

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1159

(SENATE AUTHORS: LOUREY)

DATE	D-PG	OFFICIAL STATUS
03/07/2013	684	Introduction and first reading
		Referred to Health, Human Services and Housing
03/18/2013		Comm report: To pass as amended and re-refer to Finance

A bill for an act

1.1 relating to human services; modifying provisions to promote the safe and healthy
1.2 development of children; modifying provisions related to child care programs,
1.3 human services licensing, background studies, foster care, and the Minnesota
1.4 family investment program; establishing Northstar Care for Children; amending
1.5 Minnesota Statutes 2012, sections 119B.011, by adding a subdivision; 119B.02,
1.6 by adding a subdivision; 119B.025, subdivision 1; 119B.03, subdivision 4;
1.7 119B.05, subdivision 1; 119B.13, subdivisions 1, 1a, 6, by adding subdivisions;
1.8 245A.07, subdivision 2a; 245A.1435; 245A.144; 245A.1444; 245A.40,
1.9 subdivision 5; 245A.50; 245C.08, subdivision 1; 245C.33, subdivision 1;
1.10 256.0112, by adding a subdivision; 256.82, subdivisions 2, 3; 256.98, subdivision
1.11 8; 256J.08, subdivision 24; 256J.21, subdivisions 2, 3; 256J.24, subdivisions 3,
1.12 7; 256J.621; 256J.626, subdivision 7; 257.85, subdivisions 2, 5, 6; 260C.446;
1.13 proposing coding for new law in Minnesota Statutes, chapters 245A; 256J;
1.14 259A; 260C; proposing coding for new law as Minnesota Statutes, chapter
1.15 256N; repealing Minnesota Statutes 2012, sections 256.82, subdivision 4;
1.16 256J.24, subdivision 10; 260C.441; Minnesota Rules, parts 3400.0130, subpart
1.17 8; 9502.0355, subpart 4; 9560.0650, subparts 1, 3, 6; 9560.0651; 9560.0655.

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

1.20 Section 1. Minnesota Statutes 2012, section 119B.011, is amended by adding a
1.21 subdivision to read:

1.22 Subd. 19b. **Student parent.** "Student parent" means a person who is:

1.23 (1) under 21 years of age and has a child;

1.24 (2) pursuing a high school or general equivalency diploma;

1.25 (3) residing within a county that has a basic sliding fee waiting list under section

1.26 119B.03, subdivision 4; and

1.27 (4) not an MFIP participant.

1.28 **EFFECTIVE DATE.** This section is effective November 11, 2013.

2.1 Sec. 2. Minnesota Statutes 2012, section 119B.02, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 7. **Child care market rate survey.** Biennially, the commissioner shall survey
2.4 prices charged by child care providers in Minnesota to determine the 75th percentile for
2.5 like-care arrangements in county price clusters.

2.6 **EFFECTIVE DATE.** This section is effective September 16, 2013.

2.7 Sec. 3. Minnesota Statutes 2012, section 119B.025, subdivision 1, is amended to read:

2.8 Subdivision 1. **Factors which must be verified.** (a) The county shall verify the
2.9 following at all initial child care applications using the universal application:

2.10 (1) identity of adults;

2.11 (2) presence of the minor child in the home, if questionable;

2.12 (3) relationship of minor child to the parent, stepparent, legal guardian, eligible
2.13 relative caretaker, or the spouses of any of the foregoing;

2.14 (4) age;

2.15 (5) immigration status, if related to eligibility;

2.16 (6) Social Security number, if given;

2.17 (7) income;

2.18 (8) spousal support and child support payments made to persons outside the
2.19 household;

2.20 (9) residence; and

2.21 (10) inconsistent information, if related to eligibility.

2.22 (b) If a family did not use the universal application or child care addendum to apply
2.23 for child care assistance, the family must complete the universal application or child care
2.24 addendum at its next eligibility redetermination and the county must verify the factors
2.25 listed in paragraph (a) as part of that redetermination. Once a family has completed a
2.26 universal application or child care addendum, the county shall use the redetermination
2.27 form described in paragraph (c) for that family's subsequent redeterminations. Eligibility
2.28 must be redetermined at least every six months. A family is considered to have met the
2.29 eligibility redetermination requirement if a complete redetermination form and all required
2.30 verifications are received within 30 days after the date the form was due. Assistance shall
2.31 be payable retroactively from the redetermination due date. For a family where at least
2.32 one parent is under the age of 21, does not have a high school or general equivalency
2.33 diploma, and is a student in a school district or another similar program that provides or
2.34 arranges for child care, as well as parenting, social services, career and employment
2.35 supports, and academic support to achieve high school graduation, the redetermination of

3.1 eligibility shall be deferred beyond six months, but not to exceed 12 months, to the end of
3.2 the student's school year. If a family reports a change in an eligibility factor before the
3.3 family's next regularly scheduled redetermination, the county must recalculate eligibility
3.4 without requiring verification of any eligibility factor that did not change.

3.5 (c) The commissioner shall develop a redetermination form to redetermine eligibility
3.6 and a change report form to report changes that minimize paperwork for the county and
3.7 the participant.

3.8 **EFFECTIVE DATE.** This section is effective August 4, 2014.

