above and beyond what employees were offered prior to the implementation of any rate adjustments under this section, including any concurrent or subsequent adjustments to the base wage indices.

(c) Compensation-related costs for persons employed in the central office of a corporation or entity that has an ownership interest in the provider or exercises control over the provider, or for persons paid by the provider under a management contract, do not count toward the 80 percent requirement under this subdivision.

(d) A provider agency or individual provider that receives additional revenue subject to the requirements of this subdivision shall prepare, and upon request submit to the commissioner, a distribution plan that specifies the amount of money the provider expects to receive that is subject to the requirements of this subdivision, including how that money was or will be distributed to increase compensation-related costs for employees. Within 60 days of final implementation of the new phase-in proportion or adjustment to the base wage indices subject to the requirements of this subdivision, the provider must post the distribution plan and leave it posted for a period of at least six months in an area of the provider's operation to which all employees have access. The posted distribution plan must include instructions regarding how to contact the commissioner, or the commissioner's representative, if an employee has not received the compensation-related increase described in the plan.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later, except that subdivision 3 is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 18. Minnesota Statutes 2022, section 256S.212, is amended to read:

256S.212 RATE SETTING; BASE WAGE INDEX.

Subdivision 1. **Updating SOC codes.** If any of the SOC codes and positions used in this section are no longer available, the commissioner shall, in consultation with stakeholders, select a new SOC code and position that is the closest match to the previously used SOC position.

Subd. 2. **Home management and support services base wage.** For customized living, and foster care, ~~and residential care~~ component services, the home management and support services base wage equals 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal ~~and home~~ care aide (SOC code ~~39-9021~~ 31-1120); 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for food preparation workers (SOC code 35-2021); and 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

Subd. 3. **Home care aide base wage.** For customized living, and foster care~~, and residential care~~ component services, the home care aide base wage equals ~~50~~ 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal care aides (SOC code ~~31-1011~~ 31-1120); and ~~50~~ 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code ~~31-1014~~ 31-1131).

Subd. 4. **Home health aide base wage.** For customized living~~,~~ and foster care~~, and residential care~~ component services, the home health aide base wage equals ~~20~~ 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061); ~~and 80~~ 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code ~~31-1014~~ 31-1131); and 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal care aides (SOC code 31-1120).

Subd. 5. **Medication setups by licensed nurse base wage.** For customized living~~,~~ and foster care~~, and residential care~~ component services, the medication setups by licensed nurse base wage equals ~~ten~~ 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061); and ~~90~~ 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141).

Subd. 6. **Chore services base wage.** The chore services base wage equals ~~100~~ 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for landscaping and groundskeeping workers (SOC code 37-3011); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

Subd. 7. **Companion services base wage.** The companion services base wage equals ~~50~~ 80 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal ~~and home~~ care aides (SOC code ~~39-9021~~ 31-1120); and ~~50~~ 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

Subd. 8. **Homemaker ~~services and~~ assistance with personal care base wage.** The homemaker ~~services and~~ assistance with personal care base wage equals ~~60~~ 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal ~~and home~~ care ~~aide~~ aides (SOC code ~~39-9021~~ 31-1120); ~~20~~ and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code ~~31-1014~~ 31-1131)~~; and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012)~~.

Subd. 9. **Homemaker ~~services and~~ cleaning base wage.** The homemaker ~~services and~~ cleaning base wage equals ~~60 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and 20~~ 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

Subd. 10. **Homemaker ~~services and~~ home management base wage.** The homemaker ~~services and~~ home management base wage equals ~~60~~ 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal ~~and home~~ care ~~aide~~ aides (SOC code ~~39-9021~~ 31-1120); ~~20~~ and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code ~~31-1014~~ 31-1131)~~; and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012)~~.

Subd. 11. **In-home respite care services base wage.** The in-home respite care services base wage equals ~~five~~ 15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~nursing assistants~~ home health and personal care aides (SOC code ~~31-1014~~

31-1120); and ~~20~~ ten percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061).

Subd. 12. **Out-of-home respite care services base wage.** The out-of-home respite care services base wage equals ~~five~~ 15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~nursing assistants~~ home health and personal care aides (SOC code ~~31-1014~~ 31-1120); and ~~20~~ ten percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061).

Subd. 13. **Individual community living support base wage.** The individual community living support base wage equals ~~20~~ 60 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~licensed practical and licensed vocational nurses~~ social and human services assistants (SOC code ~~29-2061~~ 21-1093); and ~~80~~ 40 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code ~~31-1014~~ 31-1131).

Subd. 14. **Registered nurse base wage.** The registered nurse base wage equals 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141).

Subd. 15. **~~Social worker~~ Unlicensed supervisor base wage.** The ~~social worker~~ unlicensed supervisor base wage equals 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~medical and public health social~~ first-line supervisors of personal service workers (SOC code ~~21-1022~~ 39-1022).

Subd. 16. **Adult day services base wage.** The adult day services base wage equals 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health and personal care aides (SOC code 31-1120); and 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1131).

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 19. Minnesota Statutes 2022, section 256S.213, is amended to read:

256S.213 RATE SETTING; FACTORS.

Subdivision 1. **Payroll taxes and benefits factor.** The payroll taxes and benefits factor is the sum of net payroll taxes and benefits, divided by the sum of all salaries for all nursing facilities on the most recent and available cost report.

Subd. 2. **General and administrative factor.** The general and administrative factor is ~~the difference of net general and administrative expenses and administrative salaries, divided by total operating expenses for all nursing facilities on the most recent and available cost report~~ 14.4 percent.

Subd. 3. **Program plan support factor.** (a) The program plan support factor is ~~12.8~~ ten percent for the following services to cover the cost of direct service staff needed to provide support for ~~home and community-based~~ the service when not engaged in direct contact with participants~~.~~:

(1) adult day services;

(2) customized living; and

(3) foster care.

(b) The program plan support factor is 15.5 percent for the following services to cover the cost of direct service staff needed to provide support for the service when not engaged in direct contact with participants:

(1) chore services;

(2) companion services;

(3) homemaker assistance with personal care;

(4) homemaker cleaning;

(5) homemaker home management;

(6) in-home respite care;

(7) individual community living support; and

(8) out-of-home respite care.

Subd. 4. **Registered nurse management and supervision ~~factor~~ wage component.** The registered nurse management and supervision ~~factor~~ wage component equals 15 percent of the registered nurse adjusted base wage as defined in section 256S.214.

Subd. 5. **~~Social worker~~ Unlicensed supervisor supervision ~~factor~~ wage component.** The ~~social worker~~ unlicensed supervisor supervision ~~factor~~ wage component equals 15 percent of the ~~social worker~~ unlicensed supervisor adjusted base wage as defined in section 256S.214.

Subd. 6. **Facility and equipment factor.** The facility and equipment factor for adult day services is 16.2 percent.

Subd. 7. **Food, supplies, and transportation factor.** The food, supplies, and transportation factor for adult day services is 24 percent.

Subd. 8. **Supplies and transportation factor.** The supplies and transportation factor for the following services is 1.56 percent:

(1) chore services;

(2) companion services;

(3) homemaker assistance with personal care;

(4) homemaker cleaning;

(5) homemaker home management;

(6) in-home respite care;

(7) individual community support services; and

(8) out-of-home respite care.

Subd. 9. **Absence factor.** The absence factor for the following services is 4.5 percent:

(1) adult day services;

(2) chore services;

(3) companion services;

(4) homemaker assistance with personal care;

(5) homemaker cleaning;

(6) homemaker home management;

(7) in-home respite care;

(8) individual community living support; and

(9) out-of-home respite care.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 20. Minnesota Statutes 2022, section 256S.214, is amended to read:

256S.214 RATE SETTING; ADJUSTED BASE WAGE.

(a) For the purposes of section 256S.215, the adjusted base wage for each position equals the position's base wage under section 256S.212 plus:

(1) the position's base wage multiplied by the payroll taxes and benefits factor under section 256S.213, subdivision 1;

~~(2) the position's base wage multiplied by the general and administrative factor under section 256S.213, subdivision 2; and~~

~~(3)~~ (2) the position's base wage multiplied by the applicable program plan support factor under section 256S.213, subdivision 3~~.~~; and

(3) the position's base wage multiplied by the absence factor under section 256S.213, subdivision 9, if applicable.

(b) If the base wage described in paragraph (a) is below $16.68, the base wage must equal $16.68.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 21. Minnesota Statutes 2022, section 256S.215, subdivision 2, is amended to read:

Subd. 2. **Home management and support services component rate.** The component rate for home management and support services is calculated as follows:

(1) sum the home management and support services adjusted base wage ~~plus~~ and the registered nurse management and supervision ~~factor.~~ wage component;

(2) multiply the result of clause (1) by the general and administrative factor; and

(3) sum the results of clauses (1) and (2).

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 22. Minnesota Statutes 2022, section 256S.215, subdivision 3, is amended to read:

Subd. 3. **Home care aide services component rate.** The component rate for home care aide services is calculated as follows:

(1) sum the home health aide services adjusted base wage ~~plus~~ and the registered nurse management and supervision ~~factor.~~ wage component;

(2) multiply the result of clause (1) by the general and administrative factor; and

(3) sum the results of clauses (1) and (2).

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 23. Minnesota Statutes 2022, section 256S.215, subdivision 4, is amended to read:

Subd. 4. **Home health aide services component rate.** The component rate for home health aide services is calculated as follows:

(1) sum the home health aide services adjusted base wage ~~plus~~ and the registered nurse management and supervision ~~factor.~~ wage component;

(2) multiply the result of clause (1) by the general and administrative factor; and

(3) sum the results of clauses (1) and (2).

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 24. Minnesota Statutes 2022, section 256S.215, subdivision 7, is amended to read:

Subd. 7. **Chore services rate.** The 15-minute unit rate for chore services is calculated as follows:

(1) sum the chore services adjusted base wage and the ~~social worker~~ unlicensed supervisor supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 25. Minnesota Statutes 2022, section 256S.215, subdivision 8, is amended to read:

Subd. 8. **Companion services rate.** The 15-minute unit rate for companion services is calculated as follows:

(1) sum the companion services adjusted base wage and the ~~social worker~~ unlicensed supervisor supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 26. Minnesota Statutes 2022, section 256S.215, subdivision 9, is amended to read:

Subd. 9. **Homemaker ~~services and~~ assistance with personal care rate.** The 15-minute unit rate for homemaker ~~services and~~ assistance with personal care is calculated as follows:

(1) sum the homemaker ~~services and~~ assistance with personal care adjusted base wage and the ~~registered nurse management and~~ unlicensed supervisor supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 27. Minnesota Statutes 2022, section 256S.215, subdivision 10, is amended to read:

Subd. 10. **Homemaker ~~services and~~ cleaning rate.** The 15-minute unit rate for homemaker ~~services and~~ cleaning is calculated as follows:

(1) sum the homemaker ~~services and~~ cleaning adjusted base wage and the ~~registered nurse management and~~ unlicensed supervisor supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 28. Minnesota Statutes 2022, section 256S.215, subdivision 11, is amended to read:

Subd. 11. **Homemaker ~~services and~~ home management rate.** The 15-minute unit rate for homemaker ~~services and~~ home management is calculated as follows:

(1) sum the homemaker ~~services and~~ home management adjusted base wage and the ~~registered nurse management and~~ unlicensed supervisor supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 29. Minnesota Statutes 2022, section 256S.215, subdivision 12, is amended to read:

Subd. 12. **In-home respite care services rates.** (a) The 15-minute unit rate for in-home respite care services is calculated as follows:

(1) sum the in-home respite care services adjusted base wage and the registered nurse management and supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

(b) The in-home respite care services daily rate equals the in-home respite care services 15-minute unit rate multiplied by 18.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 30. Minnesota Statutes 2022, section 256S.215, subdivision 13, is amended to read:

Subd. 13. **Out-of-home respite care services rates.** (a) The 15-minute unit rate for out-of-home respite care is calculated as follows:

(1) sum the out-of-home respite care services adjusted base wage and the registered nurse management and supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

(b) The out-of-home respite care services daily rate equals the 15-minute unit rate for out-of-home respite care services multiplied by 18.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 31. Minnesota Statutes 2022, section 256S.215, subdivision 14, is amended to read:

Subd. 14. **Individual community living support rate.** The individual community living support rate is calculated as follows:

(1) sum the ~~home care aide~~ individual community living support adjusted base wage and the ~~social worker~~ registered nurse management and supervision ~~factor~~ wage component; ~~and~~

(2) multiply the result of clause (1) by the general and administrative factor;

(3) multiply the result of clause (1) by the supplies and transportation factor; and

(4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 32. Minnesota Statutes 2022, section 256S.215, subdivision 15, is amended to read:

Subd. 15. **Home-delivered meals rate.** Effective January 1, 2024, the home-delivered meals rate ~~equals $9.30~~ is $8.17, updated as directed in section 256S.211, subdivision 3. ~~The commissioner shall increase the home delivered meals rate every July 1 by the percent increase in the nursing facility dietary per diem using the two most recent and available nursing facility cost reports.~~

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 33. Minnesota Statutes 2022, section 256S.215, subdivision 16, is amended to read:

Subd. 16. **Adult day services rate.** The 15-minute unit rate for adult day services~~, with an assumed staffing ratio of one staff person to four participants, is the sum of~~ is calculated as follows:

(1) ~~one-sixteenth of the home care aide~~ divide the adult day services adjusted base wage~~, except that the general and administrative factor used to determine the home care aide services adjusted base wage is 20 percent~~ by five to reflect an assumed staffing ratio of one to five;

(2) ~~one-fourth of the registered nurse management and supervision factor~~ sum the result of clause (1) and the registered nurse management and supervision wage component; ~~and~~

(3) ~~$0.63 to cover the cost of meals.~~ multiply the result of clause (2) by the general and administrative factor;

(4) multiply the result of clause (2) by the facility and equipment factor;

(5) multiply the result of clause (2) by the food, supplies, and transportation factor; and

(6) sum the results of clauses (2) to (5) and divide the result by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 34. Minnesota Statutes 2022, section 256S.215, subdivision 17, is amended to read:

Subd. 17. **Adult day services bath rate.** The 15-minute unit rate for adult day services bath is ~~the sum of~~ calculated as follows:

(1) ~~one-fourth of the home care aide~~ sum the adult day services adjusted base wage~~, except that the general and administrative factor used to determine the home care aide services adjusted base wage is 20 percent~~ and the nurse management and supervision wage component;

(2) ~~one-fourth of the registered nurse management and supervision~~ multiply the result of clause (1) by the general and administrative factor; ~~and~~

(3) ~~$0.63 to cover the cost of meals.~~ multiply the result of clause (1) by the facility and equipment factor;

(4) multiply the result of clause (1) by the food, supplies, and transportation factor; and

(5) sum the results of clauses (1) to (4) and divide the result by four.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

Sec. 35. Laws 2021, chapter 30, article 12, section 5, as amended by Laws 2021, First Special Session chapter 7, article 17, section 2, is amended to read:

Sec. 5. **GOVERNOR'S COUNCIL ON AN AGE-FRIENDLY MINNESOTA.**

The Governor's Council on an Age-Friendly Minnesota, established in Executive Order 19-38, shall: (1) work to advance age-friendly policies; and (2) coordinate state, local, and private partners' collaborative work on emergency preparedness, with a focus on older adults, communities, and persons in zip codes most impacted by the COVID-19 pandemic. The Governor's Council on an Age-Friendly Minnesota is extended and expires June 30, ~~2024~~ 2027.

Sec. 36. Laws 2021, First Special Session chapter 7, article 17, section 8, is amended to read:

Sec. 8. **AGE-FRIENDLY MINNESOTA.**

Subdivision 1. **Age-friendly community grants.** (a) This act includes $0 in fiscal year 2022 and $875,000 in fiscal year 2023 for age-friendly community grants. The commissioner of human services, in collaboration with the Minnesota Board on Aging and the Governor's Council on an Age-Friendly Minnesota, established in Executive Order 19-38, shall develop the age-friendly community grant program to help communities, including cities, counties, other municipalities, Tribes, and collaborative efforts, to become age-friendly communities, with an emphasis on structures, services, and community features necessary to support older adult residents over the next decade, including but not limited to:

(1) coordination of health and social services;

(2) transportation access;

(3) safe, affordable places to live;

(4) reducing social isolation and improving wellness;

(5) combating ageism and racism against older adults;

(6) accessible outdoor space and buildings;

(7) communication and information technology access; and

(8) opportunities to stay engaged and economically productive.

The general fund base in this act for this purpose is $875,000 in fiscal year 2024 and $0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, ~~2024~~ 2027.

(c) This subdivision expires June 30, ~~2024~~ 2027.

Subd. 2. **Technical assistance grants.** (a) This act includes $0 in fiscal year 2022 and $575,000 in fiscal year 2023 for technical assistance grants. The commissioner of human services, in collaboration with the Minnesota Board on Aging and the Governor's Council on an Age-Friendly Minnesota, established in Executive Order 19-38, shall develop the age-friendly technical assistance grant program. The general fund base in this act for this purpose is $575,000 in fiscal year 2024 and $0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, ~~2024~~ 2027.

(c) This subdivision expires June 30, ~~2024~~ 2027.

Sec. 37. **DIRECTION TO COMMISSIONER; FUTURE PACE IMPLEMENTATION FUNDING.**

(a) The commissioner of human services shall work collaboratively with stakeholders to undertake an actuarial analysis of Medicaid costs for nursing home eligible beneficiaries for the purposes of establishing a monthly Medicaid capitation rate for the program of all-inclusive care for the elderly (PACE). The analysis must include all sources of state Medicaid expenditures for nursing home eligible beneficiaries, including but not limited to capitation payments to plans and additional state expenditures to skilled nursing facilities consistent with Code of Federal Regulations, chapter 42, part 447, and long-term care costs.

(b) The commissioner shall also estimate the administrative costs associated with implementing and monitoring PACE.

(c) The commissioner shall provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over health care finance on the actuarial analysis, proposed capitation rate, and estimated administrative costs by March 1, 2024. The commissioner shall recommend a financing mechanism and administrative framework by September 1, 2024.

(d) By September 1, 2024, the commissioner shall inform the chairs and ranking minority members of the legislative committees with jurisdiction over health care finance on the commissioner's progress toward developing a recommended financing mechanism. For purposes of this section, the commissioner may issue or extend a request for proposal to an outside vendor.

Sec. 38. **DIRECTION TO COMMISSIONER; CAREGIVER RESPITE SERVICES GRANTS.**

Beginning in fiscal year 2025, the commissioner of human services must continue the respite services for older adults grant program established under Laws 2021, First Special Session chapter 7, article 17, section 17, subdivision 3, under the authority granted under Minnesota Statutes, section 256.9756. The commissioner may begin the grant application process for awarding grants under Minnesota Statutes, section 256.9756, during fiscal year 2024 in order to facilitate the continuity of the grant program during the transition from a temporary program to a permanent one.

Sec. 39. **DIRECTION TO COMMISSIONERS; SMALL PROVIDER REGULATORY RELIEF.**

The commissioners of human services and health must consult with assisted living facility license holders who provide customized living and whose facilities are smaller than 11 beds to compile a list of regulatory requirements, compliance with which is particularly difficult for small providers. The commissioners must provide the chairs and ranking minority members of the legislative committees with jurisdiction over assisted

living licensure and customized living with recommendations, including draft legislation, to reduce the regulatory burden on small providers.

Sec. 40. **RATE INCREASE FOR CERTAIN HOME AND COMMUNITY-BASED SERVICES.**

The commissioner of human services shall increase payment rates for community living assistance and family caregiver services under Minnesota Statutes, sections 256B.0913 and 256B.0922, and chapter 256S by 14.99 percent from the rates in effect on December 31, 2023.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 41. **NURSING FACILITY RATE STUDY.**

(a) The commissioner of human services shall contract with an independent organization with subject matter expertise in nursing facility accounting to conduct a study of nursing facility rates that includes:

(1) a review of nursing facility rates of all states bordering Minnesota and the states included in the Centers for Medicare and Medicaid Services Region V;

(2) the data necessary to determine the total net income and the operating margin of a nursing facility;

(3) the data necessary to determine whether a nursing facility can generate sufficient revenue to cover the nursing facility's operating expenses;

(4) the average reimbursement rate per resident day in each state and the data used to compute that rate;

(5) facility-level data on all types of Medicaid payments to nursing facilities, including but not limited to:

(i) supplemental rate add-ons;

(ii) rate components;

(iii) data on the sources of the nonfederal share of spending necessary to determine the net Medicaid payment at the facility level; and

(iv) disclosure of transactions from a related party; and

(6) any other information determined necessary by the commissioner to complete the study.

(b) Upon request, a nursing facility must provide information to the commissioner pertaining to the nursing facility's financial operations.

(c) By January 1, 2025, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services policy and finance recommending adjustments to the nursing facility rate methodology under Minnesota Statutes, chapter 256R, based on the results of the study in paragraph (a). The commissioner shall consult with the Office of the Legislative Auditor Financial Audit Division and Program Evaluation Division on study design methods.

Sec. 42. **REVISOR INSTRUCTION.**

The revisor of statutes shall change the headnote in Minnesota Statutes, section 256B.0917, from "HOME AND COMMUNITY-BASED SERVICES FOR OLDER ADULTS" to "ELDERCARE DEVELOPMENT PARTNERSHIPS."

Sec. 43. **REPEALER.**

(a) Minnesota Statutes 2022, section 256B.0917, subdivisions 1a, 6, 7a, and 13, are repealed.

(b) Minnesota Statutes 2022, sections 256S.19, subdivision 4; and 256S.2101, subdivision 2, are repealed.

EFFECTIVE DATE. Paragraph (a) is effective July 1, 2023. Paragraph (b) is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when approval is obtained.

ARTICLE 3

HEALTH CARE

Section 1. Minnesota Statutes 2022, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. **Contribution amount.** (a) The natural or adoptive parents of a minor child, not including a child determined eligible for medical assistance without consideration of parental income under the Tax Equity and Fiscal Responsibility Act (TEFRA) option or a child accessing home and community-based waiver services, must contribute to the cost of services used by making monthly payments on a sliding scale based on income, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to chapter 259A or through title IV-E of the Social Security Act. The parental contribution is a partial or full payment for medical services provided for diagnostic, therapeutic, curing, treating, mitigating, rehabilitation, maintenance, and personal care services as defined in United States Code, title 26, section 213, needed by the child with a chronic illness or disability.