3.9 Sec. 4. Minnesota Statutes 2012, section 119B.03, subdivision 4, is amended to read:

3.10 Subd. 4. **Funding priority.** (a) First priority for child care assistance under the
3.11 basic sliding fee program must be given to eligible non-MFIP families who do not have a
3.12 high school or general equivalency diploma or who need remedial and basic skill courses
3.13 in order to pursue employment or to pursue education leading to employment and who
3.14 need child care assistance to participate in the education program. This includes student
3.15 parents as defined under section 119B.011, subdivision 19b. Within this priority, the
3.16 following subpriorities must be used:

3.17 (1) child care needs of minor parents;

3.18 (2) child care needs of parents under 21 years of age; and

3.19 (3) child care needs of other parents within the priority group described in this
3.20 paragraph.

3.21 (b) Second priority must be given to parents who have completed their MFIP or
3.22 DWP transition year, or parents who are no longer receiving or eligible for diversionary
3.23 work program supports.

3.24 (c) Third priority must be given to families who are eligible for portable basic sliding
3.25 fee assistance through the portability pool under subdivision 9.

3.26 (d) Fourth priority must be given to families in which at least one parent is a veteran
3.27 as defined under section 197.447.

3.28 (e) Families under paragraph (b) must be added to the basic sliding fee waiting list
3.29 on the date they begin the transition year under section 119B.011, subdivision 20, and
3.30 must be moved into the basic sliding fee program as soon as possible after they complete
3.31 their transition year.

3.32 **EFFECTIVE DATE.** This section is effective November 11, 2013.

3.33 Sec. 5. Minnesota Statutes 2012, section 119B.05, subdivision 1, is amended to read:

4.1 Subdivision 1. **Eligible participants.** Families eligible for child care assistance
4.2 under the MFIP child care program are:

4.3 (1) MFIP participants who are employed or in job search and meet the requirements
4.4 of section 119B.10;

4.5 (2) persons who are members of transition year families under section 119B.011,
4.6 subdivision 20, and meet the requirements of section 119B.10;

4.7 (3) families who are participating in employment orientation or job search, or
4.8 other employment or training activities that are included in an approved employability
4.9 development plan under section 256J.95;

4.10 (4) MFIP families who are participating in work job search, job support,
4.11 employment, or training activities as required in their employment plan, or in appeals,
4.12 hearings, assessments, or orientations according to chapter 256J;

4.13 (5) MFIP families who are participating in social services activities under chapter
4.14 256J as required in their employment plan approved according to chapter 256J;

4.15 (6) families who are participating in services or activities that are included in an
4.16 approved family stabilization plan under section 256J.575;

4.17 (7) families who are participating in programs as required in tribal contracts under
4.18 section 119B.02, subdivision 2, or 256.01, subdivision 2; ~~and~~

4.19 (8) families who are participating in the transition year extension under section
4.20 119B.011, subdivision 20a; and

4.21 (9) student parents as defined under section 119B.011, subdivision 19b.

4.22 **EFFECTIVE DATE.** This section is effective November 11, 2013.

4.23 Sec. 6. Minnesota Statutes 2012, section 119B.13, subdivision 1, is amended to read:

4.24 Subdivision 1. **Subsidy restrictions.** (a) ~~Beginning October 31, 2011~~ September 16,
4.25 2013, the maximum rate paid for child care assistance in any county or ~~multicounty region~~
4.26 county price cluster under the child care fund shall be the ~~rate for like-care arrangements in~~
4.27 the county effective July 1, 2006, decreased by 2.5 percent greater of the 25th percentile of
4.28 the 2011 child care provider rate survey or the maximum rate effective November 28, 2011.
4.29 The commissioner may: (1) assign a county with no reported provider prices to a similar
4.30 price cluster; and (2) consider county level access when determining final price clusters.

4.31 (b) ~~Biennially, beginning in 2012, the commissioner shall survey rates charged~~
4.32 ~~by child care providers in Minnesota to determine the 75th percentile for like-care~~
4.33 ~~arrangements in counties. When the commissioner determines that, using the~~
4.34 ~~commissioner's established protocol, the number of providers responding to the survey is~~
4.35 ~~too small to determine the 75th percentile rate for like-care arrangements in a county or~~

5.1 ~~multicounty region, the commissioner may establish the 75th percentile maximum rate~~
5.2 ~~based on like-care arrangements in a county, region, or category that the commissioner~~
5.3 ~~deems to be similar.~~

5.4 (e) (b) A rate which includes a special needs rate paid under subdivision 3 or under a
5.5 school readiness service agreement paid under section 119B.231, may be in excess of the
5.6 maximum rate allowed under this subdivision.

5.7 (d) (c) The department shall monitor the effect of this paragraph on provider rates.
5.8 The county shall pay the provider's full charges for every child in care up to the maximum
5.9 established. The commissioner shall determine the maximum rate for each type of care
5.10 on an hourly, full-day, and weekly basis, including special needs and disability care. The
5.11 maximum payment to a provider for one day of care must not exceed the daily rate. The
5.12 maximum payment to a provider for one week of care must not exceed the weekly rate.

5.13 (e) (d) Child care providers receiving reimbursement under this chapter must not
5.14 be paid activity fees or an additional amount above the maximum rates for care provided
5.15 during nonstandard hours for families receiving assistance.

5.16 (f) (e) When the provider charge is greater than the maximum provider rate allowed,
5.17 the parent is responsible for payment of the difference in the rates in addition to any
5.18 family co-payment fee.

5.19 (g) (f) All maximum provider rates changes shall be implemented on the Monday
5.20 following the effective date of the maximum provider rate.

5.21 (g) Notwithstanding Minnesota Rules, part 3400.0130, subpart 7, maximum
5.22 registration fees in effect on January 1, 2013, shall remain in effect.