(b) For households with adjusted gross income equal to or greater than 275 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:

(1) if the adjusted gross income is equal to or greater than 275 percent of federal poverty guidelines and less than or equal to 545 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at 1.65 percent of adjusted gross income at 275 percent of federal poverty guidelines and increases to 4.5 percent of adjusted gross income for those with adjusted gross income up to 545 percent of federal poverty guidelines;

(2) if the adjusted gross income is greater than 545 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 4.5 percent of adjusted gross income;

(3) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 975 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at 4.5 percent of adjusted gross income at 675 percent of federal poverty guidelines and increases to 5.99 percent of adjusted gross income for those with adjusted gross income up to 975 percent of federal poverty guidelines; and

(4) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be 7.49 percent of adjusted gross income.

If the child lives with the parent, the annual adjusted gross income is reduced by $2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form, except, effective retroactive to July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home shall not be counted as income.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted. All reimbursements must include a notice that the amount reimbursed may be taxable income if the parent paid for the parent's fees through an employer's health care flexible spending account under the Internal Revenue Code, section 125, and that the parent is responsible for paying the taxes owed on the amount reimbursed.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the

child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by $300 per fiscal year if, in the 12 months prior to July 1:

(1) the parent applied for insurance for the child;

(2) the insurer denied insurance;

(3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and

(4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, "insurance" has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including~~,~~ but not limited to~~,~~ the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

Sec. 2. Minnesota Statutes 2022, section 256B.04, is amended by adding a subdivision to read:

Subd. 26. **Notice of employed persons with disabilities program.** At the time of initial enrollment and at least annually thereafter, the commissioner shall provide information on the medical assistance program for employed persons with disabilities under section 256B.057, subdivision 9, to all medical assistance enrollees who indicate they have a disability.

Sec. 3. Minnesota Statutes 2022, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **Asset limitations for certain individuals.** (a) To be eligible for medical assistance, a person must not individually own more than $3,000 in assets, or if a member of a household with two family members, husband and wife, or parent and child, the household must not own more than $6,000 in assets, plus $200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets excluded under the Supplemental Security Income program for aged, blind, and disabled persons, with the following exceptions:

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered;

(3) motor vehicles are excluded to the same extent excluded by the Supplemental Security Income program;

(4) assets designated as burial expenses are excluded to the same extent excluded by the Supplemental Security Income program. Burial expenses funded by annuity contracts or life insurance policies must irrevocably designate the individual's estate as contingent beneficiary to the extent proceeds are not used for payment of selected burial expenses;

(5) for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability~~, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (d)~~;

(6) a designated employment incentives asset account is disregarded when determining eligibility for medical assistance for a person age 65 years or older under section 256B.055, subdivision 7. An employment incentives asset account must only be designated by a person who has been enrolled in medical assistance under section 256B.057, subdivision 9, for a 24-consecutive-month period. A designated employment incentives asset account contains qualified assets owned by the person ~~and the person's spouse~~ in the last month of enrollment in medical assistance under section 256B.057, subdivision 9. Qualified assets include retirement and pension accounts, medical expense accounts, and up to $17,000 of the person's other nonexcluded liquid assets. An employment incentives asset account is no longer designated when a person loses medical assistance eligibility for a calendar month or more before turning age 65. A person who loses medical assistance eligibility before age 65 can establish a new designated employment incentives asset account by establishing a new 24-consecutive-month period of enrollment under section 256B.057, subdivision 9. ~~The income of a spouse of a person enrolled in medical assistance under section 256B.057, subdivision 9, during each of the 24 consecutive months before the person's 65th birthday must be disregarded when determining eligibility for medical assistance under section 256B.055, subdivision 7.~~ Persons eligible under this clause are not subject to the provisions in section 256B.059; and

(7) effective July 1, 2009, certain assets owned by American Indians are excluded as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(b) No asset limit shall apply to persons eligible under ~~section~~ sections 256B.055, subdivision 15, and 256B.057, subdivision 9.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2022, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

(1) but for excess earnings or assets~~,~~ meets the definition of disabled under the Supplemental Security Income program; and

(2) ~~meets the asset limits in paragraph (d); and~~

~~(3)~~ pays a premium and other obligations under paragraph (e).

(b) For purposes of eligibility, there is a $65 earned income disregard. To be eligible for medical assistance under this subdivision, a person must have more than $65 of earned income. Earned income must have

Medicare, Social Security, and applicable state and federal taxes withheld. The person must document earned income tax withholding. Any spousal income ~~or assets~~ shall be disregarded for purposes of eligibility and premium determinations.

(c) After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, advanced practice registered nurse, or physician assistant; or

(2) loses employment for reasons not attributable to the enrollee, and is without receipt of earned income may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.

(d) ~~For purposes of determining eligibility under this subdivision, a person's assets must not exceed $20,000, excluding:~~

~~(1) all assets excluded under section 256B.056;~~

~~(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans;~~

~~(3) medical expense accounts set up through the person's employer; and~~

~~(4) spousal assets, including spouse's share of jointly held assets.~~

~~(e)~~ All enrollees must pay a premium to be eligible for medical assistance under this subdivision, except as provided under clause (5).

(1) An enrollee must pay the greater of a $35 premium or the premium calculated based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines.

(2) Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(3) All enrollees who receive unearned income must pay one-half of one percent of unearned income in addition to the premium amount, except as provided under clause (5).

(4) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(5) Effective July 1, 2009, American Indians are exempt from paying premiums as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

~~(f)~~ (e) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

~~(g)~~ (f) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report

any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

~~(h)~~ (g) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

~~(i)~~ (h) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. "Good cause" means an excuse for the enrollee's failure to pay the required premium when due because the circumstances were beyond the enrollee's control or not reasonably foreseeable. The commissioner shall determine whether good cause exists based on the weight of the supporting evidence submitted by the enrollee to demonstrate good cause. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

~~(j)~~ (i) For enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner shall reimburse the enrollee for Medicare part B premiums under section 256B.0625, subdivision 15, paragraph (a).

(j) The commissioner is authorized to determine that a premium amount was calculated or billed in error, make corrections to financial records and billing systems, and refund premiums collected in error.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever occurs later, except that paragraph (j) is effective the day following final enactment. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 5. Minnesota Statutes 2022, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) "Nonemergency medical transportation service" means motor vehicle transportation provided by a public or private person that serves Minnesota health care program beneficiaries who do not require emergency ambulance service, as defined in section 144E.001, subdivision 3, to obtain covered medical services.

(b) Medical assistance covers medical transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by eligible persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, nonemergency medical transportation company, or other recognized providers of transportation services. Medical transportation must be provided by:

(1) nonemergency medical transportation providers who meet the requirements of this subdivision;

(2) ambulances, as defined in section 144E.001, subdivision 2;

(3) taxicabs that meet the requirements of this subdivision;

(4) public transit, as defined in section 174.22, subdivision 7; or

(5) not-for-hire vehicles, including volunteer drivers, as defined in section 65B.472, subdivision 1, paragraph (h).

(c) Medical assistance covers nonemergency medical transportation provided by nonemergency medical transportation providers enrolled in the Minnesota health care programs. All nonemergency medical transportation providers must comply with the operating standards for special transportation service as defined in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840, and all drivers must be individually enrolled with the commissioner and reported on the claim as the individual who provided the service. All nonemergency medical transportation providers shall bill for nonemergency medical transportation services in accordance with Minnesota health care programs criteria. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements outlined in this paragraph.

(d) An organization may be terminated, denied, or suspended from enrollment if:

(1) the provider has not initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3); or

(2) the provider has initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3), and:

(i) the commissioner has sent the provider a notice that the individual has been disqualified under section 245C.14; and

(ii) the individual has not received a disqualification set-aside specific to the special transportation services provider under sections 245C.22 and 245C.23.

(e) The administrative agency of nonemergency medical transportation must:

(1) adhere to the policies defined by the commissioner;

(2) pay nonemergency medical transportation providers for services provided to Minnesota health care programs beneficiaries to obtain covered medical services;

(3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled trips, and number of trips by mode; and

(4) by July 1, 2016, in accordance with subdivision 18e, utilize a web-based single administrative structure assessment tool that meets the technical requirements established by the commissioner, reconciles trip information with claims being submitted by providers, and ensures prompt payment for nonemergency medical transportation services.

(f) Until the commissioner implements the single administrative structure and delivery system under subdivision 18e, clients shall obtain their level-of-service certificate from the commissioner or an entity approved by the commissioner that does not dispatch rides for clients using modes of transportation under paragraph (i), clauses (4), (5), (6), and (7).

(g) The commissioner may use an order by the recipient's attending physician, advanced practice registered nurse, physician assistant, or a medical or mental health professional to certify that the recipient requires nonemergency medical transportation services. Nonemergency medical transportation providers shall perform driver-assisted services for eligible individuals, when appropriate. Driver-assisted service includes passenger pickup at and return to the individual's residence or place of business, assistance with admittance of the individual to the medical facility, and assistance in passenger securement or in securing of wheelchairs, child seats, or stretchers in the vehicle.

Nonemergency medical transportation providers must take clients to the health care provider using the most direct route, and must not exceed 30 miles for a trip to a primary care provider or 60 miles for a trip to a specialty care provider, unless the client receives authorization from the local agency.

Nonemergency medical transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Nonemergency medical transportation providers must maintain trip logs, which include pickup and drop-off times, signed by the medical provider or client, whichever is deemed most appropriate, attesting to mileage traveled to obtain covered medical services. Clients requesting client mileage reimbursement must sign the trip log attesting mileage traveled to obtain covered medical services.

(h) The administrative agency shall use the level of service process established by the commissioner to determine the client's most appropriate mode of transportation. If public transit or a certified transportation provider is not available to provide the appropriate service mode for the client, the client may receive a onetime service upgrade.

(i) The covered modes of transportation are:

(1) client reimbursement, which includes client mileage reimbursement provided to clients who have their own transportation, or to family or an acquaintance who provides transportation to the client;

(2) volunteer transport, which includes transportation by volunteers using their own vehicle;

(3) unassisted transport, which includes transportation provided to a client by a taxicab or public transit. If a taxicab or public transit is not available, the client can receive transportation from another nonemergency medical transportation provider;

(4) assisted transport, which includes transport provided to clients who require assistance by a nonemergency medical transportation provider;

(5) lift-equipped/ramp transport, which includes transport provided to a client who is dependent on a device and requires a nonemergency medical transportation provider with a vehicle containing a lift or ramp;

(6) protected transport, which includes transport provided to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver; and (ii) who is certified as a protected transport provider; and

(7) stretcher transport, which includes transport for a client in a prone or supine position and requires a nonemergency medical transportation provider with a vehicle that can transport a client in a prone or supine position.

(j) The local agency shall be the single administrative agency and shall administer and reimburse for modes defined in paragraph (i) according to paragraphs (m) and (n) when the commissioner has developed, made available, and funded the web-based single administrative structure, assessment tool, and level of need assessment under subdivision 18e. The local agency's financial obligation is limited to funds provided by the state or federal government.

(k) The commissioner shall:

(1) verify that the mode and use of nonemergency medical transportation is appropriate;

(2) verify that the client is going to an approved medical appointment; and

(3) investigate all complaints and appeals.

(l) The administrative agency shall pay for the services provided in this subdivision and seek reimbursement from the commissioner, if appropriate. As vendors of medical care, local agencies are subject to the provisions in section 256B.041, the sanctions and monetary recovery actions in section 256B.064, and Minnesota Rules, parts 9505.2160 to 9505.2245.

(m) Payments for nonemergency medical transportation must be paid based on the client's assessed mode under paragraph (h), not the type of vehicle used to provide the service. The medical assistance reimbursement rates for nonemergency medical transportation services that are payable by or on behalf of the commissioner for nonemergency medical transportation services are:

(1) $0.22 per mile for client reimbursement;

(2) up to 100 percent of the Internal Revenue Service business deduction rate for volunteer transport;

(3) equivalent to the standard fare for unassisted transport when provided by public transit, and ~~$11~~ $12.10 for the base rate and ~~$1.30~~ $1.43 per mile when provided by a nonemergency medical transportation provider;

(4) ~~$13~~ $14.30 for the base rate and ~~$1.30~~ $1.43 per mile for assisted transport;

(5) ~~$18~~ $19.80 for the base rate and ~~$1.55~~ $1.70 per mile for lift-equipped/ramp transport;

(6) $75 for the base rate and $2.40 per mile for protected transport; and

(7) $60 for the base rate and $2.40 per mile for stretcher transport, and $9 per trip for an additional attendant if deemed medically necessary.

(n) The base rate for nonemergency medical transportation services in areas defined under RUCA to be super rural is equal to 111.3 percent of the respective base rate in paragraph (m), clauses (1) to (7). The mileage rate for nonemergency medical transportation services in areas defined under RUCA to be rural or super rural areas is:

(1) for a trip equal to 17 miles or less, equal to 125 percent of the respective mileage rate in paragraph (m), clauses (1) to (7); and

(2) for a trip between 18 and 50 miles, equal to 112.5 percent of the respective mileage rate in paragraph (m), clauses (1) to (7).

(o) For purposes of reimbursement rates for nonemergency medical transportation services under paragraphs (m) and (n), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

(p) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means a census-tract based classification system under which a geographical area is determined to be urban, rural, or super rural.

(q) The commissioner, when determining reimbursement rates for nonemergency medical transportation under paragraphs (m) and (n), shall exempt all modes of transportation listed under paragraph (i) from Minnesota Rules, part 9505.0445, item R, subitem (2).

(r) Effective for the first day of each calendar quarter in which the price of gasoline as posted publicly by the United States Energy Information Administration exceeds $3.00 per gallon, the commissioner shall adjust the rate paid per mile in paragraph (m) by one percent up or down for every increase or decrease of

ten cents for the price of gasoline. The increase or decrease must be calculated using a base gasoline price of $3.00. The percentage increase or decrease must be calculated using the average of the most recently available price of all grades of gasoline for Minnesota as posted publicly by the United States Energy Information Administration.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 6. Minnesota Statutes 2022, section 256B.0625, subdivision 17a, is amended to read:

Subd. 17a. **Payment for ambulance services.** (a) Medical assistance covers ambulance services. Providers shall bill ambulance services according to Medicare criteria. Nonemergency ambulance services shall not be paid as emergencies. Effective for services rendered on or after July 1, 2001, medical assistance payments for ambulance services shall be paid at the Medicare reimbursement rate or at the medical assistance payment rate in effect on July 1, 2000, whichever is greater.

(b) Effective for services provided on or after July 1, 2016, medical assistance payment rates for ambulance services identified in this paragraph are increased by five percent. Capitation payments made to managed care plans and county-based purchasing plans for ambulance services provided on or after January 1, 2017, shall be increased to reflect this rate increase. The increased rate described in this paragraph applies to ambulance service providers whose base of operations as defined in section 144E.10 is located:

(1) outside the metropolitan counties listed in section 473.121, subdivision 4, and outside the cities of Duluth, Mankato, Moorhead, St. Cloud, and Rochester; or

(2) within a municipality with a population of less than 1,000.

(c) Effective for the first day of each calendar quarter in which the price of gasoline as posted publicly by the United States Energy Information Administration exceeds $3.00 per gallon, the commissioner shall adjust the rate paid per mile in paragraph (a) by one percent up or down for every increase or decrease of ten cents for the price of gasoline. The increase or decrease must be calculated using a base gasoline price of $3.00. The percentage increase or decrease must be calculated using the average of the most recently available price of all grades of gasoline for Minnesota as posted publicly by the United States Energy Information Administration.

(d) Managed care plans and county-based purchasing plans must provide a fuel adjustment for ambulance services rates when fuel exceeds $3 per gallon. If, for any contract year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in accordance with this paragraph. Payment recoveries must not exceed the amount equal to any increase in rates that results from this paragraph. This paragraph expires if federal approval is not received for this paragraph at any time.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 7. Minnesota Statutes 2022, section 256B.0625, subdivision 17b, is amended to read:

Subd. 17b. **Documentation required.** (a) As a condition for payment, nonemergency medical transportation providers must document each occurrence of a service provided to a recipient according to this subdivision. Providers must maintain ~~odometer and other~~ records sufficient to distinguish individual trips with specific vehicles and drivers. The documentation may be collected and maintained using electronic systems or software or in paper form but must be made available and produced upon request. Program funds paid for transportation that is not documented according to this subdivision ~~shall be recovered by the department~~ may be subject to recovery by the commissioner pursuant to section 256B.064.

(b) A nonemergency medical transportation provider must compile transportation trip records that are written in English and legible according to the standard of a reasonable person and that ~~meet~~ include each of the following ~~requirements~~ elements:

~~(1) the record must be in English and must be legible according to the standard of a reasonable person;~~

~~(2)~~ (1) the recipient's name ~~must be on each page of the record~~; ~~and~~

~~(3) each entry in the record must document:~~

~~(i) the date on which the entry is made;~~

~~(ii)~~ (2) the date or dates the service is provided, if different than the date the entry was made;

~~(iii)~~ (3) either the printed ~~last name, first name, and middle initial~~ name of the driver sufficient to distinguish the driver of service or the driver's provider number;

~~(iv)~~ (4) the date and the signature of the driver attesting ~~to the following: "I certify that I have accurately reported in this record the trip miles I actually drove and the dates and times I actually drove them. I understand that misreporting the miles driven and hours worked is fraud for which I could face criminal prosecution or civil proceedings."~~ that the record accurately represents the services provided and the actual miles driven, and acknowledging that misreporting information that results in ineligible or excessive payments may result in civil or criminal action;

~~(v)~~ (5) the date and the signature of the recipient or authorized party attesting ~~to the following: "I certify that I received the reported transportation service.", or the signature of the provider of medical services certifying that the recipient was delivered to the provider~~ that transportation services were provided as indicated on the transportation trip record, or the signature of the medical services provider certifying that the recipient was transported to the medical services provider destination. In the event that both the medical services provider and the recipient or authorized party refuse or are unable to provide signatures, the driver must document on the transportation trip record that signatures were requested and not provided;

~~(vi)~~ (6) the address, or the description if the address is not available, of both the origin and destination, and the mileage for the most direct route from the origin to the destination;

~~(vii)~~ (7) the name or number of the mode of transportation in which the service is provided;

~~(viii)~~ (8) the license plate number of the vehicle used to transport the recipient;

~~(ix) whether the service was ambulatory or nonambulatory;~~

~~(x)~~ (9) the time of the recipient pickup;

~~and~~ (10) the time of the recipient drop-off ~~with "a.m." and "p.m." designations~~;

(11) the odometer reading of the vehicle used to transport the recipient taken at the time of pickup;

(12) the odometer reading of the vehicle used to transport the recipient taken at the time of drop-off;

~~(xi)~~ (13) the name of the extra attendant when an extra attendant is used to provide special transportation service; and

~~(xii)~~ (14) the ~~electronic source~~ documentation indicating the method that was used to ~~calculate driving directions and mileage~~ determine the most direct route.

(c) In determining whether the commissioner will seek recovery, the documentation requirements in this section apply retroactively to audit findings beginning January 1, 2020, and to all audit findings thereafter.

Sec. 8. Minnesota Statutes 2022, section 256B.0625, subdivision 18h, is amended to read:

Subd. 18h. **Nonemergency medical transportation provisions related to managed care.** (a) The following nonemergency medical transportation (NEMT) subdivisions apply to managed care plans and county-based purchasing plans:

(1) subdivision 17, paragraphs (a), (b), (i), and (n);

(2) subdivision 18; and

(3) subdivision 18a.

(b) A nonemergency medical transportation provider must comply with the operating standards for special transportation service specified in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements in this paragraph.

(c) Managed care plans and county-based purchasing plans must provide a fuel adjustment for NEMT rates when fuel exceeds $3 per gallon. If, for any contract year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in accordance with this paragraph. Payment recoveries must not exceed the amount equal to any increase in rates that results from this paragraph. This paragraph expires if federal approval is not received for this paragraph at any time.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 9. Minnesota Statutes 2022, section 256B.0625, subdivision 22, is amended to read:

Subd. 22. **Hospice care.** Medical assistance covers hospice care services under Public Law 99-272, section 9505, to the extent authorized by rule, except that a recipient age 21 or under who elects to receive hospice services does not waive coverage for services that are related to the treatment of the condition for which a diagnosis of terminal illness has been made. Hospice respite and end-of-life care under subdivision 22a are not hospice care services under this subdivision.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 10. Minnesota Statutes 2022, section 256B.0625, is amended by adding a subdivision to read:

Subd. 22a. **Residential hospice facility; hospice respite and end-of-life care for children.** (a) Medical assistance covers hospice respite and end-of-life care if the care is for children who elect to receive hospice care delivered in a facility that is licensed under sections 144A.75 to 144A.755 and that is a residential hospice facility under section 144A.75, subdivision 13, paragraph (a). Hospice care services under subdivision 22 are not hospice respite or end-of-life care under this subdivision.

(b) The payment rates for coverage under this subdivision must be 100 percent of the Medicare rate for continuous home care hospice services as published in the Centers for Medicare and Medicaid Services annual final rule updating payments and policies for hospice care. Payment for hospice respite and end-of-life care under this subdivision must be made from state money, though the commissioner must seek to obtain federal financial participation for the payments. Payment for hospice respite and end-of-life care must be paid to the residential hospice facility and are not included in any limit or cap amount applicable to hospice services payments to the elected hospice services provider.

(c) Certification of the residential hospice facility by the federal Medicare program must not be a requirement of medical assistance payment for hospice respite and end-of-life care under this subdivision.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 11. Minnesota Statutes 2022, section 256B.073, subdivision 3, is amended to read:

Subd. 3. **Requirements.** (a) In developing implementation requirements for electronic visit verification, the commissioner shall ensure that the requirements:

(1) are minimally administratively and financially burdensome to a provider;

(2) are minimally burdensome to the service recipient and the least disruptive to the service recipient in receiving and maintaining allowed services;

(3) consider existing best practices and use of electronic visit verification;

(4) are conducted according to all state and federal laws;

(5) are effective methods for preventing fraud when balanced against the requirements of clauses (1) and (2); and

(6) are consistent with the Department of Human Services' policies related to covered services, flexibility of service use, and quality assurance.