5.23 Sec. 7. Minnesota Statutes 2012, section 119B.13, subdivision 1a, is amended to read:

5.24 Subd. 1a. **Legal nonlicensed family child care provider rates.** (a) Legal
5.25 nonlicensed family child care providers receiving reimbursement under this chapter must
5.26 be paid on an hourly basis for care provided to families receiving assistance.

5.27 (b) The maximum rate paid to legal nonlicensed family child care providers must be
5.28 68 percent of the county maximum hourly rate for licensed family child care providers. In
5.29 counties or county price clusters where the maximum hourly rate for licensed family child
5.30 care providers is higher than the maximum weekly rate for those providers divided by 50,
5.31 the maximum hourly rate that may be paid to legal nonlicensed family child care providers
5.32 is the rate equal to the maximum weekly rate for licensed family child care providers
5.33 divided by 50 and then multiplied by 0.68. The maximum payment to a provider for one
5.34 day of care must not exceed the maximum hourly rate times ten. The maximum payment
5.35 to a provider for one week of care must not exceed the maximum hourly rate times 50.

6.1 (c) A rate which includes a special needs rate paid under subdivision 3 may be in
6.2 excess of the maximum rate allowed under this subdivision.

6.3 (d) Legal nonlicensed family child care providers receiving reimbursement under
6.4 this chapter may not be paid registration fees for families receiving assistance.

6.5 **EFFECTIVE DATE.** This section is effective September 16, 2013.

6.6 Sec. 8. Minnesota Statutes 2012, section 119B.13, is amended by adding a subdivision
6.7 to read:

6.8 **Subd. 3b. Provider rate differential for Parent Aware.** A family child care
6.9 provider or child care center shall be paid a 15 percent differential if they hold a three-star
6.10 Parent Aware rating or a 20 percent differential if they hold a four-star Parent Aware
6.11 rating. A 15 percent or 20 percent rate differential must be paid above the maximum rate
6.12 established in subdivision 1, up to the actual provider rate.

6.13 **EFFECTIVE DATE.** This section is effective March 3, 2014.

6.14 Sec. 9. Minnesota Statutes 2012, section 119B.13, is amended by adding a subdivision
6.15 to read:

6.16 **Subd. 3c. Weekly rate paid for children attending high-quality care.** A licensed
6.17 child care provider or license-exempt center may be paid up to the applicable weekly
6.18 maximum rate, not to exceed the provider's actual charge, when the following conditions
6.19 are met:

6.20 (1) the child is age birth to five years, but not yet in kindergarten;

6.21 (2) the child attends a child care provider that qualifies for the rate differential
6.22 identified in subdivision 3a or 3b; and

6.23 (3) the applicant's activities qualify for at least 30 hours of care per week under
6.24 sections 119B.03, 119B.05, 119B.10, and Minnesota Rules, chapter 3400.

6.25 **EFFECTIVE DATE.** This section is effective August 4, 2014.

6.26 Sec. 10. Minnesota Statutes 2012, section 119B.13, subdivision 6, is amended to read:

6.27 **Subd. 6. Provider payments.** (a) The provider shall bill for services provided
6.28 within ten days of the end of the service period. If bills are submitted within ten days of
6.29 the end of the service period, payments under the child care fund shall be made within 30
6.30 days of receiving a bill from the provider. Counties or the state may establish policies that
6.31 make payments on a more frequent basis.

7.1 (b) If a provider has received an authorization of care and been issued a billing form
7.2 for an eligible family, the bill must be submitted within 60 days of the last date of service on
7.3 the bill. A bill submitted more than 60 days after the last date of service must be paid if the
7.4 county determines that the provider has shown good cause why the bill was not submitted
7.5 within 60 days. Good cause must be defined in the county's child care fund plan under
7.6 section 119B.08, subdivision 3, and the definition of good cause must include county error.
7.7 Any bill submitted more than a year after the last date of service on the bill must not be paid.

7.8 (c) If a provider provided care for a time period without receiving an authorization
7.9 of care and a billing form for an eligible family, payment of child care assistance may only
7.10 be made retroactively for a maximum of six months from the date the provider is issued
7.11 an authorization of care and billing form.

7.12 (d) A county may refuse to issue a child care authorization to a licensed or legal
7.13 nonlicensed provider, revoke an existing child care authorization to a licensed or legal
7.14 nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or
7.15 refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

7.16 (1) the provider admits to intentionally giving the county materially false information
7.17 on the provider's billing forms;

7.18 (2) a county finds by a preponderance of the evidence that the provider intentionally
7.19 gave the county materially false information on the provider's billing forms;

7.20 (3) the provider is in violation of child care assistance program rules, until the
7.21 agency determines those violations have been corrected;

7.22 (4) the provider is operating after receipt of an order of suspension or an order
7.23 of revocation of the provider's license, or the provider has been issued an order citing
7.24 violations of licensing standards that affect the health and safety of children in care due to
7.25 the nature, chronicity, or severity of the licensing violations, until the licensing agency
7.26 determines those violations have been corrected;

7.27 (5) the provider submits false attendance reports or refuses to provide documentation
7.28 of the child's attendance upon request; or

7.29 (6) the provider gives false child care price information.

7.30 The county may withhold the provider's authorization or payment for a period of
7.31 time not to exceed three months beyond the time the condition has been corrected.

7.32 (e) A county's payment policies must be included in the county's child care plan
7.33 under section 119B.08, subdivision 3. If payments are made by the state, in addition to
7.34 being in compliance with this subdivision, the payments must be made in compliance
7.35 with section 16A.124.

7.36 **EFFECTIVE DATE.** This section is effective February 3, 2014.

8.1 Sec. 11. Minnesota Statutes 2012, section 245A.07, subdivision 2a, is amended to read:

8.2 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days
8.3 of receipt of the license holder's timely appeal, the commissioner shall request assignment
8.4 of an administrative law judge. The request must include a proposed date, time, and place
8.5 of a hearing. A hearing must be conducted by an administrative law judge within 30
8.6 calendar days of the request for assignment, unless an extension is requested by either
8.7 party and granted by the administrative law judge for good cause. The commissioner shall
8.8 issue a notice of hearing by certified mail or personal service at least ten working days
8.9 before the hearing. The scope of the hearing shall be limited solely to the issue of whether
8.10 the temporary immediate suspension should remain in effect pending the commissioner's
8.11 final order under section 245A.08, regarding a licensing sanction issued under subdivision
8.12 3 following the immediate suspension. The burden of proof in expedited hearings under
8.13 this subdivision shall be limited to the commissioner's demonstration that reasonable
8.14 cause exists to believe that the license holder's actions or failure to comply with applicable
8.15 law or rule poses, or if the actions of other individuals or conditions in the program poses
8.16 an imminent risk of harm to the health, safety, or rights of persons served by the program.
8.17 "Reasonable cause" means there exist specific articulable facts or circumstances which
8.18 provide the commissioner with a reasonable suspicion that there is an imminent risk of harm
8.19 to the health, safety, or rights of persons served by the program. When the commissioner
8.20 has determined there is reasonable cause to order the temporary immediate suspension of
8.21 a license based on a violation of safe sleep requirements, the commissioner is not required
8.22 to demonstrate that an infant died or was injured as a result of the safe sleep violations.

8.23 (b) The administrative law judge shall issue findings of fact, conclusions, and a
8.24 recommendation within ten working days from the date of hearing. The parties shall have
8.25 ten calendar days to submit exceptions to the administrative law judge's report. The
8.26 record shall close at the end of the ten-day period for submission of exceptions. The
8.27 commissioner's final order shall be issued within ten working days from the close of the
8.28 record. Within 90 calendar days after a final order affirming an immediate suspension, the
8.29 commissioner shall make a determination regarding whether a final licensing sanction
8.30 shall be issued under subdivision 3. The license holder shall continue to be prohibited
8.31 from operation of the program during this 90-day period.

8.32 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
8.33 final licensing sanction is issued under subdivision 3 and the license holder appeals that
8.34 sanction, the license holder continues to be prohibited from operation of the program
8.35 pending a final commissioner's order under section 245A.08, subdivision 5, regarding the
8.36 final licensing sanction.

9.1 Sec. 12. Minnesota Statutes 2012, section 245A.1435, is amended to read:

9.2 **245A.1435 REDUCTION OF RISK OF SUDDEN UNEXPECTED INFANT**
9.3 **DEATH SYNDROME IN LICENSED PROGRAMS.**

9.4 (a) When a license holder is placing an infant to sleep, the license holder must
9.5 place the infant on the infant's back, unless the license holder has documentation from
9.6 the infant's parent physician directing an alternative sleeping position for the infant. The
9.7 parent physician directive must be on a form approved by the commissioner and must
9.8 include a statement that the parent or legal guardian has read the information provided by
9.9 the Minnesota Sudden Infant Death Center, related to the risk of SIDS and the importance
9.10 of placing an infant or child on its back to sleep to reduce the risk of SIDS remain on file
9.11 at the licensed location. An infant who independently rolls onto its stomach after being
9.12 placed to sleep on its back may be allowed to remain sleeping on its stomach.

9.13 (b) The license holder must place the infant in a crib directly on a firm mattress with
9.14 a fitted crib sheet that fits tightly on the mattress and overlaps the mattress so it cannot be
9.15 dislodged by pulling on the corner of the sheet. The license holder must not place pillows,
9.16 quilts, comforters, sheepskin, pillow-like stuffed toys, any loose bedding including but
9.17 not limited to blankets and sheets, or other soft products in the crib with the infant. The
9.18 requirements of this section apply to license holders serving infants up to and including
9.19 12 months of age. Licensed child care providers must meet the crib requirements under
9.20 section 245A.146.

9.21 (c) If an infant falls asleep before being placed in a crib, the license holder must
9.22 move the infant to a crib as soon as practicable, and must keep the infant within sight of
9.23 the license holder until the infant is placed in a crib. When an infant falls asleep while
9.24 being held, the license holder must consider the supervision needs of other children in
9.25 care when determining how long to hold the infant before placing the infant in a crib to
9.26 sleep. The sleeping infant must not be in a position where the airway may be blocked or
9.27 with anything covering the infant's face.