(b) The commissioner shall make training available to providers on the electronic visit verification system requirements.

(c) The commissioner shall establish baseline measurements related to preventing fraud and establish measures to determine the effect of electronic visit verification requirements on program integrity.

(d) The commissioner shall make a state-selected electronic visit verification system available to providers of services.

(e) The commissioner shall make available and publish on the agency website the name and contact information for the vendor of the state-selected electronic visit verification system and the other vendors that offer alternative electronic visit verification systems. The information provided must state that the

state-selected electronic visit verification system is offered at no cost to the provider of services and that the provider may choose an alternative system that may be at a cost to the provider.

Sec. 12. Minnesota Statutes 2022, section 256B.073, is amended by adding a subdivision to read:

Subd. 5. **Vendor requirements.** (a) The vendor of the electronic visit verification system selected by the commissioner and the vendor's affiliate must comply with the requirements of this subdivision.

(b) The vendor of the state-selected electronic visit verification system and the vendor's affiliate must:

(1) notify the provider of services that the provider may choose the state-selected electronic visit verification system at no cost to the provider;

(2) offer the state-selected electronic visit verification system to the provider of services prior to offering any fee-based electronic visit verification system;

(3) notify the provider of services that the provider may choose any fee-based electronic visit verification system prior to offering the vendor's or its affiliate's fee-based electronic visit verification system; and

(4) when offering the state-selected electronic visit verification system, clearly differentiate between the state-selected electronic visit verification system and the vendor's or its affiliate's alternative fee-based system.

(c) The vendor of the state-selected electronic visit verification system and the vendor's affiliate must not use state data that are not available to other vendors of electronic visit verification systems to promote or sell the vendor's or its affiliate's alternative electronic visit verification system.

(d) Upon request from the provider, the vendor of the state-selected electronic visit verification system must provide proof of compliance with the requirements of paragraph (b).

(e) An agreement between the vendor of the state-selected electronic visit verification system or its affiliate and a provider of services for an electronic visit verification system that is not the state-selected system entered into on or after July 1, 2023, is subject to immediate termination by the provider if the vendor violates any of the requirements of paragraph (b).

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 13. Minnesota Statutes 2022, section 256B.14, subdivision 2, is amended to read:

Subd. 2. **Actions to obtain payment.** The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete payment or repayment of medical assistance furnished to recipients for whom they are responsible. All medical assistance exclusions shall be allowed, and a resource limit of $10,000 for nonexcluded resources shall be implemented. Above these limits, a contribution of one-third of the excess resources shall be required. These rules shall not require payment or repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules ~~shall be consistent with the requirements of section 252.27 for~~ do not apply to parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income under the Tax Equity and Fiscal Responsibility Act (TEFRA) option or to parents of children accessing home and community-based waiver services. The county agency shall give the responsible relative notice of the amount of the payment or repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a

cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which the recipient receives medical assistance from the county or state agency.

Sec. 14. Minnesota Statutes 2022, section 256B.766, is amended to read:

256B.766 REIMBURSEMENT FOR BASIC CARE SERVICES.

(a) Effective for services provided on or after July 1, 2009, total payments for basic care services, shall be reduced by three percent, except that for the period July 1, 2009, through June 30, 2011, total payments shall be reduced by 4.5 percent for the medical assistance and general assistance medical care programs, prior to third-party liability and spenddown calculation. Effective July 1, 2010, the commissioner shall classify physical therapy services, occupational therapy services, and speech-language pathology and related services as basic care services. The reduction in this paragraph shall apply to physical therapy services, occupational therapy services, and speech-language pathology and related services provided on or after July 1, 2010.

(b) Payments made to managed care plans and county-based purchasing plans shall be reduced for services provided on or after October 1, 2009, to reflect the reduction effective July 1, 2009, and payments made to the plans shall be reduced effective October 1, 2010, to reflect the reduction effective July 1, 2010.

(c) Effective for services provided on or after September 1, 2011, through June 30, 2013, total payments for outpatient hospital facility fees shall be reduced by five percent from the rates in effect on August 31, 2011.

(d) Effective for services provided on or after September 1, 2011, through June 30, 2013, total payments for ambulatory surgery centers facility fees, medical supplies and durable medical equipment not subject to a volume purchase contract, prosthetics and orthotics, renal dialysis services, laboratory services, public health nursing services, physical therapy services, occupational therapy services, speech therapy services, eyeglasses not subject to a volume purchase contract, hearing aids not subject to a volume purchase contract, and anesthesia services shall be reduced by three percent from the rates in effect on August 31, 2011.

(e) Effective for services provided on or after September 1, 2014, payments for ambulatory surgery centers facility fees, hospice services, renal dialysis services, laboratory services, public health nursing services, eyeglasses not subject to a volume purchase contract, and hearing aids not subject to a volume purchase contract shall be increased by three percent and payments for outpatient hospital facility fees shall be increased by three percent. Payments made to managed care plans and county-based purchasing plans shall not be adjusted to reflect payments under this paragraph.

(f) Payments for medical supplies and durable medical equipment not subject to a volume purchase contract, and prosthetics and orthotics, provided on or after July 1, 2014, through June 30, 2015, shall be decreased by .33 percent. Payments for medical supplies and durable medical equipment not subject to a volume purchase contract, and prosthetics and orthotics, provided on or after July 1, 2015, shall be increased by three percent from the rates as determined under paragraphs (i) and (j).

(g) Effective for services provided on or after July 1, 2015, payments for outpatient hospital facility fees, medical supplies and durable medical equipment not subject to a volume purchase contract, prosthetics, and orthotics to a hospital meeting the criteria specified in section 62Q.19, subdivision 1, paragraph (a), clause (4), shall be increased by 90 percent from the rates in effect on June 30, 2015. Payments made to managed care plans and county-based purchasing plans shall not be adjusted to reflect payments under this paragraph.

(h) This section does not apply to physician and professional services, inpatient hospital services, family planning services, mental health services, dental services, prescription drugs, medical transportation, federally qualified health centers, rural health centers, Indian health services, and Medicare cost-sharing.

(i) Effective for services provided on or after July 1, 2015, the following categories of medical supplies and durable medical equipment shall be individually priced items: ~~enteral nutrition and supplies,~~ customized and other specialized tracheostomy tubes and supplies, electric patient lifts, and durable medical equipment repair and service. This paragraph does not apply to medical supplies and durable medical equipment subject to a volume purchase contract, products subject to the preferred diabetic testing supply program, and items provided to dually eligible recipients when Medicare is the primary payer for the item. The commissioner shall not apply any medical assistance rate reductions to durable medical equipment as a result of Medicare competitive bidding.

(j) Effective for services provided on or after July 1, 2015, medical assistance payment rates for durable medical equipment, prosthetics, orthotics, or supplies shall be increased as follows:

(1) payment rates for durable medical equipment, prosthetics, orthotics, or supplies that were subject to the Medicare competitive bid that took effect in January of 2009 shall be increased by 9.5 percent; and

(2) payment rates for durable medical equipment, prosthetics, orthotics, or supplies on the medical assistance fee schedule, whether or not subject to the Medicare competitive bid that took effect in January of 2009, shall be increased by 2.94 percent, with this increase being applied after calculation of any increased payment rate under clause (1).

This paragraph does not apply to medical supplies and durable medical equipment subject to a volume purchase contract, products subject to the preferred diabetic testing supply program, items provided to dually eligible recipients when Medicare is the primary payer for the item, and individually priced items identified in paragraph (i). Payments made to managed care plans and county-based purchasing plans shall not be adjusted to reflect the rate increases in this paragraph.

(k) Effective for nonpressure support ventilators provided on or after January 1, 2016, the rate shall be the lower of the submitted charge or the Medicare fee schedule rate. Effective for pressure support ventilators provided on or after January 1, 2016, the rate shall be the lower of the submitted charge or 47 percent above the Medicare fee schedule rate. For payments made in accordance with this paragraph, if, and to the extent that, the commissioner identifies that the state has received federal financial participation for ventilators in excess of the amount allowed effective January 1, 2018, under United States Code, title 42, section 1396b(i)(27), the state shall repay the excess amount to the Centers for Medicare and Medicaid Services with state funds and maintain the full payment rate under this paragraph.

(l) Payment rates for durable medical equipment, prosthetics, orthotics or supplies, that are subject to the upper payment limit in accordance with section 1903(i)(27) of the Social Security Act, shall be paid the Medicare rate. Rate increases provided in this chapter shall not be applied to the items listed in this paragraph.

(m) For dates of service on or after July 1, 2023, through June 30, 2024, enteral nutrition and supplies must be paid according to this paragraph. If sufficient data exists for a product or supply, payment must be based upon the 50th percentile of the usual and customary charges per product code submitted to the commissioner, using only charges submitted per unit. Increases in rates resulting from the 50th percentile payment method must not exceed 150 percent of the previous fiscal year's rate per code and product combination. Data are sufficient if: (1) the commissioner has at least 100 paid claim lines by at least ten different providers for a given product or supply; or (2) in the absence of the data in clause (1), the commissioner has at least 20 claim lines by at least five different providers for a product or supply that does not meet the requirements of clause (1). If sufficient data are not available to calculate the 50th percentile for enteral products or supplies, the payment rate must be the payment rate in effect on June 30, 2023.

(n) For dates of service on or after July 1, 2024, enteral nutrition and supplies must be paid according to this paragraph and updated annually each January 1. If sufficient data exists for a product or supply, payment must be based upon the 50th percentile of the usual and customary charges per product code submitted to the commissioner for the previous calendar year, using only charges submitted per unit. Increases in rates resulting from the 50th percentile payment method must not exceed 150 percent of the previous year's rate per code and product combination. Data are sufficient if: (1) the commissioner has at least 100 paid claim lines by at least ten different providers for a given product or supply; or (2) in the absence of the data in clause (1), the commissioner has at least 20 claim lines by at least five different providers for a product or supply that does not meet the requirements of clause (1). If sufficient data are not available to calculate the 50th percentile for enteral products or supplies, the payment must be the manufacturer's suggested retail price of that product or supply minus 20 percent. If the manufacturer's suggested retail price is not available, payment must be the actual acquisition cost of that product or supply plus 20 percent.

ARTICLE 4

BEHAVIORAL HEALTH

Section 1. Minnesota Statutes 2022, section 4.046, subdivision 6, is amended to read:

Subd. 6. **Office of Addiction and Recovery; director.** The Office of Addiction and Recovery is created in the Department of Management and Budget. The governor must appoint an addiction and recovery director, who shall serve as chair of the subcabinet and administer the Office of Addiction and Recovery. The director shall serve in the unclassified service and shall report to the governor. The director must:

(1) make efforts to break down silos and work across agencies to better target the state's role in addressing addiction, treatment, and recovery for youth and adults;

(2) assist in leading the subcabinet and the advisory council toward progress on measurable goals that track the state's efforts in combatting addiction for youth and adults, and preventing substance use and addiction among the state's youth population; and

(3) establish and manage external partnerships and build relationships with communities, community leaders, and those who have direct experience with addiction to ensure that all voices of recovery are represented in the work of the subcabinet and advisory council.

Sec. 2. Minnesota Statutes 2022, section 4.046, subdivision 7, is amended to read:

Subd. 7. **Staff and administrative support.** The commissioner of ~~human services~~ management and budget, in coordination with other state agencies and boards as applicable, must provide staffing and

administrative support to the Office of Addiction and Recovery, the addiction and recovery director, the subcabinet, and the advisory council established in this section.

Sec. 3. Minnesota Statutes 2022, section 245.91, subdivision 4, is amended to read:

Subd. 4. **Facility or program.** "Facility" or "program" means a nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14, and any agency, facility, or program that provides services or treatment for mental illness, developmental disability, substance use disorder, or emotional disturbance that is required to be licensed, certified, or registered by the commissioner of human services, health, or education; a sober home as defined in section 254B.01, subdivision 10; and an acute care inpatient facility that provides services or treatment for mental illness, developmental disability, substance use disorder, or emotional disturbance.

Sec. 4. Minnesota Statutes 2022, section 245G.02, subdivision 2, is amended to read:

Subd. 2. **Exemption from license requirement.** This chapter does not apply to a county or recovery community organization that is providing a service for which the county or recovery community organization is an eligible vendor under section 254B.05. This chapter does not apply to an organization whose primary functions are information, referral, diagnosis, case management, and assessment for the purposes of client placement, education, support group services, or self-help programs. This chapter does not apply to the activities of a licensed professional in private practice. A license holder providing the initial set of substance use disorder services allowable under section 254A.03, subdivision 3, paragraph (c), to an individual referred to a licensed nonresidential substance use disorder treatment program after a positive screen for alcohol or substance misuse is exempt from sections 245G.05; 245G.06, subdivisions 1, ~~2~~ 1a, and 4; 245G.07, subdivisions 1, paragraph (a), clauses (2) to (4), and 2, clauses (1) to (7); and 245G.17.

Sec. 5. Minnesota Statutes 2022, section 245G.09, subdivision 3, is amended to read:

Subd. 3. **Contents.** Client records must contain the following:

(1) documentation that the client was given information on client rights and responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided an orientation to the program abuse prevention plan required under section 245A.65, subdivision 2, paragraph (a), clause (4). If the client has an opioid use disorder, the record must contain documentation that the client was provided educational information according to section 245G.05, subdivision 1, paragraph (b);

(2) an initial services plan completed according to section 245G.04;

(3) a comprehensive assessment completed according to section 245G.05;

(4) an assessment summary completed according to section 245G.05, subdivision 2;

(5) an individual abuse prevention plan according to sections 245A.65, subdivision 2, and 626.557, subdivision 14, when applicable;

(6) an individual treatment plan according to section 245G.06, subdivisions 1 ~~and 2~~ and 1a;

(7) documentation of treatment services, significant events, appointments, concerns, and treatment plan reviews according to section 245G.06, subdivisions 2a, 2b, and 3; and

(8) a summary at the time of service termination according to section 245G.06, subdivision 4.

Sec. 6. Minnesota Statutes 2022, section 245G.22, subdivision 15, as amended by 2023 H.F. No. 1403, article 1, section 17, if enacted, is amended to read:

Subd. 15. **Nonmedication treatment services; documentation.** (a) The program must offer at least 50 consecutive minutes of individual or group therapy treatment services as defined in section 245G.07, subdivision 1, paragraph (a), clause (1), per week, for the first ten weeks following the day of service initiation, and at least 50 consecutive minutes per month thereafter. As clinically appropriate, the program may offer these services cumulatively and not consecutively in increments of no less than 15 minutes over the required time period, and for a total of 60 minutes of treatment services over the time period, and must document the reason for providing services cumulatively in the client's record. The program may offer additional levels of service when deemed clinically necessary.

(b) Notwithstanding the requirements of comprehensive assessments in section 245G.05, the assessment must be completed within 21 days from the day of service initiation.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 7. Minnesota Statutes 2022, section 253B.10, subdivision 1, is amended to read:

Subdivision 1. **Administrative requirements.** (a) When a person is committed, the court shall issue a warrant or an order committing the patient to the custody of the head of the treatment facility, state-operated treatment program, or community-based treatment program. The warrant or order shall state that the patient meets the statutory criteria for civil commitment.

(b) The commissioner shall prioritize patients being admitted from jail or a correctional institution who are:

(1) ordered confined in a state-operated treatment program for an examination under Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, paragraph (a), and 20.02, subdivision 2;

(2) under civil commitment for competency treatment and continuing supervision under Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

(3) found not guilty by reason of mental illness under Minnesota Rules of Criminal Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be detained in a state-operated treatment program pending completion of the civil commitment proceedings; or

(4) committed under this chapter to the commissioner after dismissal of the patient's criminal charges.

Patients described in this paragraph must be admitted to a state-operated treatment program within 48 hours. The commitment must be ordered by the court as provided in section 253B.09, subdivision 1, paragraph (d).

(c) Upon the arrival of a patient at the designated treatment facility, state-operated treatment program, or community-based treatment program, the head of the facility or program shall retain the duplicate of the warrant and endorse receipt upon the original warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must be filed in the court of commitment. After arrival, the patient shall be under the control and custody of the head of the facility or program.

(d) Copies of the petition for commitment, the court's findings of fact and conclusions of law, the court order committing the patient, the report of the court examiners, and the prepetition report, and any medical and behavioral information available shall be provided at the time of admission of a patient to the designated treatment facility or program to which the patient is committed. Upon a patient's referral to the commissioner

of human services for admission pursuant to subdivision 1, paragraph (b), any inpatient hospital, treatment facility, jail, or correctional facility that has provided care or supervision to the patient in the previous two years shall, when requested by the treatment facility or commissioner, provide copies of the patient's medical and behavioral records to the Department of Human Services for purposes of preadmission planning. This information shall be provided by the head of the treatment facility to treatment facility staff in a consistent and timely manner and pursuant to all applicable laws.

(e) Patients described in paragraph (b) must be admitted to a state-operated treatment program within 48 hours of the Office of Medical Director, under section 246.018, or a designee determining that a medically appropriate bed is available. This paragraph expires on June 30, 2025.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2022, section 254B.01, is amended by adding a subdivision to read:

Subd. 10. **Sober home.** A sober home is a cooperative living residence, a room and board residence, an apartment, or any other living accommodation that:

(1) provides temporary housing to persons with substance use disorders;

(2) stipulates that residents must abstain from using alcohol or other illicit drugs or substances not prescribed by a physician;

(3) charges a fee for living there;

(4) does not provide counseling or treatment services to residents;

(5) promotes sustained recovery from substance use disorders; and

(6) follows the sober living guidelines published by the federal Substance Abuse and Mental Health Services Administration.

Sec. 9. Minnesota Statutes 2022, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure required.** (a) Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs that provide substance use disorder treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors.

(b) A licensed professional in private practice as defined in section 245G.01, subdivision 17, who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible vendor of a comprehensive assessment and assessment summary provided according to section 245G.05, and treatment services provided according to sections 245G.06 and 245G.07, subdivision 1, paragraphs (a), clauses (1) to (5), and (b); and subdivision 2, clauses (1) to (6).

(c) A county is an eligible vendor for a comprehensive assessment and assessment summary when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 5, and completed according to the requirements of section 245G.05. A county is an eligible vendor of care coordination services when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and provided according to the requirements of section 245G.07, subdivision 1, paragraph (a), clause (5). A county is an eligible vendor of peer recovery services when the services are provided by an individual who meets the requirements of section 245G.11, subdivision 8.

(d) A recovery community organization that meets certification requirements identified by the commissioner is an eligible vendor of peer support services.

(e) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or nonresidential substance use disorder treatment or withdrawal management program by the commissioner or by tribal government or do not meet the requirements of subdivisions 1a and 1b are not eligible vendors.

Sec. 10. Minnesota Statutes 2022, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance use disorder services and service enhancements funded under this chapter.

(b) Eligible substance use disorder treatment services include:

(1) outpatient treatment services that are licensed according to sections 245G.01 to 245G.17, or applicable tribal license;

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) care coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);

(5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

~~(6) substance use disorder treatment services with medications for opioid use disorder that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable tribal license;~~

~~(7) substance use disorder treatment with medications for opioid use disorder plus enhanced treatment services that meet the requirements of clause (6) and provide nine hours of clinical services each week;~~

~~(8)~~ (6) high, medium, and low intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

~~(9)~~ (7) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

~~(10)~~ (8) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license;

~~(11)~~ (9) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

~~(12)~~ (10) room and board facilities that meet the requirements of subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and one of the following additional requirements:

(1) programs that serve parents with their children if the program:

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503; or

(B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific or culturally responsive programs as defined in section 254B.01, subdivision 4a;

(3) disability responsive programs as defined in section 254B.01, subdivision 4b;

(4) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; or

(5) programs that offer services to individuals with co-occurring mental health and substance use disorder problems if:

(i) the program meets the co-occurring requirements in section 245G.20;

(ii) 25 percent of the counseling staff are licensed mental health professionals under section 245I.04, subdivision 2, or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and mental health professional under section 245I.04, subdivision 2, except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance use disorder and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the substance use disorder facility of the child care provider's current licensure to provide child care services. Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in section 245G.19.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, substance use disorder services that are otherwise covered as direct face-to-face services may be provided via telehealth as defined in section 256B.0625, subdivision 3b. The use of telehealth to deliver services must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

(h) Payment for outpatient substance use disorder services that are licensed according to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless prior authorization of a greater number of hours is obtained from the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. **[254B.121] RATE METHODOLOGY; SUBSTANCE USE DISORDER TREATMENT SERVICES WITH MEDICATIONS FOR OPIOID USE DISORDER.**

Subdivision 1. **Rates established.** Notwithstanding sections 254B.03, subdivision 9, paragraph (a), clause (2); 254B.05, subdivision 5, paragraph (a); and 254B.12, subdivision 1, the commissioner shall use the rates in this section for substance use disorder treatment services with medications for opioid use disorder.

Subd. 2. **Rate updates.** Effective each January 1, the commissioner must update the rates for substance use disorder treatment services with medications for opioid use disorder that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable Tribal license, to equal the corresponding Minnesota-specific, locality-adjusted Medicare rates for the same or comparable services in the calendar year in which the services are provided. This rate does not apply to federally qualified health centers, rural health centers, Indian health services, and certified community behavioral health centers.

Subd. 3. **Nondrug weekly bundle annual limit.** No more than 30 weekly nondrug bundle charges are eligible for coverage in the first calendar year that an enrollee is being treated by an opioid treatment provider and no more than 15 weekly nondrug bundle charges are eligible for coverage in subsequent calendar years. The commissioner may override the coverage limitation on the number of weekly nondrug bundle charges for an enrollee if the provider obtains authorization to exceed the limit and documents the medical necessity, services to be provided, and rationale for requiring the enrollee to report to the provider's facility for a face-to-face encounter more frequently.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval is obtained.