9.28 Sec. 13. Minnesota Statutes 2012, section 245A.144, is amended to read:

9.29 **245A.144 TRAINING ON RISK OF SUDDEN UNEXPECTED INFANT**
9.30 **DEATH AND SHAKEN BABY SYNDROME ABUSIVE HEAD TRAUMA FOR**
9.31 **CHILD FOSTER CARE PROVIDERS.**

9.32 (a) Licensed child foster care providers that care for infants or children through five
9.33 years of age must document that before staff persons and caregivers assist in the care
9.34 of infants or children through five years of age, they are instructed on the standards in
9.35 section 245A.1435 and receive training on reducing the risk of sudden unexpected infant

10.1 death ~~syndrome and shaken baby syndrome~~ for abusive head trauma from shaking infants
 10.2 and young children. This section does not apply to emergency relative placement under
 10.3 section 245A.035. The training on reducing the risk of sudden unexpected infant death
 10.4 ~~syndrome and shaken baby syndrome~~ abusive head trauma may be provided as:

10.5 (1) orientation training to child foster care providers, who care for infants or children
 10.6 through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

10.7 (2) in-service training to child foster care providers, who care for infants or children
 10.8 through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

10.9 (b) Training required under this section must be at least one hour in length and must
 10.10 be completed at least once every five years. At a minimum, the training must address
 10.11 the risk factors related to sudden unexpected infant death ~~syndrome and shaken baby~~
 10.12 ~~syndrome~~ abusive head trauma, means of reducing the risk of sudden unexpected infant
 10.13 death ~~syndrome and shaken baby syndrome~~ abusive head trauma, and license holder
 10.14 communication with parents regarding reducing the risk of sudden unexpected infant
 10.15 death ~~syndrome and shaken baby syndrome~~ abusive head trauma.

10.16 (c) Training for child foster care providers must be approved by the county or
 10.17 private licensing agency that is responsible for monitoring the child foster care provider
 10.18 under section 245A.16. The approved training fulfills, in part, training required under
 10.19 Minnesota Rules, part 2960.3070.

10.20 Sec. 14. Minnesota Statutes 2012, section 245A.1444, is amended to read:

10.21 **245A.1444 TRAINING ON RISK OF SUDDEN UNEXPECTED INFANT**
 10.22 **~~DEATH SYNDROME AND SHAKEN-BABY SYNDROME~~ ABUSIVE HEAD**
 10.23 **TRAUMA BY OTHER PROGRAMS.**

10.24 A licensed chemical dependency treatment program that serves clients with infants
 10.25 or children through five years of age, who sleep at the program and a licensed children's
 10.26 residential facility that serves infants or children through five years of age, must document
 10.27 that before program staff persons or volunteers assist in the care of infants or children
 10.28 through five years of age, they are instructed on the standards in section 245A.1435 and
 10.29 receive training on reducing the risk of sudden unexpected infant death ~~syndrome~~ and
 10.30 ~~shaken baby syndrome~~ abusive head trauma from shaking infants and young children. The
 10.31 training conducted under this section may be used to fulfill training requirements under
 10.32 Minnesota Rules, parts 2960.0100, subpart 3; and 9530.6490, subpart 4, item B.

10.33 This section does not apply to child care centers or family child care programs
 10.34 governed by sections 245A.40 and 245A.50.

11.1 Sec. 15. **[245A.147] FAMILY CHILD CARE INFANT SLEEP SUPERVISION**
11.2 **REQUIREMENTS.**

11.3 Subdivision 1. **In-person checks on infants.** (a) License holders that serve infants
11.4 must monitor sleeping infants by conducting in-person checks on each infant in their care
11.5 every 30 minutes.

11.6 (b) Upon enrollment of an infant in a family child care program, the license holder
11.7 must conduct in-person checks on the infant every 15 minutes, during the first four
11.8 months of care.

11.9 (c) When an infant has an upper respiratory infection, the license holder must
11.10 conduct in-person checks on the infant every 15 minutes throughout the hours of care.

11.11 Subd. 2. **Use of audio or visual monitoring devices.** In addition to conducting
11.12 the in-person checks required under subdivision 1, license holders serving infants must
11.13 use and maintain an audio or visual monitoring device to monitor each infant in care
11.14 during all hours of care.

11.15 Sec. 16. **[245A.152] CHILD CARE LICENSE HOLDER INSURANCE.**

11.16 Subdivision 1. **Insurance coverage required for child care licensure.** (a) All
11.17 licensed family child care providers and child care centers shall maintain insurance
11.18 coverage for personal injury, death, or property damage resulting from any act or omission
11.19 related to the provision of services under the license. The coverage limits shall be at least
11.20 \$100,000 per person and \$250,000 per occurrence.

11.21 (b) No license to provide child care shall take effect before the insurance coverage
11.22 required under this section becomes effective. A license shall be suspended or revoked
11.23 any time the insurance coverage required under this section lapses or is terminated and
11.24 replacement coverage has not taken effect.

11.25 (c) A license holder shall immediately notify the commissioner if the insurance
11.26 coverage required under this section lapses or is terminated and no replacement coverage
11.27 has taken effect.

11.28 Subd. 2. **Evidence of insurance.** (a) A current certificate of coverage for insurance
11.29 required under this section shall be posted in a place in the licensed family child care
11.30 home or center that is conspicuous to all visitors and parents of children receiving services
11.31 from the program.

11.32 (b) A license holder shall, upon request, provide a copy of the current certificate of
11.33 coverage for insurance required under this section to the commissioner or to any parent
11.34 of a child receiving services from the licensed program.

12.1 Sec. 17. Minnesota Statutes 2012, section 245A.40, subdivision 5, is amended to read:

12.2 Subd. 5. **Sudden unexpected infant death syndrome and ~~shaken baby syndrome~~**
 12.3 **abusive head trauma training**. (a) License holders must document that before staff
 12.4 persons and volunteers care for infants, they are instructed on the standards in section
 12.5 245A.1435 and receive training on reducing the risk of sudden unexpected infant death
 12.6 syndrome. In addition, license holders must document that before staff persons care for
 12.7 infants or children under school age, they receive training on the risk of ~~shaken baby~~
 12.8 syndrome abusive head trauma from shaking infants and young children. The training
 12.9 in this subdivision may be provided as orientation training under subdivision 1 and
 12.10 in-service training under subdivision 7.

12.11 (b) Sudden unexpected infant death syndrome reduction training required under
 12.12 this subdivision must be at least one-half hour in length and must be completed at least
 12.13 once every ~~five years~~ year. At a minimum, the training must address the risk factors
 12.14 related to sudden unexpected infant death syndrome, means of reducing the risk of sudden
 12.15 unexpected infant death syndrome in child care, and license holder communication with
 12.16 parents regarding reducing the risk of sudden unexpected infant death syndrome.

12.17 (c) ~~Shaken baby syndrome~~ Abusive head trauma training under this subdivision
 12.18 must be at least one-half hour in length and must be completed at least once every ~~five~~
 12.19 ~~years~~ year. At a minimum, the training must address the risk factors related to ~~shaken~~
 12.20 ~~baby syndrome for shaking~~ infants and young children, means to reduce the risk of ~~shaken~~
 12.21 ~~baby syndrome abusive head trauma~~ in child care, and license holder communication with
 12.22 parents regarding reducing the risk of ~~shaken baby syndrome abusive head trauma~~.

12.23 (d) The commissioner shall make available for viewing a video presentation on the
 12.24 dangers associated with shaking infants and young children. The video presentation must
 12.25 be part of the orientation and annual in-service training of licensed child care center
 12.26 staff persons caring for children under school age. The commissioner shall provide to
 12.27 child care providers and interested individuals, at cost, copies of a video approved by the
 12.28 commissioner of health under section 144.574 on the dangers associated with shaking
 12.29 infants and young children.

12.30 Sec. 18. Minnesota Statutes 2012, section 245A.50, is amended to read:

12.31 **245A.50 FAMILY CHILD CARE TRAINING REQUIREMENTS.**

12.32 Subdivision 1. **Initial training.** (a) License holders, caregivers, and substitutes must
 12.33 comply with the training requirements in this section.

12.34 (b) Helpers who assist with care on a regular basis must complete six hours of
 12.35 training within one year after the date of initial employment.

13.1 Subd. 2. **Child growth and development and behavior guidance training.** (a) For
13.2 purposes of family and group family child care, the license holder and each adult caregiver
13.3 who provides care in the licensed setting for more than 30 days in any 12-month period
13.4 shall complete and document at least ~~two~~ four hours of child growth and development
13.5 and behavior guidance training within the first year of prior to initial licensure, and before
13.6 caring for children. For purposes of this subdivision, "child growth and development
13.7 training" means training in understanding how children acquire language and develop
13.8 physically, cognitively, emotionally, and socially. "Behavior guidance training" means
13.9 training in the understanding of the functions of child behavior and strategies for managing
13.10 challenging situations. Child growth and development and behavior guidance training
13.11 must be repeated annually. Training curriculum shall be developed by the commissioner
13.12 of human services by January 1, 2014.

13.13 (b) Notwithstanding paragraph (a), individuals are exempt from this requirement if
13.14 they:

13.15 (1) have taken a three-credit course on early childhood development within the
13.16 past five years;

13.17 (2) have received a baccalaureate or master's degree in early childhood education or
13.18 school-age child care within the past five years;

13.19 (3) are licensed in Minnesota as a prekindergarten teacher, an early childhood
13.20 educator, a kindergarten to grade 6 teacher with a prekindergarten specialty, an early
13.21 childhood special education teacher, or an elementary teacher with a kindergarten
13.22 endorsement; or

13.23 (4) have received a baccalaureate degree with a Montessori certificate within the
13.24 past five years.

13.25 Subd. 3. **First aid.** (a) When children are present in a family child care home
13.26 governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person
13.27 must be present in the home who has been trained in first aid. The first aid training must
13.28 have been provided by an individual approved to provide first aid instruction. First aid
13.29 training may be less than eight hours and persons qualified to provide first aid training
13.30 include individuals approved as first aid instructors. First aid training must be repeated
13.31 every two years.

13.32 (b) A family child care provider is exempt from the first aid training requirements
13.33 under this subdivision related to any substitute caregiver who provides less than 30 hours
13.34 of care during any 12-month period.

13.35 (c) Video training reviewed and approved by the county licensing agency satisfies
13.36 the training requirement of this subdivision.

14.1 Subd. 4. **Cardiopulmonary resuscitation.** (a) When children are present in a family
 14.2 child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least
 14.3 one staff person must be present in the home who has been trained in cardiopulmonary
 14.4 resuscitation (CPR) and in the treatment of obstructed airways that includes CPR
 14.5 techniques for infants and children. The CPR training must have been provided by an
 14.6 individual approved to provide CPR instruction, must be repeated at least once every ~~three~~
 14.7 two years, and must be documented in the staff person's records.

14.8 (b) A family child care provider is exempt from the CPR training requirement in
 14.9 this subdivision related to any substitute caregiver who provides less than 30 hours of
 14.10 care during any 12-month period.