Sec. 12. **[254B.17] WITHDRAWAL MANAGEMENT START-UP AND CAPACITY-BUILDING GRANTS.**

The commissioner must establish start-up and capacity-building grants for prospective or new withdrawal management programs licensed under chapter 245F that will meet medically monitored or clinically monitored levels of care. Grants may be used for expenses that are not reimbursable under Minnesota health care programs, including but not limited to:

(1) costs associated with hiring staff;

(2) costs associated with staff retention;

(3) the purchase of office equipment and supplies;

(4) the purchase of software;

(5) costs associated with obtaining applicable and required licenses;

(6) business formation costs;

(7) costs associated with staff training; and

(8) the purchase of medical equipment and supplies necessary to meet health and safety requirements.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 13. **[254B.18] SAFE RECOVERY SITES START-UP AND CAPACITY-BUILDING GRANTS.**

(a) The commissioner of human services must establish start-up and capacity-building grants for current or prospective harm reduction organizations to promote health, wellness, safety, and recovery to people who are in active stages of substance use disorder. Grants must be used to establish safe recovery sites that offer harm reduction services and supplies, including but not limited to:

(1) safe injection spaces;

(2) sterile needle exchange;

(3) opiate antagonist rescue kits;

(4) fentanyl and other drug testing;

(5) street outreach;

(6) educational and referral services;

(7) health, safety, and wellness services; and

(8) access to hygiene and sanitation.

(b) The commissioner must conduct local community outreach and engagement in collaboration with newly established safe recovery sites. The commissioner must evaluate the efficacy of safe recovery sites and collect data to measure health-related and public safety outcomes.

(c) The commissioner must prioritize grant applications for organizations that are culturally specific or culturally responsive and that commit to serving individuals from communities that are disproportionately impacted by the opioid epidemic, including:

(1) Native American, American Indian, and Indigenous communities; and

(2) Black, African American, and African-born communities.

(d) For purposes of this section, a "culturally specific" or "culturally responsive" organization is an organization that is designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background, and is governed with significant input from individuals of that specific background.

Sec. 14. **[254B.181] SOBER HOMES.**

Subdivision 1. **Requirements.** All sober homes must comply with applicable state laws and regulations and local ordinances related to maximum occupancy, fire safety, and sanitation. In addition, all sober homes must:

(1) maintain a supply of an opiate antagonist in the home and post information on proper use;

(2) have written policies regarding access to all prescribed medications;

(3) have written policies regarding evictions;

(4) return all property and medications to a person discharged from the home and retain the items for a minimum of 60 days if the person did not collect them upon discharge. The owner must make an effort to contact persons listed as emergency contacts for the discharged person so that the items are returned;

(5) document the names and contact information for persons to contact in case of an emergency or upon discharge and notification of a family member, or other emergency contact designated by the resident under certain circumstances, including but not limited to death due to an overdose;

(6) maintain contact information for emergency resources in the community to address mental health and health emergencies;

(7) have policies on staff qualifications and prohibition against fraternization;

(8) have a policy on whether the use of medications for opioid use disorder is permissible;

(9) have a fee schedule and refund policy;

(10) have rules for residents;

(11) have policies that promote resident participation in treatment, self-help groups, or other recovery supports;

(12) have policies requiring abstinence from alcohol and illicit drugs; and

(13) distribute the sober home bill of rights.

Subd. 2. **Bill of rights.** An individual living in a sober home has the right to:

(1) have access to an environment that supports recovery;

(2) have access to an environment that is safe and free from alcohol and other illicit drugs or substances;

(3) be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act, sections 626.557 to 626.5572;

(4) be treated with dignity and respect and to have personal property treated with respect;

(5) have personal, financial, and medical information kept private and to be advised of the sober home's policies and procedures regarding disclosure of such information;

(6) access, while living in the residence, to other community-based support services as needed;

(7) be referred to appropriate services upon leaving the residence, if necessary;

(8) retain personal property that does not jeopardize safety or health;

(9) assert these rights personally or have them asserted by the individual's representative or by anyone on behalf of the individual without retaliation;

(10) be provided with the name, address, and telephone number of the ombudsman for mental health, substance use disorder, and developmental disabilities and information about the right to file a complaint;

(11) be fully informed of these rights and responsibilities, as well as program policies and procedures; and

(12) not be required to perform services for the residence that are not included in the usual expectations for all residents.

Subd. 3. **Complaints; ombudsman for mental health and developmental disabilities.** Any complaints about a sober home may be made to and reviewed or investigated by the ombudsman for mental health and developmental disabilities, pursuant to sections 245.91 and 245.94.

Subd. 4. **Private right of action.** In addition to pursuing other remedies, an individual may bring an action to recover damages caused by a violation of this section.

Sec. 15. **[254B.191] EVIDENCE-BASED TRAINING.**

The commissioner of human services must establish training opportunities for substance use disorder treatment providers under Minnesota Statutes, chapters 245F and 245G, and applicable Tribal licenses, to increase knowledge and develop skills to adopt evidence-based and promising practices in substance use disorder treatment programs. Training opportunities must support the transition to American Society of Addiction Medicine (ASAM) standards. Training formats may include self or organizational assessments, virtual modules, one-to-one coaching, self-paced courses, interactive hybrid courses, and in-person courses. Foundational and skill-building training topics may include:

(1) ASAM criteria;

(2) person-centered and culturally responsive services;

(3) medical and clinical decision making;

(4) conducting assessments and appropriate level of care;

(5) treatment and service planning;

(6) identifying and overcoming systems challenges;

(7) conducting clinical case reviews; and

(8) appropriate and effective transfer and discharge.

Sec. 16. Minnesota Statutes 2022, section 256B.0759, subdivision 2, is amended to read:

Subd. 2. **Provider participation.** (a) ~~Outpatient~~ Programs licensed by the Department of Human Services as nonresidential substance use disorder treatment ~~providers may elect to participate in the demonstration project and meet the requirements of subdivision 3. To participate, a provider must notify the commissioner of the provider's intent to participate in a format required by the commissioner and enroll as a demonstration project provider~~ programs that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2025. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

(b) Programs licensed by the Department of Human Services as residential treatment programs according to section 245G.21 that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2024. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

(c) Programs licensed by the Department of Human Services as residential treatment programs according to section 245G.21 that receive payment under this chapter and are licensed as a hospital under sections 144.50 to 144.581 must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2025.

~~(c)~~ (d) Programs licensed by the Department of Human Services as withdrawal management programs according to chapter 245F that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2024. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

~~(d)~~ (e) Out-of-state residential substance use disorder treatment programs that receive payment under this chapter must enroll as demonstration project providers and meet the requirements of subdivision 3 by January 1, 2024. Programs that do not meet the requirements of this paragraph are ineligible for payment for services provided under section 256B.0625.

~~(e)~~ (f) Tribally licensed programs may elect to participate in the demonstration project and meet the requirements of subdivision 3. The Department of Human Services must consult with Tribal nations to discuss participation in the substance use disorder demonstration project.

~~(f)~~ (g) The commissioner shall allow providers enrolled in the demonstration project before July 1, 2021, to receive applicable rate enhancements authorized under subdivision 4 for all services provided on or after the date of enrollment, except that the commissioner shall allow a provider to receive applicable rate enhancements authorized under subdivision 4 for services provided on or after July 22, 2020, to fee-for-service enrollees, and on or after January 1, 2021, to managed care enrollees, if the provider meets all of the following requirements:

(1) the provider attests that during the time period for which the provider is seeking the rate enhancement, the provider took meaningful steps in their plan approved by the commissioner to meet the demonstration project requirements in subdivision 3; and

(2) the provider submits attestation and evidence, including all information requested by the commissioner, of meeting the requirements of subdivision 3 to the commissioner in a format required by the commissioner.

~~(g)~~ (h) The commissioner may recoup any rate enhancements paid under paragraph ~~(f)~~ (g) to a provider that does not meet the requirements of subdivision 3 by July 1, 2021.

Sec. 17. Minnesota Statutes 2022, section 256I.05, is amended by adding a subdivision to read:

Subd. 1s. **Supplemental rate; Douglas County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2023, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed $750 per month, including any legislatively authorized inflationary adjustments, for a housing support provider located in Douglas County that operates a long-term residential facility with a total of 74 beds that serve chemically dependent men and provide 24-hour-a-day supervision and other support services.

Sec. 18. Minnesota Statutes 2022, section 256I.05, is amended by adding a subdivision to read:

Subd. 1t. **Supplemental rate; Crow Wing County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2023, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed $750 per month, including any legislatively authorized inflationary adjustments, for a housing support provider located in Crow Wing County that operates a long-term residential facility with a total of 90 beds that serves chemically dependent men and women and provides 24-hour-a-day supervision and other support services.

Sec. 19. Minnesota Statutes 2022, section 256I.05, is amended by adding a subdivision to read:

Subd. 1u. **Supplemental rate; Douglas County.** Notwithstanding the provisions in this section, beginning July 1, 2023, a county agency shall negotiate a supplemental rate for up to 20 beds in addition to the rate specified in subdivision 1, not to exceed the maximum rate allowed under subdivision 1a, including any legislatively authorized inflationary adjustments, for a housing support provider located in Douglas County that operates two facilities and provides room and board and supplementary services to adult males recovering from substance use disorder, mental illness, or housing instability.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 20. **[325F.725] SOBER HOME TITLE PROTECTION.**

No person or entity may use the phrase "sober home," whether alone or in combination with other words and whether orally or in writing, to advertise, market, or otherwise describe, offer, or promote itself, or any housing, service, service package, or program that it provides within this state, unless the person or entity meets the definition of a sober home in section 254B.01, subdivision 10, and meets the requirements of section 254B.181.

Sec. 21. **CULTURALLY RESPONSIVE RECOVERY COMMUNITY GRANTS.**

The commissioner must establish start-up and capacity-building grants for prospective or new recovery community organizations serving or intending to serve culturally specific or population-specific recovery communities. Grants may be used for expenses that are not reimbursable under Minnesota health care programs, including but not limited to:

(1) costs associated with hiring and retaining staff;

(2) staff training, purchasing office equipment and supplies;

(3) purchasing software and website services;

(4) costs associated with establishing nonprofit status;

(5) rental and lease costs and community outreach; and

(6) education and recovery events.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 22. **FAMILY TREATMENT START-UP AND CAPACITY-BUILDING GRANTS.**

The commissioner of human services must establish start-up and capacity-building grants for prospective or new substance use disorder treatment programs that serve parents with their children. Grants must be used for expenses that are not reimbursable under Minnesota health care programs, including but not limited to:

(1) physical plant upgrades to support larger family units;

(2) supporting the expansion or development of programs that provide holistic services, including trauma supports, conflict resolution, and parenting skills;

(3) increasing awareness, education, and outreach utilizing culturally responsive approaches to develop relationships between culturally specific communities and clinical treatment provider programs; and

(4) expanding culturally specific family programs and accommodating diverse family units.

Sec. 23. **MEDICAL ASSISTANCE BEHAVIORAL HEALTH SYSTEM TRANSFORMATION STUDY.**

The commissioner of human services, in consultation with stakeholders, must evaluate the feasibility, potential design, and federal authorities needed to cover traditional healing, behavioral health services in correctional facilities, and contingency management under the medical assistance program.

Sec. 24. **OPIOID TREATMENT PROGRAM WORK GROUP.**

The commissioner of human services must convene a work group of community partners to evaluate the opioid treatment program model under Minnesota Statutes, section 245G.22, and to make recommendations on overall service design; simplification or improvement of regulatory oversight; increasing access to opioid treatment programs and improving the quality of care; addressing geographic, racial, and justice-related disparities for individuals who utilize or may benefit from medications for opioid use disorder; and other related topics, as determined by the work group. The commissioner must report the work group's recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services by January 15, 2024.

Sec. 25. **ENROLLMENT AND REQUIREMENTS FOR PEER RECOVERY SUPPORT SERVICES VENDORS.**

The commissioner of human services must consult with providers, counties, Tribes, recovery community organizations, and the recovery community at large to develop recommendations on whether entities seeking vendor eligibility for medical assistance peer recovery support services should be subject to additional provider enrollment and oversight requirements. The commissioner must submit recommendations to the chairs and ranking minority members of the committees with jurisdiction over health and human services by February 1, 2024. Recommendations must include the additional requirements that may be needed and specify which entities would be subject to the additional requirements. Recommendations must balance the goals of fostering cultures of accountability, applying supportive supervision models, and increasing access to high-quality, culturally responsive medical assistance peer recovery support services.

Sec. 26. **SOBER HOME SCAN.**

The commissioner of human services shall conduct a survey to identify sober home settings across the state and to collect information about the services they provide, their funding sources, whether they specialize in serving specific populations, and other information needed to inform policies to strengthen sober housing in the state. The commissioner must collaborate with the Minnesota Association of Sober Homes, sober home operators, the recovery community, behavioral health providers that work directly with sober housing, and recovery community organizations to provide input and data for this survey.

Sec. 27. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 245G.01, subdivision 20b, as Minnesota Statutes, section 245G.01, subdivision 20d, and make any necessary changes to cross-references.

Sec. 28. **REPEALER.**

(a) Minnesota Statutes 2022, sections 245G.05, subdivision 2; 245G.06, subdivision 2; and 256B.0759, subdivision 6, are repealed.

(b) Minnesota Statutes 2022, section 246.18, subdivisions 2 and 2a, are repealed.

EFFECTIVE DATE. Paragraph (a) is effective January 1, 2024. Paragraph (b) is effective July 1, 2023.

ARTICLE 5

OPIOID EPIDEMIC RESPONSE AND OVERDOSE PREVENTION

Section 1. **[121A.224] OPIATE ANTAGONISTS.**

(a) A school district or charter school must maintain a supply of opiate antagonists, as defined in section 604A.04, subdivision 1, at each school site to be administered in compliance with section 151.37, subdivision 12.

(b) Each school building must have at least two doses of a nasal opiate antagonist available on site.

(c) The commissioner of health shall identify resources, including at least one training video, to help schools implement an opiate antagonist emergency response and make the resources available for schools.

(d) A school board may adopt a model plan for use, storage, and administration of opiate antagonists.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 2. Minnesota Statutes 2022, section 241.021, subdivision 1, is amended to read:

Subdivision 1. **Correctional facilities; inspection; licensing.** (a) Except as provided in paragraph (b), the commissioner of corrections shall inspect and license all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of persons confined or incarcerated therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. The commissioner shall promulgate pursuant to chapter 14, rules establishing minimum standards for these facilities with respect to their management, operation, physical condition, and the security, safety, health, treatment, and discipline of persons confined or incarcerated therein. These minimum standards shall include but are not limited to specific guidance pertaining to:

(1) screening, appraisal, assessment, and treatment for persons confined or incarcerated in correctional facilities with mental illness or substance use disorders;

(2) a policy on the involuntary administration of medications;

(3) suicide prevention plans and training;

(4) verification of medications in a timely manner;

(5) well-being checks;

(6) discharge planning, including providing prescribed medications to persons confined or incarcerated in correctional facilities upon release;

(7) a policy on referrals or transfers to medical or mental health care in a noncorrectional institution;

(8) use of segregation and mental health checks;

(9) critical incident debriefings;

(10) clinical management of substance use disorders and opioid overdose emergency procedures;

(11) a policy regarding identification of persons with special needs confined or incarcerated in correctional facilities;

(12) a policy regarding the use of telehealth;

(13) self-auditing of compliance with minimum standards;

(14) information sharing with medical personnel and when medical assessment must be facilitated;

(15) a code of conduct policy for facility staff and annual training;

(16) a policy on death review of all circumstances surrounding the death of an individual committed to the custody of the facility; and

(17) dissemination of a rights statement made available to persons confined or incarcerated in licensed correctional facilities.

No individual, corporation, partnership, voluntary association, or other private organization legally responsible for the operation of a correctional facility may operate the facility unless it possesses a current license from the commissioner of corrections. Private adult correctional facilities shall have the authority of section 624.714, subdivision 13, if the Department of Corrections licenses the facility with the authority and the facility meets requirements of section 243.52.

The commissioner shall review the correctional facilities described in this subdivision at least once every two years, except as otherwise provided, to determine compliance with the minimum standards established according to this subdivision or other Minnesota statute related to minimum standards and conditions of confinement.

The commissioner shall grant a license to any facility found to conform to minimum standards or to any facility which, in the commissioner's judgment, is making satisfactory progress toward substantial conformity and the standards not being met do not impact the interests and well-being of the persons confined or incarcerated in the facility. A limited license under subdivision 1a may be issued for purposes of effectuating a facility closure. The commissioner may grant licensure up to two years. Unless otherwise specified by statute, all licenses issued under this chapter expire at 12:01 a.m. on the day after the expiration date stated on the license.

The commissioner shall have access to the buildings, grounds, books, records, staff, and to persons confined or incarcerated in these facilities. The commissioner may require the officers in charge of these facilities to furnish all information and statistics the commissioner deems necessary, at a time and place designated by the commissioner.

All facility administrators of correctional facilities are required to report all deaths of individuals who died while committed to the custody of the facility, regardless of whether the death occurred at the facility or after removal from the facility for medical care stemming from an incident or need for medical care at the correctional facility, as soon as practicable, but no later than 24 hours of receiving knowledge of the death, including any demographic information as required by the commissioner.

All facility administrators of correctional facilities are required to report all other emergency or unusual occurrences as defined by rule, including uses of force by facility staff that result in substantial bodily harm or suicide attempts, to the commissioner of corrections within ten days from the occurrence, including any demographic information as required by the commissioner. The commissioner of corrections shall consult with the Minnesota Sheriffs' Association and a representative from the Minnesota Association of Community Corrections Act Counties who is responsible for the operations of an adult correctional facility to define "use of force" that results in substantial bodily harm for reporting purposes.

The commissioner may require that any or all such information be provided through the Department of Corrections detention information system. The commissioner shall post each inspection report publicly and on the department's website within 30 days of completing the inspection. The education program offered in a correctional facility for the confinement or incarceration of juvenile offenders must be approved by the commissioner of education before the commissioner of corrections may grant a license to the facility.

(b) For juvenile facilities licensed by the commissioner of human services, the commissioner may inspect and certify programs based on certification standards set forth in Minnesota Rules. For the purpose of this paragraph, "certification" has the meaning given it in section 245A.02.

(c) Any state agency which regulates, inspects, or licenses certain aspects of correctional facilities shall, insofar as is possible, ensure that the minimum standards it requires are substantially the same as those

required by other state agencies which regulate, inspect, or license the same aspects of similar types of correctional facilities, although at different correctional facilities.

(d) Nothing in this section shall be construed to limit the commissioner of corrections' authority to promulgate rules establishing standards of eligibility for counties to receive funds under sections 401.01 to 401.16, or to require counties to comply with operating standards the commissioner establishes as a condition precedent for counties to receive that funding.

(e) The department's inspection unit must report directly to a division head outside of the correctional institutions division.

Sec. 3. Minnesota Statutes 2022, section 241.31, subdivision 5, is amended to read:

Subd. 5. **Minimum standards.** The commissioner of corrections shall establish minimum standards for the size, area to be served, qualifications of staff, ratio of staff to client population, and treatment programs for community corrections programs established pursuant to this section. Plans and specifications for such programs, including proposed budgets must first be submitted to the commissioner for approval prior to the establishment. Community corrections programs must maintain a supply of opiate antagonists, as defined in section 604A.04, subdivision 1, at each correctional site to be administered in compliance with section 151.37, subdivision 12. Each site must have at least two doses of an opiate antagonist on site. Staff must be trained on how and when to administer opiate antagonists.

Sec. 4. Minnesota Statutes 2022, section 241.415, is amended to read:

241.415 RELEASE PLANS; SUBSTANCE ABUSE.

The commissioner shall cooperate with community-based corrections agencies to determine how best to address the substance abuse treatment needs of offenders who are being released from prison. The commissioner shall ensure that an offender's prison release plan adequately addresses the offender's needs for substance abuse assessment, treatment, or other services following release, within the limits of available resources. The commissioner must provide individuals with known or stated histories of opioid use disorder with emergency opiate antagonist rescue kits upon release.

Sec. 5. **[245.891] OPIOID OVERDOSE SURGE ALERT SYSTEM.**

The commissioner must establish a voluntary, statewide opioid overdose surge text message alert system, to prevent opioid overdose by cautioning people to refrain from substance use or to use harm reduction strategies when there is an overdose surge in their surrounding area. The alert system may include other forms of electronic alerts. The commissioner may collaborate with local agencies, other state agencies, and harm reduction organizations to promote and improve the surge alert system.

Sec. 6. **[245A.242] EMERGENCY OVERDOSE TREATMENT.**

Subdivision 1. **Applicability.** This section applies to the following licenses issued under this chapter:

(1) substance use disorder treatment programs licensed according to chapter 245G;

(2) children's residential facility substance use disorder treatment programs licensed according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0430 to 2960.0490;

(3) detoxification programs licensed according to Minnesota Rules, parts 9530.6510 to 9530.6590;

(4) withdrawal management programs licensed according to chapter 245F; and

(5) intensive residential treatment services or residential crisis stabilization licensed according to chapter 245I and section 245I.23.

Subd. 2. **Emergency overdose treatment.** A license holder must maintain a supply of opiate antagonists as defined in section 604A.04, subdivision 1, available for emergency treatment of opioid overdose and must have a written standing order protocol by a physician who is licensed under chapter 147, advanced practice registered nurse who is licensed under chapter 148, or physician assistant who is licensed under chapter 147A, that permits the license holder to maintain a supply of opiate antagonists on site. A license holder must require staff to undergo training in the specific mode of administration used at the program, which may include intranasal administration, intramuscular injection, or both.

Sec. 7. Minnesota Statutes 2022, section 245G.08, subdivision 3, is amended to read:

Subd. 3. ~~**Standing order protocol**~~ **Emergency overdose treatment.** A license holder ~~that maintains a supply of naloxone available for emergency treatment of opioid overdose must have a written standing order protocol by a physician who is licensed under chapter 147, advanced practice registered nurse who is licensed under chapter 148, or physician assistant who is licensed under chapter 147A, that permits the license holder to maintain a supply of naloxone on site. A license holder must require staff to undergo training in the specific mode of administration used at the program, which may include intranasal administration, intramuscular injection, or both.~~ must follow the emergency overdose treatment requirements in section 245A.242.

Sec. 8. Minnesota Statutes 2022, section 256.042, subdivision 1, is amended to read:

Subdivision 1. **Establishment of the advisory council.** (a) The Opiate Epidemic Response Advisory Council is established to develop and implement a comprehensive and effective statewide effort to address the opioid addiction and overdose epidemic in Minnesota. The council shall focus on:

(1) prevention and education, including public education and awareness for adults and youth, prescriber education, the development and sustainability of opioid overdose prevention and education programs, the role of adult protective services in prevention and response, and providing financial support to local law enforcement agencies for opiate antagonist programs;

(2) training on the treatment of opioid addiction, including the use of all Food and Drug Administration approved opioid addiction medications, detoxification, relapse prevention, patient assessment, individual treatment planning, counseling, recovery supports, diversion control, and other best practices;

(3) the expansion and enhancement of a continuum of care for opioid-related substance use disorders, including primary prevention, early intervention, treatment, recovery, and aftercare services; and

(4) the development of measures to assess and protect the ability of cancer patients and survivors, persons battling life-threatening illnesses, persons suffering from severe chronic pain, and persons at the end stages of life, who legitimately need prescription pain medications, to maintain their quality of life by accessing these pain medications without facing unnecessary barriers. The measures must also address the needs of individuals described in this clause who are elderly or who reside in underserved or rural areas of the state.

(b) The council shall:

(1) review local, state, and federal initiatives and activities related to education, prevention, treatment, and services for individuals and families experiencing and affected by opioid use disorder;

(2) establish priorities to address the state's opioid epidemic, for the purpose of recommending initiatives to fund;

(3) recommend to the commissioner of human services specific projects and initiatives to be funded;

(4) ensure that available funding is allocated to align with other state and federal funding, to achieve the greatest impact and ensure a coordinated state effort;

(5) consult with the commissioners of human services, health, and management and budget to develop measurable outcomes to determine the effectiveness of funds allocated;

(6) develop recommendations for an administrative and organizational framework for the allocation, on a sustainable and ongoing basis, of any money deposited into the separate account under section 16A.151, subdivision 2, paragraph (f), in order to address the opioid abuse and overdose epidemic in Minnesota and the areas of focus specified in paragraph (a);

(7) review reports, data, and performance measures submitted by municipalities under subdivision 5; ~~and~~

(8) consult with relevant stakeholders, including lead agencies and municipalities, to review and provide recommendations for necessary revisions to the reporting requirements under subdivision 5 to ensure that the required reporting accurately measures progress in addressing the harms of the opioid epidemic~~.~~; and

(9) meet with each of the 11 federally recognized Minnesota Tribal Nations individually on an annual basis in order to collaborate and communicate on shared issues and priorities.

(c) The council, in consultation with the commissioner of management and budget, and within available appropriations, shall select from projects awarded grants under section 256.043, subdivisions 3 and 3a, and municipality projects funded by direct payments received as part of a statewide opioid settlement agreement, that include promising practices or theory-based activities for which the commissioner of management and budget shall conduct evaluations using experimental or quasi-experimental design. Grant proposals and municipality projects that include promising practices or theory-based activities and are selected for an evaluation shall be administered to support the experimental or quasi-experimental evaluation. Grantees and municipalities shall collect and report information that is needed to complete the evaluation. The commissioner of management and budget, under section 15.08, may obtain additional relevant data to support the experimental or quasi-experimental evaluation studies.

(d) The council, in consultation with the commissioners of human services, health, public safety, and management and budget, shall establish goals related to addressing the opioid epidemic and determine a baseline against which progress shall be monitored and set measurable outcomes, including benchmarks. The goals established must include goals for prevention and public health, access to treatment, and multigenerational impacts. The council shall use existing measures and data collection systems to determine baseline data against which progress shall be measured. The council shall include the proposed goals, the measurable outcomes, and proposed benchmarks to meet these goals in its initial report to the legislature under subdivision 5, paragraph (a), due January 31, 2021.

Sec. 9. Minnesota Statutes 2022, section 256.042, subdivision 2, is amended to read:

Subd. 2. **Membership.** (a) The council shall consist of the following ~~19~~ 20 voting members, appointed by the commissioner of human services except as otherwise specified, and three nonvoting members:

(1) two members of the house of representatives, appointed in the following sequence: the first from the majority party appointed by the speaker of the house and the second from the minority party appointed by the minority leader. Of these two members, one member must represent a district outside of the seven-county metropolitan area, and one member must represent a district that includes the seven-county metropolitan area. The appointment by the minority leader must ensure that this requirement for geographic diversity in appointments is met;

(2) two members of the senate, appointed in the following sequence: the first from the majority party appointed by the senate majority leader and the second from the minority party appointed by the senate minority leader. Of these two members, one member must represent a district outside of the seven-county metropolitan area and one member must represent a district that includes the seven-county metropolitan area. The appointment by the minority leader must ensure that this requirement for geographic diversity in appointments is met;

(3) one member appointed by the Board of Pharmacy;

(4) one member who is a physician appointed by the Minnesota Medical Association;

(5) one member representing opioid treatment programs, sober living programs, or substance use disorder programs licensed under chapter 245G;

(6) one member appointed by the Minnesota Society of Addiction Medicine who is an addiction psychiatrist;

(7) one member representing professionals providing alternative pain management therapies, including, but not limited to, acupuncture, chiropractic, or massage therapy;

(8) one member representing nonprofit organizations conducting initiatives to address the opioid epidemic, with the commissioner's initial appointment being a member representing the Steve Rummler Hope Network, and subsequent appointments representing this or other organizations;

(9) one member appointed by the Minnesota Ambulance Association who is serving with an ambulance service as an emergency medical technician, advanced emergency medical technician, or paramedic;

(10) one member representing the Minnesota courts who is a judge or law enforcement officer;

(11) one public member who is a Minnesota resident and who is in opioid addiction recovery;

(12) two members representing Indian tribes, one representing the Ojibwe tribes and one representing the Dakota tribes;

(13) one member representing an urban American Indian community;

~~(13)~~ (14) one public member who is a Minnesota resident and who is suffering from chronic pain, intractable pain, or a rare disease or condition;

~~(14)~~ (15) one mental health advocate representing persons with mental illness;

~~(15)~~ (16) one member appointed by the Minnesota Hospital Association;

~~(16)~~ (17) one member representing a local health department; and

~~(17)~~ (18) the commissioners of human services, health, and corrections, or their designees, who shall be ex officio nonvoting members of the council.

(b) The commissioner of human services shall coordinate the commissioner's appointments to provide geographic, racial, and gender diversity, and shall ensure that at least ~~one-half~~ one-third of council members appointed by the commissioner reside outside of the seven-county metropolitan area. Of the members appointed by the commissioner, to the extent practicable, at least one member must represent a community of color disproportionately affected by the opioid epidemic.

(c) The council is governed by section 15.059, except that members of the council shall serve three-year terms and shall receive no compensation other than reimbursement for expenses. Notwithstanding section 15.059, subdivision 6, the council shall not expire.

(d) The chair shall convene the council at least quarterly, and may convene other meetings as necessary. The chair shall convene meetings at different locations in the state to provide geographic access, and shall ensure that at least one-half of the meetings are held at locations outside of the seven-county metropolitan area.

(e) The commissioner of human services shall provide staff and administrative services for the advisory council.

(f) The council is subject to chapter 13D.

Sec. 10. Minnesota Statutes 2022, section 256.043, subdivision 3, is amended to read:

Subd. 3. **Appropriations from registration and license fee account.** (a) The appropriations in paragraphs (b) to ~~(h)~~ (n) shall be made from the registration and license fee account on a fiscal year basis in the order specified.

(b) The appropriations specified in Laws 2019, chapter 63, article 3, section 1, paragraphs (b), (f), (g), and (h), as amended by Laws 2020, chapter 115, article 3, section 35, shall be made accordingly.

(c) $100,000 is appropriated to the commissioner of human services for grants for opiate antagonist distribution. Grantees may utilize funds for opioid overdose prevention, community asset mapping, education, and opiate antagonist distribution.

(d) $2,000,000 is appropriated to the commissioner of human services for grants to Tribal nations and five urban Indian communities for traditional healing practices for American Indians and to increase the capacity of culturally specific providers in the behavioral health workforce.

(e) $400,000 is appropriated to the commissioner of human services for competitive grants for opioid-focused Project ECHO programs.

(f) $277,000 in fiscal year 2024 and $321,000 each year thereafter is appropriated to the commissioner of human services to administer the funding distribution and reporting requirements in paragraph (o).

(g) $3,000,000 in fiscal year 2025 and $3,000,000 each year thereafter is appropriated to the commissioner of human services for safe recovery sites start-up and capacity building grants under section 254B.18.

(h) $395,000 in fiscal year 2024 and $415,000 each year thereafter is appropriated to the commissioner of human services for the opioid overdose surge alert system under section 245.891.

~~(e)~~ (i) $300,000 is appropriated to the commissioner of management and budget for evaluation activities under section 256.042, subdivision 1, paragraph (c).

~~(d)~~ (j) ~~$249,000~~ $261,000 is appropriated to the commissioner of human services for the provision of administrative services to the Opiate Epidemic Response Advisory Council and for the administration of the grants awarded under paragraph ~~(h)~~ (n).

~~(e)~~ (k) $126,000 is appropriated to the Board of Pharmacy for the collection of the registration fees under section 151.066.

~~(f)~~ (l) $672,000 is appropriated to the commissioner of public safety for the Bureau of Criminal Apprehension. Of this amount, $384,000 is for drug scientists and lab supplies and $288,000 is for special agent positions focused on drug interdiction and drug trafficking.

~~(g)~~ (m) After the appropriations in paragraphs (b) to ~~(f)~~ (l) are made, 50 percent of the remaining amount is appropriated to the commissioner of human services for distribution to county social service agencies and Tribal social service agency initiative projects authorized under section 256.01, subdivision 14b, to provide child protection services to children and families who are affected by addiction. The commissioner shall distribute this money proportionally to county social service agencies and Tribal social service agency initiative projects based on out-of-home placement episodes where parental drug abuse is the primary reason for the out-of-home placement using data from the previous calendar year. County social service agencies and Tribal social service agency initiative projects receiving funds from the opiate epidemic response fund must annually report to the commissioner on how the funds were used to provide child protection services, including measurable outcomes, as determined by the commissioner. County social service agencies and Tribal social service agency initiative projects must not use funds received under this paragraph to supplant current state or local funding received for child protection services for children and families who are affected by addiction.

~~(h)~~ (n) After the appropriations in paragraphs (b) to ~~(g)~~ (m) are made, the remaining amount in the account is appropriated to the commissioner of human services to award grants as specified by the Opiate Epidemic Response Advisory Council in accordance with section 256.042, unless otherwise appropriated by the legislature.

~~(i)~~ (o) Beginning in fiscal year 2022 and each year thereafter, funds for county social service agencies and Tribal social service agency initiative projects under paragraph ~~(g)~~ (m) and grant funds specified by the Opiate Epidemic Response Advisory Council under paragraph ~~(h)~~ (n) may be distributed on a calendar year basis.

(p) Notwithstanding section 16A.28, subdivision 3, funds appropriated in paragraphs (c), (d), (e), (g), (m), and (n) are available for three years after the funds are appropriated.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2022, section 256.043, subdivision 3a, is amended to read:

Subd. 3a. **Appropriations from settlement account.** (a) The appropriations in paragraphs (b) to (e) shall be made from the settlement account on a fiscal year basis in the order specified.

(b) If the balance in the registration and license fee account is not sufficient to fully fund the appropriations specified in subdivision 3, paragraphs (b) to ~~(f)~~ (l), an amount necessary to meet any insufficiency shall be

transferred from the settlement account to the registration and license fee account to fully fund the required appropriations.

(c) $209,000 in fiscal year 2023 and $239,000 in fiscal year 2024 and subsequent fiscal years are appropriated to the commissioner of human services for the administration of grants awarded under paragraph (e). $276,000 in fiscal year 2023 and $151,000 in fiscal year 2024 and subsequent fiscal years are appropriated to the commissioner of human services to collect, collate, and report data submitted and to monitor compliance with reporting and settlement expenditure requirements by grantees awarded grants under this section and municipalities receiving direct payments from a statewide opioid settlement agreement as defined in section 256.042, subdivision 6.

(d) After any appropriations necessary under paragraphs (b) and (c) are made, an amount equal to the calendar year allocation to Tribal social service agency initiative projects under subdivision 3, paragraph ~~(g)~~ (m), is appropriated from the settlement account to the commissioner of human services for distribution to Tribal social service agency initiative projects to provide child protection services to children and families who are affected by addiction. The requirements related to proportional distribution, annual reporting, and maintenance of effort specified in subdivision 3, paragraph ~~(g)~~ (m), also apply to the appropriations made under this paragraph.

(e) After making the appropriations in paragraphs (b), (c), and (d), the remaining amount in the account is appropriated to the commissioner of human services to award grants as specified by the Opiate Epidemic Response Advisory Council in accordance with section 256.042.

(f) Funds for Tribal social service agency initiative projects under paragraph (d) and grant funds specified by the Opiate Epidemic Response Advisory Council under paragraph (e) may be distributed on a calendar year basis.

(g) Notwithstanding section 16A.28, subdivision 3, funds appropriated in paragraphs (d) and (e) are available for three years after the funds are appropriated.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. **[256I.052] OPIATE ANTAGONISTS.**

(a) Site-based or group housing support settings must maintain a supply of opiate antagonists as defined in section 604A.04, subdivision 1, at each housing site to be administered in compliance with section 151.37, subdivision 12.

(b) Each site must have at least two doses of an opiate antagonist on site.

(c) Staff on site must have training on how and when to administer opiate antagonists.

Sec. 13. Laws 2019, chapter 63, article 3, section 1, as amended by Laws 2020, chapter 115, article 3, section 35, and Laws 2022, chapter 53, section 12, is amended to read:

Section 1. **APPROPRIATIONS.**

(a) **Board of Pharmacy; administration.** $244,000 in fiscal year 2020 is appropriated from the general fund to the Board of Pharmacy for onetime information technology and operating costs for administration of licensing activities under Minnesota Statutes, section 151.066. This is a onetime appropriation.

(b) **Commissioner of human services; administration.** $309,000 in fiscal year 2020 is appropriated from the general fund and $60,000 in fiscal year 2021 is appropriated from the opiate epidemic response fund to the commissioner of human services for the provision of administrative services to the Opiate Epidemic Response Advisory Council and for the administration of the grants awarded under paragraphs (f), (g), and (h). The opiate epidemic response fund base for this appropriation is $60,000 in fiscal year 2022, $60,000 in fiscal year 2023, $60,000 in fiscal year 2024, and $0 in fiscal year 2025 .

(c) **Board of Pharmacy; administration.** $126,000 in fiscal year 2020 is appropriated from the general fund to the Board of Pharmacy for the collection of the registration fees under section 151.066.

(d) **Commissioner of public safety; enforcement activities.** $672,000 in fiscal year 2020 is appropriated from the general fund to the commissioner of public safety for the Bureau of Criminal Apprehension. Of this amount, $384,000 is for drug scientists and lab supplies and $288,000 is for special agent positions focused on drug interdiction and drug trafficking.

(e) **Commissioner of management and budget; evaluation activities.** $300,000 in fiscal year 2020 is appropriated from the general fund and $300,000 in fiscal year 2021 is appropriated from the opiate epidemic response fund to the commissioner of management and budget for evaluation activities under Minnesota Statutes, section 256.042, subdivision 1, paragraph (c).

(f) **Commissioner of human services; grants for Project ECHO.** $400,000 in fiscal year 2020 is appropriated from the general fund and $400,000 in fiscal year 2021 is appropriated from the opiate epidemic response fund to the commissioner of human services for grants of $200,000 to CHI St. Gabriel's Health Family Medical Center for the opioid-focused Project ECHO program and $200,000 to Hennepin Health Care for the opioid-focused Project ECHO program. The opiate epidemic response fund base for this appropriation is $400,000 in fiscal year 2022, $400,000 in fiscal year 2023, ~~$400,000 in fiscal year 2024,~~ and $0 in fiscal year ~~2025~~ 2024.

(g) **Commissioner of human services; opioid overdose prevention grant.** $100,000 in fiscal year 2020 is appropriated from the general fund and $100,000 in fiscal year 2021 is appropriated from the opiate epidemic response fund to the commissioner of human services for a grant to a nonprofit organization that has provided overdose prevention programs to the public in at least 60 counties within the state, for at least three years, has received federal funding before January 1, 2019, and is dedicated to addressing the opioid epidemic. The grant must be used for opioid overdose prevention, community asset mapping, education, and overdose antagonist distribution. The opiate epidemic response fund base for this appropriation is $100,000 in fiscal year 2022, $100,000 in fiscal year 2023, ~~$100,000 in fiscal year 2024,~~ and $0 in fiscal year ~~2025~~ 2024.

(h) **Commissioner of human services; traditional healing.** $2,000,000 in fiscal year 2020 is appropriated from the general fund and $2,000,000 in fiscal year 2021 is appropriated from the opiate epidemic response fund to the commissioner of human services to award grants to Tribal nations and five urban Indian communities for traditional healing practices to American Indians and to increase the capacity of culturally specific providers in the behavioral health workforce. The opiate epidemic response fund base for this appropriation is $2,000,000 in fiscal year 2022, $2,000,000 in fiscal year 2023~~, $2,000,000 in fiscal year 2024~~, and $0 in fiscal year ~~2025~~ 2024.

(i) **Board of Dentistry; continuing education.** $11,000 in fiscal year 2020 is appropriated from the state government special revenue fund to the Board of Dentistry to implement the continuing education requirements under Minnesota Statutes, section 214.12, subdivision 6.

(j) **Board of Medical Practice; continuing education.** $17,000 in fiscal year 2020 is appropriated from the state government special revenue fund to the Board of Medical Practice to implement the continuing education requirements under Minnesota Statutes, section 214.12, subdivision 6.

(k) **Board of Nursing; continuing education.** $17,000 in fiscal year 2020 is appropriated from the state government special revenue fund to the Board of Nursing to implement the continuing education requirements under Minnesota Statutes, section 214.12, subdivision 6.

(l) **Board of Optometry; continuing education.** $5,000 in fiscal year 2020 is appropriated from the state government special revenue fund to the Board of Optometry to implement the continuing education requirements under Minnesota Statutes, section 214.12, subdivision 6.

(m) **Board of Podiatric Medicine; continuing education.** $5,000 in fiscal year 2020 is appropriated from the state government special revenue fund to the Board of Podiatric Medicine to implement the continuing education requirements under Minnesota Statutes, section 214.12, subdivision 6.

(n) **Commissioner of health; nonnarcotic pain management and wellness.** $1,250,000 is appropriated in fiscal year 2020 from the general fund to the commissioner of health, to provide funding for:

(1) statewide mapping and assessment of community-based nonnarcotic pain management and wellness resources; and

(2) up to five demonstration projects in different geographic areas of the state to provide community-based nonnarcotic pain management and wellness resources to patients and consumers.

The demonstration projects must include an evaluation component and scalability analysis. The commissioner shall award the grant for the statewide mapping and assessment, and the demonstration project grants, through a competitive request for proposal process. Grants for statewide mapping and assessment and demonstration projects may be awarded simultaneously. In awarding demonstration project grants, the commissioner shall give preference to proposals that incorporate innovative community partnerships, are informed and led by people in the community where the project is taking place, and are culturally relevant and delivered by culturally competent providers. This is a onetime appropriation.

(o) **Commissioner of health; administration.** $38,000 in fiscal year 2020 is appropriated from the general fund to the commissioner of health for the administration of the grants awarded in paragraph (n).

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 14. **PUBLIC AWARENESS CAMPAIGN.**

(a) The commissioner of human services must establish a multitiered public awareness and educational campaign on substance use disorders. The campaign must include strategies to prevent substance use disorder, reduce stigma, and ensure people know how to access treatment, recovery, and harm reduction services.

(b) The commissioner must consult with communities disproportionately impacted by substance use disorder to ensure the campaign focuses on lived experience and equity. The commissioner may also consult and establish relationships with media and communication experts, behavioral health professionals, state and local agencies, and community organizations to design and implement the campaign.

(c) The campaign must include awareness-raising and educational information using multichannel marketing strategies, social media, virtual events, press releases, reports, and targeted outreach. The commissioner must evaluate the effectiveness of the campaign and modify outreach and strategies as needed.

Sec. 15. **HARM REDUCTION AND CULTURALLY SPECIFIC GRANTS.**

(a) The commissioner of human services must establish grants for Tribal Nations or culturally specific organizations to enhance and expand capacity to address the impacts of the opioid epidemic in their respective communities. Grants may be used to purchase and distribute harm reduction supplies, develop organizational capacity, and expand culturally specific services.

(b) Harm reduction grant funds must be used to promote safer practices and reduce the transmission of infectious disease. Allowable expenses include syringes, fentanyl testing supplies, disinfectants, opiate antagonist rescue kits, safe injection kits, safe smoking kits, sharps disposal, wound-care supplies, medication lock boxes, FDA-approved home testing kits for viral hepatitis and HIV, written educational and resource materials, and other supplies approved by the commissioner.

(c) Culturally specific organizational capacity grant funds must be used to develop and improve organizational infrastructure to increase access to culturally specific services and community building. Allowable expenses include funds for organizations to hire staff or consultants who specialize in fundraising, grant writing, business development, and program integrity or other identified organizational needs as approved by the commissioner.

(d) Culturally specific service grant funds must be used to expand culturally specific outreach and services. Allowable expenses include hiring or consulting with cultural advisors, resources to support cultural traditions, and education to empower individuals and providers, develop a sense of community, and develop a connection to ancestral roots.

(e) Opiate antagonist training grant funds may be used to provide information and training on safe storage and use of opiate antagonists. Training may be conducted via multiple modalities, including but not limited to in-person, virtual, written, and video recordings.