14.11 (c) ~~Video training reviewed and approved by the county licensing agency satisfies~~
 14.12 ~~the training requirement of this subdivision.~~ Persons providing CPR training must use
 14.13 CPR training that has been developed:

14.14 (1) by the American Heart Association or the American Red Cross and incorporates
 14.15 psychomotor skills to support the instruction; or

14.16 (2) using nationally recognized, evidence-based guidelines for CPR training and
 14.17 incorporates psychomotor skills to support the instruction.

14.18 Subd. 5. **Sudden unexpected infant death syndrome and ~~shaken baby syndrome~~**
 14.19 **abusive head trauma training.** (a) License holders must document that before staff
 14.20 persons, caregivers, and helpers assist in the care of infants, they are instructed on the
 14.21 standards in section 245A.1435 and receive training on reducing the risk of sudden
 14.22 unexpected infant death syndrome. In addition, license holders must document that before
 14.23 staff persons, caregivers, and helpers assist in the care of infants and children under
 14.24 school age, they receive training on reducing the risk of ~~shaken baby syndrome~~ abusive
 14.25 head trauma from shaking infants and young children. The training in this subdivision
 14.26 may be provided as initial training under subdivision 1 or ongoing annual training under
 14.27 subdivision 7.

14.28 (b) Sudden unexpected infant death syndrome reduction training required under
 14.29 this subdivision must be at least one-half hour in length and must be completed at least
 14.30 once every ~~five years~~ year. At a minimum, the training must address the risk factors
 14.31 related to sudden unexpected infant death syndrome, means of reducing the risk of sudden
 14.32 unexpected infant death syndrome in child care, and license holder communication with
 14.33 parents regarding reducing the risk of sudden unexpected infant death syndrome.

14.34 (c) ~~Shaken baby syndrome~~ Abusive head trauma training required under this
 14.35 subdivision must be at least one-half hour in length and must be completed at least once
 14.36 every ~~five years~~ year. At a minimum, the training must address the risk factors related

15.1 to ~~shaken baby syndrome~~ shaking infants and young children, means of reducing the
15.2 risk of ~~shaken baby syndrome~~ abusive head trauma in child care, and license holder
15.3 communication with parents regarding reducing the risk of ~~shaken baby syndrome~~ abusive
15.4 head trauma.

15.5 (d) Training for family and group family child care providers must be approved
15.6 by the county licensing agency.

15.7 ~~(e) The commissioner shall make available for viewing by all licensed child care~~
15.8 ~~providers a video presentation on the dangers associated with shaking infants and young~~
15.9 ~~children. The video presentation shall be part of the initial and ongoing annual training of~~
15.10 ~~licensed child care providers, caregivers, and helpers caring for children under school age.~~
15.11 ~~The commissioner shall provide to child care providers and interested individuals, at cost,~~
15.12 ~~copies of a video approved by the commissioner of health under section 144.574 on the~~
15.13 ~~dangers associated with shaking infants and young children.~~

15.14 Subd. 6. **Child passenger restraint systems; training requirement.** (a) A license
15.15 holder must comply with all seat belt and child passenger restraint system requirements
15.16 under section 169.685.

15.17 (b) Family and group family child care programs licensed by the Department of
15.18 Human Services that serve a child or children under nine years of age must document
15.19 training that fulfills the requirements in this subdivision.

15.20 (1) Before a license holder, staff person, caregiver, or helper transports a child or
15.21 children under age nine in a motor vehicle, the person placing the child or children in a
15.22 passenger restraint must satisfactorily complete training on the proper use and installation
15.23 of child restraint systems in motor vehicles. Training completed under this subdivision may
15.24 be used to meet initial training under subdivision 1 or ongoing training under subdivision 7.

15.25 (2) Training required under this subdivision must be at least one hour in length,
15.26 completed at initial training, and repeated at least once every five years. At a minimum,
15.27 the training must address the proper use of child restraint systems based on the child's
15.28 size, weight, and age, and the proper installation of a car seat or booster seat in the motor
15.29 vehicle used by the license holder to transport the child or children.

15.30 (3) Training under this subdivision must be provided by individuals who are certified
15.31 and approved by the Department of Public Safety, Office of Traffic Safety. License holders
15.32 may obtain a list of certified and approved trainers through the Department of Public
15.33 Safety Web site or by contacting the agency.

15.34 (c) Child care providers that only transport school-age children as defined in section
15.35 245A.02, subdivision 19, paragraph (f), in child care buses as defined in section 169.448,
15.36 subdivision 1, paragraph (e), are exempt from this subdivision.

16.1 Subd. 7. **Training requirements for family and group family child care.** For
16.2 purposes of family and group family child care, the license holder and each primary
16.3 caregiver must complete ~~eight~~ 16 hours of ongoing training each year. For purposes
16.4 of this subdivision, a primary caregiver is an adult caregiver who provides services in
16.5 the licensed setting for more than 30 days in any 12-month period. Repeat of topical
16.6 training requirements in subdivisions 2 to 7 shall count toward the annual 16-hour training
16.7 requirement. Additional ongoing training subjects to meet the annual 16-hour training
16.8 requirement must be selected from the following areas:

16.9 (1) "child growth and development training" ~~has the meaning given in~~ under
16.10 subdivision 2, paragraph (a);

16.11 (2) "learning environment and curriculum" ~~includes,~~ including training in
16.12 establishing an environment and providing activities that provide learning experiences to
16.13 meet each child's needs, capabilities, and interests;

16.14 (3) "assessment and planning for individual needs" ~~includes,~~ including training in
16.15 observing and assessing what children know and can do in order to provide curriculum
16.16 and instruction that addresses their developmental and learning needs, including children
16.17 with special needs and bilingual children or children for whom English is not their
16.18 primary language;