ARTICLE 6

OPIOID PRESCRIBING IMPROVEMENT PROGRAM

Section 1. Minnesota Statutes 2022, section 256B.0638, subdivision 1, is amended to read:

Subdivision 1. **Program established.** The commissioner of human services, in conjunction with the commissioner of health, shall coordinate and implement an opioid prescribing improvement program to reduce opioid dependency and substance use by Minnesotans due to the prescribing of opioid analgesics by health care providers and to support patient-centered, compassionate care for Minnesotans who require treatment with opioid analgesics.

Sec. 2. Minnesota Statutes 2022, section 256B.0638, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of human services.

(c) "Commissioners" means the commissioner of human services and the commissioner of health.

(d) "DEA" means the United States Drug Enforcement Administration.

(e) "Minnesota health care program" means a public health care program administered by the commissioner of human services under this chapter and chapter 256L, and the Minnesota restricted recipient program.

(f) "Opioid disenrollment standards" means parameters of opioid prescribing practices that fall outside community standard thresholds for prescribing to such a degree that a provider must be disenrolled as a ~~medical assistance~~ Minnesota health care program provider.

(g) "Opioid prescriber" means a licensed health care provider who prescribes opioids to ~~medical assistance~~ Minnesota health care program and MinnesotaCare enrollees under the fee-for-service system or under a managed care or county-based purchasing plan.

(h) "Opioid quality improvement standard thresholds" means parameters of opioid prescribing practices that fall outside community standards for prescribing to such a degree that quality improvement is required.

(i) "Program" means the statewide opioid prescribing improvement program established under this section.

(j) "Provider group" means a clinic, hospital, or primary or specialty practice group that employs, contracts with, or is affiliated with an opioid prescriber. Provider group does not include a professional association supported by dues-paying members.

(k) "Sentinel measures" means measures of opioid use that identify variations in prescribing practices during the prescribing intervals.

Sec. 3. Minnesota Statutes 2022, section 256B.0638, subdivision 4, is amended to read:

Subd. 4. **Program components.** (a) The working group shall recommend to the commissioners the components of the statewide opioid prescribing improvement program, including, but not limited to, the following:

(1) developing criteria for opioid prescribing protocols, including:

(i) prescribing for the interval of up to four days immediately after an acute painful event;

(ii) prescribing for the interval of up to 45 days after an acute painful event; and

(iii) prescribing for chronic pain, which for purposes of this program means pain lasting longer than 45 days after an acute painful event;

(2) developing sentinel measures;

(3) developing educational resources for opioid prescribers about communicating with patients about pain management and the use of opioids to treat pain;

(4) developing opioid quality improvement standard thresholds and opioid disenrollment standards for opioid prescribers and provider groups. In developing opioid disenrollment standards, the standards may be described in terms of the length of time in which prescribing practices fall outside community standards and the nature and amount of opioid prescribing that fall outside community standards; and

(5) addressing other program issues as determined by the commissioners.

(b) The opioid prescribing protocols shall not apply to opioids prescribed for patients who are experiencing pain caused by a malignant condition or who are receiving hospice care or palliative care, or to opioids prescribed for substance use disorder treatment with medications for opioid use disorder.

(c) All opioid prescribers who prescribe opioids to Minnesota health care program enrollees must participate in the program in accordance with subdivision 5. Any other prescriber who prescribes opioids may comply with the components of this program described in paragraph (a) on a voluntary basis.

Sec. 4. Minnesota Statutes 2022, section 256B.0638, subdivision 5, is amended to read:

Subd. 5. **Program implementation.** (a) The commissioner shall implement the ~~programs within the Minnesota health care~~ quality improvement program to improve the health of and quality of care provided to Minnesota health care program enrollees. The program must be designed to support patient-centered care consistent with community standards of care. The program must discourage unsafe tapering practices and patient abandonment by providers. The commissioner shall annually collect and report to provider groups the sentinel measures of data showing individual opioid prescribers' opioid prescribing patterns compared to their anonymized peers. Provider groups shall distribute data to their affiliated, contracted, or employed opioid prescribers.

(b) The commissioner shall notify an opioid prescriber and all provider groups with which the opioid prescriber is employed or affiliated when the opioid prescriber's prescribing pattern exceeds the opioid quality improvement standard thresholds. An opioid prescriber and any provider group that receives a notice under this paragraph shall submit to the commissioner a quality improvement plan for review and approval by the commissioner with the goal of bringing the opioid prescriber's prescribing practices into alignment with community standards. A quality improvement plan must include:

(1) components of the program described in subdivision 4, paragraph (a);

(2) internal practice-based measures to review the prescribing practice of the opioid prescriber and, where appropriate, any other opioid prescribers employed by or affiliated with any of the provider groups with which the opioid prescriber is employed or affiliated; and

(3) ~~appropriate use of the prescription monitoring program under section 152.126~~ demonstration of patient-centered care consistent with community standards of care.

(c) If, after a year from the commissioner's notice under paragraph (b), the opioid prescriber's prescribing practices for treatment of acute or postacute pain do not improve so that they are consistent with community standards, the commissioner ~~shall~~ may take one or more of the following steps:

(1) require the prescriber, the provider group, or both, to monitor prescribing practices more frequently than annually;

(2) monitor more aspects of the opioid prescriber's prescribing practices than the sentinel measures; or

(3) require the opioid prescriber to participate in additional quality improvement efforts~~, including but not limited to mandatory use of the prescription monitoring program established under section 152.126~~.

(d) Prescribers treating patients who are on chronic, high doses of opioids must meet community standards of care, including performing regular assessments and addressing unwarranted risks of opioid prescribing, but are not required to show measurable changes in chronic pain prescribing thresholds within a certain period.

(e) The commissioner shall dismiss a prescriber from participating in the opioid prescribing quality improvement program on an annual basis when the prescriber demonstrates that the prescriber's practices are patient-centered and reflect community standards for safe and compassionate treatment of patients experiencing pain.

~~(d)~~ (f) The commissioner ~~shall terminate from Minnesota health care programs~~ may investigate for possible disenrollment all opioid prescribers and provider groups whose prescribing practices fall within the applicable opioid disenrollment standards.

~~(e)~~ (g) No physician, advanced practice registered nurse, or physician assistant, acting in good faith based on the needs of the patient, may be disenrolled by the commissioner of human services solely for prescribing a dosage that equates to an upward deviation from morphine milligram equivalent dosage recommendations specified in state or federal opioid prescribing guidelines or policies, or quality improvement thresholds established under this section.

Sec. 5. Minnesota Statutes 2022, section 256B.0638, is amended by adding a subdivision to read:

Subd. 6a. **Waiver for certain provider groups.** (a) This section does not apply to prescribers employed by, or under contract or affiliated with, a provider group for which the commissioner has granted a waiver from the requirements of this section.

(b) The commissioner, in consultation with opioid prescribers, shall develop waiver criteria for provider groups, and shall make waivers available beginning July 1, 2023. In granting waivers, the commissioner shall consider whether the medical director of the provider group and a majority of the practitioners within a provider group have specialty training, fellowship training, or experience in treating chronic pain. Waivers under this subdivision must be granted on an annual basis.

Sec. 6. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; OPIOID PRESCRIBING IMPROVEMENT PROGRAM SUNSET.**

The commissioner of human services shall recommend criteria to provide for a sunset of the opioid prescribing improvement program under Minnesota Statutes, section 256B.0638. In developing sunset criteria, the commissioner shall consult with stakeholders including but not limited to the Minnesota Medical Association, the Minnesota Society of Interventional Pain Physicians, clinicians that practice pain management, addiction medicine, or mental health, and either current or former Minnesota health care program enrollees who use or have used opioid therapy to manage chronic pain. By January 15, 2024, the commissioner shall submit recommended criteria to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy. The opioid prescribing improvement program shall expire when the recommended criteria developed according to this section are met, or on December 31, 2024, whichever is sooner.

ARTICLE 7

LICENSING

Section 1. Minnesota Statutes 2022, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license consistent with this section

or, if applicable, a temporary change of ownership license under section 245A.043. At minimum, the license shall state:

(1) the name of the license holder;

(2) the address of the program;

(3) the effective date and expiration date of the license;

(4) the type of license;

(5) the maximum number and ages of persons that may receive services from the program; and

(6) any special conditions of licensure.

(b) The commissioner may issue a license for a period not to exceed two years if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clause (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program.

(d) Except as provided in paragraphs ~~(f) and (g)~~ (i) and (j), the commissioner shall not issue ~~or reissue~~ a license if the applicant, license holder, or an affiliated controlling individual has:

(1) been disqualified and the disqualification was not set aside and no variance has been granted;

(2) been denied a license under this chapter, within the past two years;

(3) had a license issued under this chapter revoked within the past five years; or

~~(4) an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent; or~~

~~(5)~~ (4) failed to submit the information required of an applicant under subdivision 1, paragraph (f) or (g), after being requested by the commissioner.

When a license issued under this chapter is revoked ~~under clause (1) or (3)~~, the license holder and each affiliated controlling individual with a revoked license may not hold any license under chapter 245A for five years following the revocation, and other licenses held by the applicant~~,~~ or license holder~~,~~ or licenses affiliated with each controlling individual shall also be revoked.

(e) Notwithstanding paragraph (d), the commissioner may elect not to revoke a license affiliated with a license holder or controlling individual that had a license revoked within the past five years if the commissioner determines that (1) the license holder or controlling individual is operating the program in substantial compliance with applicable laws and rules, and (2) the program's continued operation is in the best interests of the community being served.

(f) Notwithstanding paragraph (d), the commissioner may issue a new license in response to an application that is affiliated with an applicant, license holder, or controlling individual that had an application denied within the past two years or a license revoked within the past five years if the commissioner determines that (1) the applicant or controlling individual has operated one or more programs in substantial compliance with applicable laws and rules, and (2) the program's operation would be in the best interests of the community to be served.

(g) In determining whether a program's operation would be in the best interests of the community to be served, the commissioner shall consider factors such as the number of persons served, the availability of alternative services available in the surrounding community, the management structure of the program, whether the program provides culturally specific services, and other relevant factors.

~~(e)~~ (h) The commissioner shall not issue or reissue a license under this chapter if an individual living in the household where the services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

~~(f)~~ (i) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued under this chapter has been suspended or revoked and the suspension or revocation is under appeal, the program may continue to operate pending a final order from the commissioner. If the license under suspension or revocation will expire before a final order is issued, a temporary provisional license may be issued provided any applicable license fee is paid before the temporary provisional license is issued.

~~(g)~~ (j) Notwithstanding paragraph ~~(f)~~ (i), when a revocation is based on the disqualification of a controlling individual or license holder, and the controlling individual or license holder is ordered under section 245C.17 to be immediately removed from direct contact with persons receiving services or is ordered to be under continuous, direct supervision when providing direct contact services, the program may continue to operate only if the program complies with the order and submits documentation demonstrating compliance with the order. If the disqualified individual fails to submit a timely request for reconsideration, or if the disqualification is not set aside and no variance is granted, the order to immediately remove the individual from direct contact or to be under continuous, direct supervision remains in effect pending the outcome of a hearing and final order from the commissioner.

~~(h)~~ (k) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

~~(i)~~ (l) Unless otherwise specified by statute, all licenses issued under this chapter expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

~~(j)~~ (m) The commissioner shall not issue or reissue a license under this chapter if it has been determined that a tribal licensing authority has established jurisdiction to license the program or service.

Sec. 2. Minnesota Statutes 2022, section 245A.07, is amended by adding a subdivision to read:

Subd. 2b. **Immediate suspension of residential programs.** For suspensions issued to a licensed residential program as defined in section 245A.02, subdivision 14, the effective date of the order may be delayed for up to 30 calendar days to provide for the continuity of care of service recipients. The license

holder must cooperate with the commissioner to ensure service recipients receive continued care during the period of the delay and to facilitate the transition of service recipients to new providers. In these cases, the suspension order takes effect when all service recipients have been transitioned to a new provider or 30 days after the suspension order was issued, whichever comes first.

Sec. 3. Minnesota Statutes 2022, section 245A.07, is amended by adding a subdivision to read:

Subd. 2c. **Immediate suspension for programs with multiple licensed service sites.** (a) For license holders that operate more than one service site under a single license, the suspension order must be specific to the service site or sites where the commissioner determines an order is required under subdivision 2. The order must not apply to other service sites operated by the same license holder unless the commissioner has included in the order an articulable basis for applying the order to other service sites.

(b) If the commissioner has issued more than one license to the license holder under this chapter, the suspension imposed under this section must be specific to the license for the program at which the commissioner determines an order is required under subdivision 2. The order must not apply to other licenses held by the same license holder if those programs are being operated in substantial compliance with applicable law and rules.

Sec. 4. Minnesota Statutes 2022, section 245A.10, subdivision 6, is amended to read:

Subd. 6. **License not issued until license or certification fee is paid.** The commissioner shall not issue or reissue a license or certification until the license or certification fee is paid. The commissioner shall send a bill for the license or certification fee to the billing address identified by the license holder. If the license holder does not submit the license or certification fee payment by the due date, the commissioner shall send the license holder a past due notice. If the license holder fails to pay the license or certification fee by the due date on the past due notice, the commissioner shall send a final notice to the license holder informing the license holder that the program license will expire on December 31 unless the license fee is paid before December 31. If a license expires, the program is no longer licensed and, unless exempt from licensure under section 245A.03, subdivision 2, must not operate after the expiration date. After a license expires, if the former license holder wishes to provide licensed services, the former license holder must submit a new license application and application fee under subdivision 3.

Sec. 5. Minnesota Statutes 2022, section 245A.10, is amended by adding a subdivision to read:

Subd. 9. **License not reissued until outstanding debt is paid.** The commissioner shall not reissue a license or certification until the license holder has paid all outstanding debts related to a licensing fine or settlement agreement for which payment is delinquent. If the payment is past due, the commissioner shall send a past due notice informing the license holder that the program license will expire on December 31 unless the outstanding debt is paid before December 31. If a license expires, the program is no longer licensed and must not operate after the expiration date. After a license expires, if the former license holder wishes to provide licensed services, the former license holder must submit a new license application and application fee under subdivision 3.

Sec. 6. Minnesota Statutes 2022, section 245A.13, subdivision 1, is amended to read:

Subdivision 1. **Application.** (a) In addition to any other remedy provided by law, the commissioner may petition the district court in Ramsey County for an order directing the controlling individuals of a residential or nonresidential program licensed or certified by the commissioner to show cause why the

commissioner should not be appointed receiver to operate the program. The petition to the district court must contain proof by affidavit that one or more of the following circumstances exists: ~~(1) that the commissioner has either begun proceedings to suspend or revoke a license or certification, has suspended or revoked a license or certification, or has decided to deny an application for licensure or certification of the program; or (2) it appears to the commissioner that the health, safety, or rights of the residents or persons receiving care from the program may be in jeopardy because of the manner in which the program may close, the program's financial condition, or violations committed by the program of federal or state laws or rules. If the license holder, applicant, or controlling individual operates more than one program, the commissioner's petition must specify and be limited to the program for which it seeks receivership. The affidavit submitted by the commissioner must set forth alternatives to receivership that have been considered, including rate adjustments. The order to show cause is returnable not less than five days after service is completed and must provide for personal service of a copy to the program administrator and to the persons designated as agents by the controlling individuals to accept service on their behalf.~~

(1) the commissioner has commenced proceedings to suspend or revoke the program's license or refused to renew the program's license;

(2) there is a threat of imminent abandonment by the program or its controlling individuals;

(3) the program has shown a pattern of failure to meet ongoing financial obligations such as failing to pay for food, pharmaceuticals, personnel costs, or required insurance;

(4) the health, safety, or rights of the residents or persons receiving care from the program appear to be in jeopardy due to the manner in which the program may close, the program's financial condition, or violations of federal or state law or rules committed by the program; or

(5) the commissioner has notified the program or its controlling individuals that the program's federal Medicare or Medicaid provider agreement will be terminated, revoked, canceled, or not renewed.

(b) If the license holder, applicant, or controlling individual operates more than one program, the commissioner's petition must specify and be limited to the program for which it seeks receivership.

(c) The order to show cause shall be personally served on the program through its authorized agent or, in the event the authorized agent cannot be located, on any controlling individual for the program.

Sec. 7. Minnesota Statutes 2022, section 245A.13, subdivision 2, is amended to read:

Subd. 2. **Appointment of receiver.** (a) If the court finds that involuntary receivership is necessary as a means of protecting the health, safety, or rights of persons being served by the program, the court shall appoint the commissioner as receiver to operate the program. The commissioner as receiver may contract with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the program subject at all times to the review and approval of the commissioner. A managing agent shall not:

(1) be the license holder or controlling individual of the program;

(2) have a financial interest in the program at the time of the receivership;

(3) be otherwise affiliated with the program; or

(4) have had a licensed program that has been ordered into receivership.

(b) Notwithstanding state contracting requirements in chapter 16C, the commissioner shall establish and maintain a list of qualified persons or entities with experience in delivering services and with winding down programs under chapter 245A, 245D, or 245G, or other service types licensed by the commissioner. The list shall be a resource for selecting a managing agent, and the commissioner may update the list at any time.

Sec. 8. Minnesota Statutes 2022, section 245A.13, subdivision 3, is amended to read:

Subd. 3. **Powers and duties of receiver.** ~~Within 36 months after the receivership order, the receiver shall provide for the orderly transfer of the persons served by the program to other programs or make other provisions to protect their health, safety, and rights. The receiver or the managing agent shall correct or eliminate deficiencies in the program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the program unless the correction or elimination of deficiencies at a residential program involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies at a residential program requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver and the managing agent shall operate the residential or nonresidential program in a manner designed to preserve the health, safety, rights, adequate care, and supervision of the persons served by the program. The receiver or the managing agent may make contracts and incur lawful expenses. The receiver or the managing agent shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the functions of the receivership including the fee set under subdivision 4. No security interest in any real or personal property comprising the program or contained within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver or the managing agent.~~ (a) A receiver appointed pursuant to this section shall, within 18 months after the receivership order, determine whether to close the program or to make other provisions with the intent to keep the program open. If the receiver determines that program closure is appropriate, the commissioner shall provide for the orderly transfer of individuals served by the program to other programs or make other provisions to protect the health, safety, and rights of individuals served by the program.

(b) During the receivership, the receiver or the managing agent shall correct or eliminate deficiencies in the program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the program unless the correction or elimination of deficiencies at a residential program involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies at a residential program requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver and the managing agent shall operate the residential or nonresidential program in a manner designed to preserve the health, safety, rights, adequate care, and supervision of the persons served by the program.

(c) The receiver or the managing agent may make contracts and incur lawful expenses.

(d) The receiver or the managing agent shall use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to the clients during the receivership period. The receiver shall take action as is reasonably necessary to protect or conserve the tangible assets or property during receivership.

(e) The receiver or the managing agent shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the functions of the receivership, including the fee set under subdivision 4. No security interest in any real or personal property comprising the program or contained

within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver or the managing agent.

(f) The receiver has authority to hire, direct, manage, and discharge any employees of the program, including management level staff for the program.

(g) The commissioner, as the receiver appointed by the court, may hire a managing agent to work on the commissioner's behalf to operate the program during the receivership. The managing agent is entitled to a reasonable fee. The receiver and managing agent shall be liable only in an official capacity for injury to persons and property by reason of the conditions of the program. The receiver and managing agent shall not be personally liable, except for gross negligence or intentional acts. The commissioner shall assist the managing agent in carrying out the managing agent's duties.

Sec. 9. Minnesota Statutes 2022, section 245A.13, subdivision 5, is amended to read:

Subd. 5. **Termination.** An involuntary receivership terminates ~~36~~ 18 months after the date on which it was ordered or at any other time designated by the court or when any of the following events occurs:

(1) the commissioner determines that the program's license or certification application should be granted or should not be suspended or revoked;

(2) a new license or certification is granted to the program;

(3) the commissioner determines that all persons residing in a residential program have been provided with alternative residential programs or that all persons receiving services in a nonresidential program have been referred to other programs; or

(4) the court determines that the receivership is no longer necessary because the conditions which gave rise to the receivership no longer exist.

Sec. 10. Minnesota Statutes 2022, section 245A.13, subdivision 6, is amended to read:

Subd. 6. **Emergency procedure.** (a) If it appears from the petition filed under subdivision 1, from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath if the court determines it necessary, that there is probable cause to believe that an emergency exists in a residential or nonresidential program, the court shall issue a temporary order for appointment of a receiver within ~~five~~ two days after receipt of the petition. ~~Notice of the petition must be served on the program administrator and on the persons designated as agents by the controlling individuals to accept service on their behalf. A hearing on the petition must be held within five days after notice is served unless the administrator or authorized agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.~~

(b) Notice of the petition must be served on the authorized agent of the program that is subject to the receivership petition or, if the authorized agent is not immediately available for service, on at least one of the controlling individuals for the program. A hearing on the petition must be held within five days after notice is served unless the authorized agent or other controlling individual consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.

Sec. 11. Minnesota Statutes 2022, section 245A.13, subdivision 7, is amended to read:

Subd. 7. **Rate recommendation.** For any program receiving Medicaid funds and ordered into receivership, the commissioner of human services may review rates of a residential or nonresidential program

~~participating in the medical assistance program which is in receivership and~~ that has needs or deficiencies documented by the Department of Health or the Department of Human Services. If the commissioner of human services determines that a review of the rate established under sections 256B.5012 and 256B.5013 is needed, the commissioner shall:

(1) review the order or determination that cites the deficiencies or needs; and

(2) determine the need for additional staff, additional annual hours by type of employee, and additional consultants, services, supplies, equipment, repairs, or capital assets necessary to satisfy the needs or deficiencies.

Sec. 12. Minnesota Statutes 2022, section 245A.13, subdivision 9, is amended to read:

Subd. 9. **Receivership accounting.** The commissioner may ~~use~~ adjust Medicaid rates and use Medicaid funds, including but not limited to waiver funds, and the medical assistance account and funds for receivership cash flow, receivership administrative fees, and accounting purposes, to the extent permitted by the state's approved Medicaid plan.

ARTICLE 8

DIRECT CARE AND TREATMENT

Section 1. Minnesota Statutes 2022, section 15.01, is amended to read:

15.01 DEPARTMENTS OF THE STATE.

The following agencies are designated as the departments of the state government: the Department of Administration~~;~~, the Department of Agriculture~~;~~, the Department of Commerce~~;~~, the Department of Corrections~~;~~, the Department of Direct Care and Treatment, the Department of Education~~;~~, the Department of Employment and Economic Development~~;~~, the Department of Health~~;~~, the Department of Human Rights~~;~~, the Department of Human Services, the Department of Information Technology Services~~;~~, the Department of Iron Range Resources and Rehabilitation~~;~~, the Department of Labor and Industry~~;~~, the Department of Management and Budget~~;~~, the Department of Military Affairs~~;~~, the Department of Natural Resources~~;~~, the Department of Public Safety~~; the Department of Human Services;~~, the Department of Revenue~~;~~, the Department of Transportation~~;~~, the Department of Veterans Affairs~~;~~, and their successor departments.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 2. Minnesota Statutes 2022, section 15.06, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** This section applies to the following departments or agencies: the Departments of Administration, Agriculture, Commerce, Corrections, Direct Care and Treatment, Education, Employment and Economic Development, Health, Human Rights, Human Services, Labor and Industry, Management and Budget, Natural Resources, Public Safety, ~~Human Services,~~ Revenue, Transportation, and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the Office of Commissioner of Iron Range Resources and Rehabilitation; the Department of Information Technology Services; the Bureau of Mediation Services; and their successor departments and agencies. The heads of the foregoing departments or agencies are "commissioners."

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 3. Minnesota Statutes 2022, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the Departments of Administration~~;~~, Agriculture~~;~~, Commerce~~;~~, Corrections~~;~~, Direct Care and Treatment, Education~~;~~, Employment and Economic Development~~;~~, Explore Minnesota Tourism~~;~~, Management and Budget~~;~~, Health~~;~~, Human Rights~~;~~, Human Services, Labor and Industry~~;~~, Natural Resources~~;~~, Public Safety~~;~~, ~~Human Services;~~ Revenue~~;~~, Transportation~~;~~, and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the State Board of Investment; the Office of Administrative Hearings; the Department of Information Technology Services; the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the Minnesota Office of Higher Education; the Perpich Center for Arts Education; and the Minnesota Zoological Board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 4. Minnesota Statutes 2022, section 245.037, is amended to read:

245.037 MONEY COLLECTED AS RENT; STATE PROPERTY.

(a) Notwithstanding any law to the contrary, money collected as rent under section 16B.24, subdivision 5, for state property at any of the regional treatment centers or state nursing home facilities administered by the commissioner of human services is dedicated to the regional treatment center or state nursing home from which it is generated. Any balance remaining at the end of the fiscal year shall not cancel and is available until expended.

(b) The commissioner may lease out any buildings or portions of buildings, units, or lands acquired by the department that are not needed for the uses and purposes of the department. Such authority to lease out buildings, units, and lands includes authority to lease to employees of the department, notwithstanding section 16B.24, subdivision 5, paragraph (c). The commissioner may set the prices and terms and conditions for leases under this paragraph, and shall not make any such lease for a term of more than five years. All

money received from leases under this paragraph shall be credited to the fund from which the property was acquired or through which the property is being maintained. Money credited for leased property maintenance is appropriated to the commissioner for that purpose.

(c) The commissioner may lease out any buildings or portions of buildings, units, or lands acquired by the department to clients and employees of the department for the provision of community-based services, notwithstanding section 16B.24, subdivision 5, paragraph (c). The commissioner may set the prices and terms and conditions for leases under this paragraph, and shall not make any such lease for a term of more than five years. All money received from leases under this paragraph shall be credited to the fund from which the property was acquired or through which the property is being maintained. Money credited for leased property maintenance is appropriated to the commissioner for that purpose.

Sec. 5. Minnesota Statutes 2022, section 246.54, subdivision 1a, is amended to read:

Subd. 1a. **Anoka-Metro Regional Treatment Center.** (a) A county's payment of the cost of care provided at Anoka-Metro Regional Treatment Center shall be according to the following schedule:

(1) zero percent for the first 30 days;

(2) 20 percent for days 31 and over if the stay is determined to be clinically appropriate for the client; and

(3) 100 percent for each day during the stay, including the day of admission, when the facility determines that it is clinically appropriate for the client to be discharged.

(b) If payments received by the state under sections 246.50 to 246.53 exceed 80 percent of the cost of care for days over 31 for clients who meet the criteria in paragraph (a), clause (2), the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53.

(c) Between July 1, 2023, and June 30, 2025, the county is not responsible for the cost of care under paragraph (a), clause (3), for a person who is committed as a person who has a mental illness and is dangerous to the public under section 253B.18 and who is awaiting transfer to another state-operated facility or program. This paragraph expires June 30, 2025.

Sec. 6. Minnesota Statutes 2022, section 246.54, subdivision 1b, is amended to read:

Subd. 1b. **Community behavioral health hospitals.** (a) A county's payment of the cost of care provided at state-operated community-based behavioral health hospitals for adults and children shall be according to the following schedule:

(1) 100 percent for each day during the stay, including the day of admission, when the facility determines that it is clinically appropriate for the client to be discharged; and

(2) the county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246.53.

(b) Between July 1, 2023, and June 30, 2025, the county is not responsible for the cost of care under paragraph (a), clause (1), for a person committed as a person who has a mental illness and is dangerous to the public under section 253B.18 and who is awaiting transfer to another state-operated facility or program. This paragraph expires June 30, 2025.

(c) Notwithstanding any law to the contrary, the client is not responsible for payment of the cost of care under this subdivision.

Sec. 7. **[246C.01] TITLE.**

This chapter may be cited as the "Department of Direct Care & Treatment Act."

Sec. 8. **[246C.02] DEPARTMENT OF DIRECT CARE AND TREATMENT; ESTABLISHMENT.**

(a) The Department of Direct Care and Treatment is created. An executive board shall head the Department of Direct Care and Treatment. The executive board shall develop and maintain direct care and treatment in a manner consistent with applicable law, including chapters 13, 245, 246, 246B, 252, 253, 253B, 253C, 253D, 254A, 254B, and 256. The Department of Direct Care and Treatment shall provide direct care and treatment services in coordination with counties and other vendors. Direct care and treatment services shall include specialized inpatient programs at secure treatment facilities as defined in sections 253B.02, subdivision 18a, and 253D.02, subdivision 13; community preparation services; regional treatment centers; enterprise services; consultative services; aftercare services; community-based services and programs; transition services; nursing home services; and other services consistent with the mission of the Department of Direct Care and Treatment.

(b) "Community preparation services" means specialized inpatient or outpatient services or programs operated outside of a secure environment but administered by a secure treatment facility.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 9. **[246C.03] TRANSITION OF AUTHORITY; DEVELOPMENT OF A BOARD.**

Subdivision 1. **Authority until board is developed and powers defined.** Upon the effective date of this act, the commissioner of human services shall continue to exercise all authorities and responsibilities under chapters 13, 245, 246, 246B, 252, 253, 253B, 253C, 253D, 254A, 254B, and 256, until legislation is effective that develops the Department of Direct Care and Treatment executive board and defines the responsibilities and powers of the Department of Direct Care and Treatment and its executive board.

Subd. 2. **Development of Department of Direct Care and Treatment Board.** (a) The commissioner of human services shall prepare legislation for introduction during the 2024 legislative session, with input from stakeholders the commissioner deems necessary, proposing legislation for the creation and implementation of the Direct Care and Treatment executive board and defining the responsibilities, powers, and function of the Department of Direct Care and Treatment executive board.

(b) The Department of Direct Care and Treatment executive board shall consist of no more than five members, all appointed by the governor.

(c) An executive board member's qualifications must be appropriate for overseeing a complex behavioral health system, such as experience serving on a hospital or non-profit board, serving as a public sector labor union representative, experience in delivery of behavioral health services or care coordination, or working as a licensed health care provider, in an allied health profession, or in health care administration.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 10. **[246C.04] TRANSFER OF DUTIES.**

(a) Section 15.039 applies to the transfer of duties required by this chapter.

(b) The commissioner of administration, with the governor's approval, shall issue reorganization orders under section 16B.37 as necessary to carry out the transfer of duties required by section 246C.03. The provision of section 16B.37, subdivision 1, stating that transfers under section 16B.37 may only be to an agency that has existed for at least one year does not apply to transfers to an agency created by this chapter.

(c) The initial salary for the health systems chief executive officer of the Department of Direct Care and Treatment is the same as the salary for the health systems chief executive officer of direct care and treatment at the Department of Human Services immediately before July 1, 2024.

Sec. 11. **[246C.05] EMPLOYEE PROTECTIONS FOR ESTABLISHING THE NEW DEPARTMENT OF DIRECT CARE AND TREATMENT.**

(a) Personnel whose duties relate to the functions assigned to the Department of Direct Care and Treatment executive board in section 246C.03 are transferred to the Department of Direct Care and Treatment effective 30 days after approval by the commissioner of direct care and treatment.

(b) Before the Department of Direct Care and Treatment executive board is appointed, personnel whose duties relate to the functions in this section may be transferred beginning July 1, 2024, with 30 days' notice from the commissioner of management and budget.

(c) The following protections shall apply to employees who are transferred from the Department of Human Services to the Department of Direct Care and Treatment:

(1) No transferred employee shall have their employment status and job classification altered as a result of the transfer.

(2) Transferred employees who were represented by an exclusive representative prior to the transfer shall continue to be represented by the same exclusive representative after the transfer.

(3) The applicable collective bargaining agreements with exclusive representatives shall continue in full force and effect for such transferred employees after the transfer.

(4) The state shall have the obligation to meet and negotiate with the exclusive representatives of the transferred employees about any proposed changes affecting or relating to the transferred employees' terms and conditions of employment to the extent such changes are not addressed in the applicable collective bargaining agreement.

(5) When an employee in a temporary unclassified position is transferred to the Department of Direct Care and Treatment, the total length of time that the employee has served in the appointment shall include all time served in the appointment at the transferring agency and the time served in the appointment at the Department of Direct Care and Treatment. An employee in a temporary unclassified position who was hired by a transferring agency through an open competitive selection process in accordance with a policy enacted by Minnesota Management and Budget shall be considered to have been hired through such process after the transfer.

(6) In the event that the state transfers ownership or control of any of the facilities, services, or operations of the Department of Direct Care and Treatment to another entity, whether private or public, by subcontracting,

sale, assignment, lease, or other transfer, the state shall require as a written condition of such transfer of ownership or control the following provisions:

(i) Employees who perform work in transferred facilities, services, or operations must be offered employment with the entity acquiring ownership or control before the entity offers employment to any individual who was not employed by the transferring agency at the time of the transfer.

(ii) The wage and benefit standards of such transferred employees must not be reduced by the entity acquiring ownership or control through the expiration of the collective bargaining agreement in effect at the time of the transfer or for a period of two years after the transfer, whichever is longer.

(d) There is no liability on the part of, and no cause of action arises against, the state of Minnesota or its officers or agents for any action or inaction of any entity acquiring ownership or control of any facilities, services, or operations of the Department of Direct Care and Treatment.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 12. Minnesota Statutes 2022, section 252.50, subdivision 2, is amended to read:

Subd. 2. **Authorization to build or purchase.** Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings, at least a portion of which must be used for state-operated, community-based programs. The commissioner must develop the state-operated community residential facilities authorized in the worksheets of the house of representatives appropriations and senate finance committees. If financing through state general obligation bonds is not available, the commissioner shall finance the purchase or construction of state-operated, community-based facilities with the Minnesota Housing Finance Agency. The commissioner shall make payments through the Department of Administration to the Minnesota Housing Finance Agency in repayment of mortgage loans granted for the purposes of this section. Programs must be adaptable to the needs of persons with developmental disabilities and residential programs must be homelike.

Sec. 13. **TASK FORCE ON PRIORITY ADMISSIONS TO STATE-OPERATED TREATMENT PROGRAMS.**

Subdivision 1. **Establishment; purpose.** The Task Force on Priority Admissions to State-Operated Treatment Programs is established to evaluate the impact of the requirements for priority admissions under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b) on:

(1) the Department of Human Services;

(2) individuals referred for admission and care at state-operated treatment programs, including both individuals referred for priority admission under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), and individuals not referred according to such priority admissions requirements; and

(3) the mental health system in Minnesota, including community hospitals.

Subd. 2. **Membership.** (a) The task force shall consist of the following members, appointed as follows:

(1) a member appointed by the governor;

(2) the commissioner of human services, or a designee;

(3) a member representing Department of Human Services direct care and treatment services who has experience with civil commitments, appointed by the commissioner of human services;

(4) the ombudsman for mental health and developmental disabilities;

(5) a hospital representative, appointed by the Minnesota Hospital Association;

(6) a county representative, appointed by the Association of Minnesota Counties;

(7) a county social services representative, appointed by the Minnesota Association of County Social Service Administrators;

(8) a member appointed by the Minnesota Civil Commitment Defense Panel;

(9) a county attorney, appointed by the Minnesota County Attorneys Association;

(10) a county sheriff, appointed by the Minnesota Sheriffs' Association;

(11) a member appointed by the Minnesota Psychiatric Society;

(12) a member appointed by the Minnesota Association of Community Mental Health Programs;

(13) a member appointed by the National Alliance on Mental Illness Minnesota;

(14) the Minnesota Attorney General;

(15) three individuals from organizations representing racial and ethnic groups that are overrepresented in the criminal justice system, appointed by the commissioner of corrections; and

(16) one member of the public with lived experience directly related to the task force's purposes, appointed by the governor.

(b) Appointments must be made no later than July 15, 2023.

(c) Member compensation and reimbursement for expenses are governed by Minnesota Statutes, section 15.059, subdivision 3.

(d) A member of the legislature may not serve as a member of the task force.

Subd. 3. **Officers; meetings.** (a) The commissioner of human services must convene the first meeting of the task force no later than August 1, 2023.

(b) The Attorney General and the commissioner of human services must serve as co-chairs. The task force may elect other officers as necessary.

(c) Task force meetings are subject to the Minnesota Open Meeting Law under Minnesota Statutes, chapter 13D.

Subd. 4. **Administrative support.** The commissioner of human services must provide administrative support and staff assistance for the task force.

Subd. 5. **Data usage and privacy.** Any data provided by executive agencies as part of the work and report of the task force is subject to the requirements of the Minnesota Government Data Practices Act under Minnesota Statutes, chapter 13, and all other applicable data privacy laws.

Subd. 6. **Duties.** The task force must:

(1) evaluate the impact of the priority admissions required under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), on the ability of the state to serve all individuals in need of care in state-operated treatment programs by analyzing:

(i) the number of individuals admitted to state-operated treatment programs from jails or correctional institutions according to the requirements of Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), since July 1, 2013;

(ii) the number of individuals currently on waiting lists for admission to state-operated treatment programs;

(iii) the average length of time an individual admitted from a jail or correctional institution waits for a medically appropriate bed in a state-operated treatment program, compared to an individual admitted from another location, such as a community hospital or the individual's home; and

(iv) county-by-county trends over time for priority admissions under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b);

(2) analyze the impact of the priority admissions required under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), on the mental health system statewide, including on community hospitals;

(3) develop policy and funding recommendations for improvements or alternatives to the current priority admissions requirement. Recommendations must ensure that state-operated treatment programs have medical discretion to admit individuals with the highest acuity and who may pose a risk to self and others, regardless of referral path; and

(4) identify and recommend options for providing treatment to individuals referred according to the priority admissions required under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), and other individuals in the community who require treatment at state-operated treatment programs.

Subd. 7. **Report.** No later than February 1, 2024, the task force must submit a written report to the chairs and ranking minority members of the legislative committees with jurisdiction over public safety and human services that includes recommendations on:

(1) proposals to amend Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), to improve the priority admissions requirements and process;

(2) ways to ensure that state-operated treatment programs have medical discretion to prioritize the admission of individuals with the most acute clinical and behavioral health needs or who pose a risk to self and others, regardless of referral path;

(3) additional ways to meet the treatment needs of individuals referred to state-operated treatment programs according to the priority admissions required under Minnesota Statutes, section 253B.10, subdivision 1, paragraph (b), and other individuals in the community who require treatment at state-operated treatment programs; and

(4) any other relevant findings, research, or analyses conducted or produced by the task force under subdivision 6.

Subd. 8. **Expiration.** The task force expires June 30, 2024.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 14. **REVISOR INSTRUCTION.**

The revisor of statutes, in consultation with staff from the House Research Department; House Fiscal Analysis; the Office of Senate Counsel, Research and Fiscal Analysis; and the respective departments shall prepare legislation for introduction in the 2024 legislative session proposing the statutory changes necessary to implement the transfers of duties that this article requires.

EFFECTIVE DATE. This section is effective July 1, 2023.

ARTICLE 9

APPROPRIATIONS

Section 1. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2024" and "2025" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2024, or June 30, 2025, respectively. "The first year" is fiscal year 2024. "The second year" is fiscal year 2025. "The biennium" is fiscal years 2024 and 2025.

	APPROPRIATIONS Available for the Year Ending June 30	
	2024	**2025**
Sec. 2. **COMMISSIONER OF HUMAN SERVICES**		
Subdivision 1. **Total Appropriation**	**$ 6,926,209,000**	**$ 7,181,099,000**

Appropriations by Fund

	2024	2025
General	6,924,445,000	7,179,297,000
Health Care Access	31,000	69,000
Lottery Prize	1,733,000	1,733,000

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. **Central Office; Operations**	24,607,000	17,725,000

(a) **Grant Administration Carryforward.**

(1) Of this amount, $714,000 in fiscal year 2024 is available until June 30, 2027.

(2) Of this amount, $140,000 in fiscal year 2025 is available until June 30, 2027.

(3) Of this amount, $640,000 in fiscal year 2024 is available until June 30, 2029.

(b) **Base Level Adjustment.** The general fund base is increased by $7,249,000 in fiscal year 2026 and increased by $6,999,000 in fiscal year 2027.

Subd. 3. **Central Office; Children and Families**	2,699,000	-0-

Grant Administration Carryforward. Of this amount, $2,699,000 in fiscal year 2024 is available until June 30, 2027.

Subd. 4. **Central Office; Health Care**	2,468,000	3,439,000

(a) **Initial PACE Implementation Funding.** $270,000 in fiscal year 2024 is to complete the initial actuarial and administrative work necessary to recommend a financing mechanism for the operation of PACE under Minnesota Statutes, section 256B.69, subdivision 23, paragraph (e). This is a onetime appropriation and is available until June 30, 2025.

(b) **Base Level Adjustment.** The general fund base is increased by $3,322,000 in fiscal year 2026 and increased by $3,322,000 in fiscal year 2027.

Subd. 5. **Central Office; Aging and Disability Services**	40,115,000	11,995,000

(a) **Employment Supports Alignment Study.** $50,000 in fiscal year 2024 and $200,000 in fiscal year 2025 are to conduct an interagency employment supports alignment study. The base for this appropriation is $150,000 in fiscal year 2026 and $100,000 in fiscal year 2027.

(b) **Case Management Training Curriculum.** $377,000 in fiscal year 2024 and $377,000 in fiscal year 2025 are to develop and implement a curriculum and training plan to ensure all lead agency assessors

and case managers have the knowledge and skills necessary to fulfill support planning and coordination responsibilities for individuals who use home and community-based disability services and live in own-home settings. This is a onetime appropriation.

(c) **Office of Ombudsperson for Long-Term Care.** $875,000 in fiscal year 2024 and $875,000 in fiscal year 2025 are for additional staff and associated direct costs in the Office of Ombudsperson for Long-Term Care.

(d) **Direct Care Services Corps Pilot Project.** $500,000 in fiscal year 2024 is from the general fund for a grant to the Metropolitan Center for Independent Living for the direct care services corps pilot project. Up to $25,000 may be used by the Metropolitan Center for Independent Living for administrative costs. This is a onetime appropriation.

(e) **Research on Access to Long-Term Care Services and Financing.** Any unexpended amount of the fiscal year 2023 appropriation referenced in Laws 2021, First Special Session chapter 7, article 17, section 16, estimated to be $300,000, is canceled. The amount canceled is appropriated in fiscal year 2024 for the same purpose.

(f) **Native American Elder Coordinator.** $441,000 in fiscal year 2024 and $441,000 in fiscal year 2025 are for the Native American elder coordinator position under Minnesota Statutes, section 256.975, subdivision 6.

(g) **Grant Administration Carryforward.**

(1) Of this amount, $8,154,000 in fiscal year 2024 is available until June 30, 2027.

(2) Of this amount, $1,071,000 in fiscal year 2025 is available until June 30, 2027.

(3) Of this amount, $19,000,000 in fiscal year 2024 is available until June 30, 2029.

(h) **Base Level Adjustment.** The general fund base is increased by $8,189,000 in fiscal year 2026 and increased by $8,093,000 in fiscal year 2027.

Subd. 6. **Central Office; Behavioral Health, Housing, and Deaf and Hard of Hearing Services**	9,573,000	4,048,000

(a) **Evidence-Based Training for Substance Use Disorder Provider Community.** $150,000 in fiscal year 2024 and $150,000 in fiscal year 2025 are for provider participation in clinical training for the transition to American Society of Addiction Medicine standards.

(b) **Substance Use Disorder Public Awareness Campaign.** $1,584,000 in fiscal year 2024 is to develop and establish a public awareness campaign targeting the stigma of opioid use disorders with the goal of prevention and education of youth on the dangers of opioids and other substance use. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(c) **Evaluation of Recovery Site Grants.** $100,000 in fiscal year 2025 is to provide funding for evaluating the effectiveness of recovery site grant efforts.

(d) **Grant Administration Carryforward.**

(1) Of this amount, $3,948,000 in fiscal year 2024 is available until June 30, 2027.

(2) Of this amount, $1,183,000 in fiscal year 2024 is available until June 30, 2029.

(e) **Base Level Adjustment.** The general fund base is increased by $3,759,000 in fiscal year 2026 and increased by $3,659,000 in fiscal year 2027.

Subd. 7. **Forecasted Programs; Housing Support**	783,000	1,592,000
Subd. 8. **Forecasted Programs; MinnesotaCare**	31,000	69,000

This appropriation is from the health care access fund.

Subd. 9. **Forecasted Programs; Medical Assistance**	5,672,632,000	6,347,966,000
Subd. 10. **Forecasted Programs; Alternative Care**	48,042,000	53,377,000

Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but must be transferred to the medical assistance account.

Subd. 11. **Forecasted Programs; Behavioral Health Fund**	96,387,000	98,417,000

Subd. 12. **Grant Programs; Refugee Services Grants**	7,000,000	-0-

New American Legal, Social Services, and Long-Term Care Workforce Grant Program. $7,000,000 in fiscal year 2024 is for legal and social services grants. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

Subd. 13. **Grant Programs; Other Long-Term Care Grants**	152,387,000	1,925,000

(a) **Provider Capacity Grant for Rural and Underserved Communities.** $17,148,000 in fiscal year 2024 is for provider capacity grants for rural and underserved communities. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(b) **New American Legal, Social Services, and Long-Term Care Grant Program.** $28,316,000 in fiscal year 2024 is for long-term care workforce grants for new Americans. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(c) **Supported Decision Making Programs.** $4,000,000 in fiscal year 2024 is for supported decision making grants. This is a onetime appropriation and is available until June 30, 2025.

(d) **Direct Support Professionals Employee-Owned Cooperative Program.** $350,000 in fiscal year 2024 is for a grant to the Metropolitan Consortium of Community Developers for the Direct Support Professionals Employee-Owned Cooperative program. The grantee must use the grant amount for outreach and engagement, managing a screening and selection process, providing one-on-one technical assistance, developing and providing training curricula related to cooperative development and home and community-based waiver services, administration, reporting, and program evaluation. This is a onetime appropriation and is available until June 30, 2025.

(e) **Long-Term Services and Supports Workforce Incentive Grants.** $83,560,000 in fiscal year 2024 is for long-term services and supports workforce incentive grants administered according to Minnesota

Statutes, section 256.4764. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2029. This is a onetime appropriation.

(f) **Base Level Adjustment.** The general fund base is $3,949,000 in fiscal year 2026 and $3,949,000 in fiscal year 2027. Of these amounts, $2,024,000 in fiscal year 2026 and $2,024,000 in fiscal year 2027 are for PCA background study grants.

Subd. 14. **Grant Programs; Aging and Adult Services Grants**	164,626,000	34,795,000

(a) **Vulnerable Adult Act Redesign Phase Two.** $17,129,000 in fiscal year 2024 is for adult protection grants to counties and Tribes under Minnesota Statutes, section 256M.42. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. The base for this appropriation is $866,000 in fiscal year 2026 and $867,000 in fiscal year 2027.

(b) **Caregiver Respite Services Grants.** $1,800,000 in fiscal year 2025 is for caregiver respite services grants under Minnesota Statutes, section 256.9756. This is a onetime appropriation.

(c) **Live Well at Home Grants.** $4,575,000 in fiscal year 2024 is for live well at home grants under Minnesota Statutes, section 256.9754, subdivision 3f. This is a onetime appropriation and is available until June 30, 2025.

(d) **Senior Nutrition Program.** $10,552,000 in fiscal year 2024 is for the senior nutrition program. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(e) **Age-Friendly Community Grants.** $3,000,000 in fiscal year 2024 is for the continuation of age-friendly community grants under Laws 2021, First Special Session chapter 7, article 17, section 8, subdivision 1. Notwithstanding Minnesota Statutes, section 16A.28, this is a onetime appropriation and is available until June 30, 2027.

(f) **Age-Friendly Technical Assistance Grants.** $1,725,000 in fiscal year 2024 is for the continuation of age-friendly technical assistance grants under Laws

2021, First Special Session chapter 7, article 17, section 8, subdivision 2. Notwithstanding Minnesota Statutes, section 16A.28, this is a onetime appropriation and is available until June 30, 2027.

(g) **Financially Distressed Nursing Facility Loan Program.** $93,200,000 in fiscal year 2024 is for the financially distressed nursing facility loan program under Minnesota Statutes, section 256R.55, and is available as provided therein.

(h) **Base Level Adjustment.** The general fund base is $33,861,000 in fiscal year 2026 and $33,862,000 in fiscal year 2027.

Subd. 15.	**Deaf and Hard-of-Hearing Grants**	2,886,000	2,886,000
Subd. 16.	**Grant Programs; Disabilities Grants**	113,684,000	30,377,000

(a) **Temporary Grants for Small Customized Living Providers.** $5,450,000 in fiscal year 2024 is for grants to assist small customized living providers to transition to community residential services licensure or integrated community supports licensure. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(b) **Lead Agency Capacity Building Grants.** $444,000 in fiscal year 2024 and $2,396,000 in fiscal year 2025 are for grants to assist organizations, counties, and Tribes to build capacity for employment opportunities for people with disabilities. The base for this appropriation is $2,413,000 in fiscal year 2026 and $2,411,000 in fiscal year 2027.

(c) **Employment and Technical Assistance Center Grants.** $450,000 in fiscal year 2024 and $1,800,000 in fiscal year 2025 are for employment and technical assistance grants to assist organizations and employers in promoting a more inclusive workplace for people with disabilities.

(d) **Case Management Training Grants.** $37,000 in fiscal year 2024 and $123,000 in fiscal year 2025 are for grants to provide case management training to organizations and employers to support the state's disability employment supports system. The base for this appropriation is $45,000 in fiscal year 2026 and $45,000 in fiscal year 2027.

(e) **Self-Directed Bargaining Agreement; Electronic Visit Verification Stipends.** $6,095,000 in fiscal year 2024 is for onetime stipends of $200 to bargaining members to offset the potential costs related to people using individual devices to access the electronic visit verification system. Of this amount, $5,600,000 is for stipends and $495,000 is for administration. This is a onetime appropriation and is available until June 30, 2025.

(f) **Self-Directed Collective Bargaining Agreement; Temporary Rate Increase Memorandum of Understanding.** $1,600,000 in fiscal year 2024 is for onetime stipends for individual providers covered by the SEIU collective bargaining agreement based on the memorandum of understanding related to the temporary rate increase in effect between December 1, 2020, and February 7, 2021. Of this amount, $1,400,000 of the appropriation is for stipends and $200,000 is for administration. This is a onetime appropriation.

(g) **Self-Directed Collective Bargaining Agreement; Retention Bonuses.** $50,750,000 in fiscal year 2024 is for onetime retention bonuses covered by the SEIU collective bargaining agreement. Of this amount, $50,000,000 is for retention bonuses and $750,000 is for administration of the bonuses. This is a onetime appropriation and is available until June 30, 2025.

(h) **Self-Directed Bargaining Agreement; Training Stipends.** $2,100,000 in fiscal year 2024 and $100,000 in fiscal year 2025 are for onetime stipends of $500 for collective bargaining unit members who complete designated, voluntary trainings made available through or recommended by the State Provider Cooperation Committee. Of this amount, $2,000,000 in fiscal year 2024 is for stipends, and $100,000 in fiscal year 2024 and $100,000 in fiscal year 2025 are for administration. This is a onetime appropriation.

(i) **Self-Directed Bargaining Agreement; Orientation Program.** $2,000,000 in fiscal year 2024 and $2,000,000 in fiscal year 2025 are for onetime $100 payments to collective bargaining unit members who complete voluntary orientation requirements. Of this amount, $1,500,000 in fiscal year 2024 and $1,500,000 in fiscal year 2025 are for the onetime $100 payments, and $500,000 in fiscal year 2024 and

$500,000 in fiscal year 2025 are for orientation-related costs. This is a onetime appropriation.

(j) **Self-Directed Bargaining Agreement; Home Care Orientation Trust.** $1,000,000 in fiscal year 2024 is for the Home Care Orientation Trust under Minnesota Statutes, section 179A.54, subdivision 11. The commissioner shall disburse the appropriation to the board of trustees of the Home Care Orientation Trust for deposit into an account designated by the board of trustees outside the state treasury and state's accounting system. This is a onetime appropriation.

(k) **HIV/AIDS Supportive Services.** $12,100,000 in fiscal year 2024 is for grants to community-based HIV/AIDS supportive services providers as defined in Minnesota Statutes, section 256.01, subdivision 19, and for payment of allowed health care costs as defined in Minnesota Statutes, section 256.935. This is a onetime appropriation and is available until June 30, 2025.

(l) **Motion Analysis Advancements Clinical Study and Patient Care.** $400,000 is fiscal year 2024 is for a grant to the Mayo Clinic Motion Analysis Laboratory and Limb Lab for continued research in motion analysis advancements and patient care. This is a onetime appropriation and is available through June 30, 2025.

(m) **Grant to Family Voices in Minnesota.** $75,000 in fiscal year 2024 and $75,000 in fiscal year 2025 are for a grant to Family Voices in Minnesota under Minnesota Statutes, section 256.4776.

(n) **Parent-to-Parent Programs.**

(1) $550,000 in fiscal year 2024 and $550,000 in fiscal year 2025 are for grants to organizations that provide services to underserved communities with a high prevalence of autism spectrum disorder. This is a onetime appropriation and is available until June 30, 2025.

(2) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services.

(3) Eligible organizations must:

(i) conduct outreach and provide support to newly identified parents or guardians of a child with special health care needs;

(ii) provide training to educate parents and guardians in ways to support their child and navigate the health, education, and human services systems;

(iii) facilitate ongoing peer support for parents and guardians from trained volunteer support parents; and

(iv) communicate regularly with other parent-to-parent programs and national organizations to ensure that best practices are implemented.

(4) Grant recipients must use grant money for the activities identified in clause (3).

(5) For purposes of this paragraph, "special health care needs" means disabilities, chronic illnesses or conditions, health-related educational or behavioral problems, or the risk of developing disabilities, illnesses, conditions, or problems.

(6) Each grant recipient must report to the commissioner of human services annually by January 15 with measurable outcomes from programs and services funded by this appropriation the previous year including the number of families served and the number of volunteer support parents trained by the organization's parent-to-parent program.

(o) **Self-Advocacy Grants for Persons with Intellectual and Developmental Disabilities.** $323,000 in fiscal year 2024 and $323,000 in fiscal year 2025 are for self-advocacy grants under Minnesota Statutes, section 256.477. Of these amounts, $218,000 in fiscal year 2024 and $218,000 in fiscal year 2025 are for the activities under Minnesota Statutes, section 256.477, subdivision 1, paragraph (a), clauses (5) to (7), and for administrative costs, and $105,000 in fiscal year 2024 and $105,000 in fiscal year 2025 are for the activities under Minnesota Statutes, section 256.477, subdivision 2.

(p) **Technology for Home Grants.** $300,000 in fiscal year 2024 and $300,000 in fiscal year 2025 are for technology for home grants under Minnesota Statutes, section 256.4773.

(q) **Community Residential Setting Transition.** $500,000 in fiscal year 2024 is for a grant to Hennepin County to expedite approval of community residential setting licenses subject to the corporate foster care moratorium exception under Minnesota Statutes, section 245A.03, subdivision 7, paragraph (a), clause (5).

(r) **Base Level Adjustment.** The general fund base is $27,343,000 in fiscal year 2026 and $27,016,000 in fiscal year 2027.

Subd. 17. **Grant Programs; Adult Mental Health Grants** 4,400,000 -0-

(a) **Training for Peer Workforce.** $4,000,000 in fiscal year 2024 is for peer workforce training grants. Notwithstanding Minnesota Statutes, section 16A.28, this is a onetime appropriation and is available until June 30, 2027.

(b) **Family Enhancement Center Grant.** $400,000 in fiscal year 2024 is for a grant to the Family Enhancement Center to develop, maintain, and expand community-based social engagement and connection programs to help families dealing with trauma and mental health issues develop connections with each other and their communities, including the NEST parent monitoring program, the cook to connect program, and the call to movement initiative. This appropriation is onetime and is available until June 30, 2025.

Subd. 18. **Grant Programs; Chemical Dependency Treatment Support Grants**

	Appropriations by Fund	
General	54,691,000	5,342,000
Lottery Prize	1,733,000	1,733,000

(a) **Culturally Specific Recovery Community Organization Start-Up Grants.** $4,000,000 in fiscal year 2024 is for culturally specific recovery community organization start-up grants. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(b) **Safe Recovery Sites.** $14,537,000 in fiscal year 2024 is from the general fund for start-up and capacity-building grants for organizations to establish safe recovery sites. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is onetime and is available until June 30, 2029.

(c) **Technical Assistance for Culturally Specific Organizations; Culturally Specific Services Grants.** $4,000,000 in fiscal year 2024 is for grants to culturally specific providers for technical assistance navigating culturally specific and responsive substance use and recovery programs. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027.

(d) **Technical Assistance for Culturally Specific Organizations; Culturally Specific Grant Development Training.** $400,000 in fiscal year 2024 is for grants for up to four trainings for community members and culturally specific providers for grant writing training for substance use and recovery-related grants. Notwithstanding Minnesota Statutes, section 16A.28, this is a onetime appropriation and is available until June 30, 2027.

(e) **Harm Reduction Supplies for Tribal and Culturally Specific Programs.** $7,597,000 in fiscal year 2024 is from the general fund to provide sole source grants to culturally specific communities to purchase syringes, testing supplies, and opiate antagonists. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2027. This is a onetime appropriation.

(f) **Families and Family Treatment Capacity-Building and Start-Up Grants.** $10,000,000 in fiscal year 2024 is from the general fund for start-up and capacity-building grants for family substance use disorder treatment programs. Notwithstanding Minnesota Statutes, section 16A.28, this appropriation is available until June 30, 2029. This is a onetime appropriation.

(g) **Start-Up and Capacity Building Grants for Withdrawal Management.** $500,000 in fiscal year 2024 and $1,000,000 in fiscal year 2025 are for start-up and capacity building grants for withdrawal management.

(h) **Recovery Community Organization Grants.** $4,300,000 in fiscal year 2024 is from the general fund for grants to recovery community organizations, as defined in Minnesota Statutes, section 254B.01, subdivision 8, that are current grantees as of June 30, 2023. This is a onetime appropriation and is available until June 30, 2025.

(i) **Opioid Overdose Prevention Grants.**

(1) $125,000 in fiscal year 2024 and $125,000 in fiscal year 2025 are from the general fund for a grant to Ka Joog, a nonprofit organization in Minneapolis, Minnesota, to be used for collaborative outreach, education, and training on opioid use and overdose, and distribution of opiate antagonist kits in East African and Somali communities in Minnesota. This is a onetime appropriation.

(2) $125,000 in fiscal year 2024 and $125,000 in fiscal year 2025 are from the general fund for a grant to the Steve Rummler Hope Network to be used for statewide outreach, education, and training on opioid use and overdose, and distribution of opiate antagonist kits. This is a onetime appropriation.

(3) $250,000 in fiscal year 2024 and $250,000 in fiscal year 2025 are from the general fund for a grant to African Career Education and Resource, Inc. to be used for collaborative outreach, education, and training on opioid use and overdose, and distribution of opiate antagonist kits. This is a onetime appropriation.

(j) **Problem Gambling.** $225,000 in fiscal year 2024 and $225,000 in fiscal year 2025 are from the lottery prize fund for a grant to a state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, training for individuals and organizations that provide effective treatment services to problem gamblers and their families, and research related to problem gambling.

(k) **Project ECHO.** $1,310,000 in fiscal year 2024 and $1,295,000 in fiscal year 2025 are from the general fund for a grant to Hennepin Healthcare to expand the Project ECHO program. The grant must be used to establish at least four substance use disorder-focused Project ECHO programs at Hennepin Healthcare, expanding the grantee's capacity to improve health and

substance use disorder outcomes for diverse populations of individuals enrolled in medical assistance, including but not limited to immigrants, individuals who are homeless, individuals seeking maternal and perinatal care, and other underserved populations. The Project ECHO programs funded under this section must be culturally responsive, and the grantee must contract with culturally and linguistically appropriate substance use disorder service providers who have expertise in focus areas, based on the populations served. Grant funds may be used for program administration, equipment, provider reimbursement, and staffing hours. This is a onetime appropriation.

(l) **White Earth Nation Substance Use Disorder Digital Therapy Tool.** $3,000,000 in fiscal year 2024 is from the general fund for a grant to the White Earth Nation to develop an individualized Native American centric digital therapy tool with Pathfinder Solutions. This is a onetime appropriation. The grant must be used to:

(1) develop a mobile application that is culturally tailored to connecting substance use disorder resources with White Earth Nation members;

(2) convene a planning circle with White Earth Nation members to design the tool;

(3) provide and expand White Earth Nation-specific substance use disorder services; and

(4) partner with an academic research institution to evaluate the efficacy of the program.

(m) **Wellness in the Woods.** $300,000 in fiscal year 2024 and $300,000 in fiscal year 2025 are from the general fund for a grant to Wellness in the Woods for daily peer support and special sessions for individuals who are in substance use disorder recovery, are transitioning out of incarceration, or who have experienced trauma. These are onetime appropriations.

(n) **Base Level Adjustment.** The general fund base is $3,247,000 in fiscal year 2026 and $3,247,000 in fiscal year 2027.

Subd. 19. **Direct Care and Treatment - Transfer Authority**

(a) Money appropriated for budget activities under subdivisions 20 to 24 may be transferred between budget activities and between years of the biennium with the approval of the commissioner of management and budget.

(b) Ending balances in obsolete accounts in the special revenue fund and other dedicated accounts within direct care and treatment may be transferred to other dedicated and gift fund accounts within direct care and treatment for client use and other client activities, with approval of the commissioner of management and budget. These transactions must be completed by August 1, 2023.

Subd. 20. **Direct Care and Treatment - Mental Health and Substance Abuse**	169,962,000	177,152,000

The commissioner responsible for operations of direct care and treatment services, with the approval of the commissioner of management and budget, may transfer any balance in the enterprise fund established for the community addiction recovery enterprise program to the general fund appropriation within this subdivision. Any balance remaining after June 30, 2025, cancels to the general fund.

Subd. 21. **Direct Care and Treatment - Community-Based Services**	20,386,000	21,164,000

Base Level Adjustment. The general fund base is $20,116,000 in fiscal year 2026 and $20,116,000 in fiscal year 2027.

Subd. 22. **Direct Care and Treatment - Forensic Services**	141,020,000	148,513,000
Subd. 23. **Direct Care and Treatment - Sex Offender Program**	115,920,000	121,726,000
Subd. 24. **Direct Care and Treatment - Operations**	80,177,000	96,858,000

The general fund base is $70,063,000 in fiscal year 2026 and $70,161,000 in fiscal year 2027.

Sec. 3. **COUNCIL ON DISABILITY**	**$ 2,027,000**	**$ 2,407,000**

Base Level Adjustment. The general fund base is $2,406,000 in fiscal year 2026 and $2,407,000 in fiscal year 2027.

Sec. 4. **OFFICE OF THE OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES**	**$**	**3,441,000**	**$**	**3,644,000**

Department of Psychiatry Monitoring. $100,000 in fiscal year 2024 and $100,000 in fiscal year 2025 are for monitoring the Department of Psychiatry at the University of Minnesota.

Sec. 5. **COMMISSIONER OF MANAGEMENT AND BUDGET**	**$**	**1,000,000**	**$**	**1,000,000**

Office of Addiction and Recovery. $1,000,000 in fiscal year 2024 and $1,000,000 in fiscal year 2025 are for the Office of Addiction and Recovery.

Sec. 6. Laws 2021, First Special Session chapter 7, article 16, section 28, as amended by Laws 2022, chapter 40, section 1, is amended to read:

Sec. 28. **CONTINGENT APPROPRIATIONS.**

Any appropriation in this act for a purpose included in Minnesota's initial state spending plan as described in guidance issued by the Centers for Medicare and Medicaid Services for implementation of section 9817 of the federal American Rescue Plan Act of 2021 is contingent upon the initial approval of that purpose by the Centers for Medicare and Medicaid Services, except for the rate increases specified in article 11, sections 12 and 19. This section expires June 30, 2024.

Sec. 7. Laws 2021, First Special Session chapter 7, article 17, section 16, is amended to read:

Sec. 16. **RESEARCH ON ACCESS TO LONG-TERM CARE SERVICES AND FINANCING.**

(a) This act includes $400,000 in fiscal year 2022 and $300,000 in fiscal year 2023 for an actuarial research study of public and private financing options for long-term services and supports reform to increase access across the state. The commissioner of human services must conduct the study. Of this amount, the commissioner may transfer up to $100,000 to the commissioner of commerce for costs related to the requirements of the study. The general fund base included in this act for this purpose is $0 in fiscal year 2024 and $0 in fiscal year 2025.

(b) All activities must be completed by June 30, 2024.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. **DIRECT CARE AND TREATMENT FISCAL YEAR 2023 APPROPRIATION.**

$4,829,000 is appropriated in fiscal year 2023 to the commissioner of human services for direct care and treatment programs. This is a onetime appropriation.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. **TRANSFERS.**

Subdivision 1. **Grants.** The commissioner of human services, with the approval of the commissioner of management and budget, may transfer unencumbered appropriation balances for the biennium ending June 30, 2025, within fiscal years among the MFIP; general assistance; medical assistance; MinnesotaCare; MFIP child care assistance under Minnesota Statutes, section 119B.05; Minnesota supplemental aid program; housing support program; the entitlement portion of Northstar Care for Children under Minnesota Statutes, chapter 256N; and the entitlement portion of the behavioral health fund between fiscal years of the biennium. The commissioner shall inform the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services quarterly about transfers made under this subdivision.

Subd. 2. **Administration.** Positions, salary money, and nonsalary administrative money may be transferred within the Department of Human Services as the commissioner considers necessary, with the advance approval of the commissioner of management and budget. The commissioners shall inform the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance quarterly about transfers made under this section.

Sec. 10. **APPROPRIATIONS GIVEN EFFECT ONCE.**

If an appropriation or transfer in this article is enacted more than once during the 2023 regular session, the appropriation or transfer must be given effect once.

Sec. 11. **EXPIRATION OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2025, unless a different expiration date is explicit.

Sec. 12. **EFFECTIVE DATE.**

This article is effective July 1, 2023, unless a different effective date is specified.

Presented to the governor May 23, 2023

Signed by the governor May 24, 2023, 9:04 a.m.