16.19 (4) "interactions with children" ~~includes,~~ including training in establishing
16.20 supportive relationships with children, guiding them as individuals and as part of a group;

16.21 (5) "families and communities" ~~includes,~~ including training in working
16.22 collaboratively with families and agencies or organizations to meet children's needs and to
16.23 encourage the community's involvement;

16.24 (6) "health, safety, and nutrition" ~~includes,~~ including training in establishing and
16.25 maintaining an environment that ensures children's health, safety, and nourishment,
16.26 including child abuse, maltreatment, prevention, and reporting; home and fire safety; child
16.27 injury prevention; communicable disease prevention and control; first aid; and CPR; and

16.28 (7) "program planning and evaluation" ~~includes,~~ including training in establishing,
16.29 implementing, evaluating, and enhancing program operations.

16.30 Subd. 8. **Other required training requirements.** (a) The training required of
16.31 family and group family child care providers and staff must include training in the cultural
16.32 dynamics of early childhood development and child care. The cultural dynamics and
16.33 disabilities training and skills development of child care providers must be designed to
16.34 achieve outcomes for providers of child care that include, but are not limited to:

16.35 (1) an understanding and support of the importance of culture and differences in
16.36 ability in children's identity development;

17.1 (2) understanding the importance of awareness of cultural differences and
17.2 similarities in working with children and their families;

17.3 (3) understanding and support of the needs of families and children with differences
17.4 in ability;

17.5 (4) developing skills to help children develop unbiased attitudes about cultural
17.6 differences and differences in ability;

17.7 (5) developing skills in culturally appropriate caregiving; and

17.8 (6) developing skills in appropriate caregiving for children of different abilities.

17.9 The commissioner shall approve the curriculum for cultural dynamics and disability
17.10 training.

17.11 (b) The provider must meet the training requirement in section 245A.14, subdivision
17.12 11, paragraph (a), clause (4), to be eligible to allow a child cared for at the family child
17.13 care or group family child care home to use the swimming pool located at the home.

17.14 Subd. 9. Supervising for safety; training requirement. Effective July 1, 2014,
17.15 all family child care license holders and each adult caregiver who provides care in the
17.16 licensed family child care home for more than 30 days in any 12-month period shall
17.17 complete and document at least six hours approved training on supervising for safety
17.18 prior to initial licensure, and before caring for children. At least two hours of training
17.19 on supervising for safety must be repeated annually. For purposes of this subdivision,
17.20 "supervising for safety" includes supervision basics, supervision outdoors, equipment and
17.21 materials, illness, injuries, and disaster preparedness. The commissioner shall develop
17.22 the supervising for safety curriculum by January 1, 2014.

17.23 Sec. 19. Minnesota Statutes 2012, section 245C.08, subdivision 1, is amended to read:

17.24 Subdivision 1. **Background studies conducted by Department of Human**
17.25 **Services.** (a) For a background study conducted by the Department of Human Services,
17.26 the commissioner shall review:

17.27 (1) information related to names of substantiated perpetrators of maltreatment of
17.28 vulnerable adults that has been received by the commissioner as required under section
17.29 626.557, subdivision 9c, paragraph (j);

17.30 (2) the commissioner's records relating to the maltreatment of minors in licensed
17.31 programs, and from findings of maltreatment of minors as indicated through the social
17.32 service information system;

17.33 (3) information from juvenile courts as required in subdivision 4 for individuals
17.34 listed in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

17.35 (4) information from the Bureau of Criminal Apprehension;

18.1 (5) except as provided in clause (6), information from the national crime information
18.2 system when the commissioner has reasonable cause as defined under section 245C.05,
18.3 subdivision 5; and

18.4 (6) for a background study related to a child foster care application for licensure, a
18.5 transfer of permanent legal and physical custody under section 260C.515, or adoptions,
18.6 the commissioner shall also review:

18.7 (i) information from the child abuse and neglect registry for any state in which the
18.8 background study subject has resided for the past five years; and

18.9 (ii) information from national crime information databases, when the background
18.10 study subject is 18 years of age or older.

18.11 (b) Notwithstanding expungement by a court, the commissioner may consider
18.12 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner
18.13 received notice of the petition for expungement and the court order for expungement is
18.14 directed specifically to the commissioner.

18.15 Sec. 20. Minnesota Statutes 2012, section 245C.33, subdivision 1, is amended to read:

18.16 Subdivision 1. **Background studies conducted by commissioner.** (a) Before
18.17 placement of a child for purposes of adoption, the commissioner shall conduct a
18.18 background study on individuals listed in section 259.41, subdivision 3, for county
18.19 agencies and private agencies licensed to place children for adoption.

18.20 (b) Before placement of a child for the purposes of a transfer of permanent legal and
18.21 physical custody to a relative under section 260C.515, the commissioner shall conduct a
18.22 background study on each person over the age of 13 living in the home. New background
18.23 studies do not need to be completed if the proposed relative custodian has a valid foster
18.24 care license, and background studies according to section 245C.08, subdivision 1, were
18.25 completed as part of the licensure process.

18.26 Sec. 21. Minnesota Statutes 2012, section 256.0112, is amended by adding a
18.27 subdivision to read:

18.28 Subd. 10. **Contracts for child foster care services.** When local agencies negotiate
18.29 lead county contracts or purchase of service contracts for child foster care services, the
18.30 foster care maintenance payment made on behalf of the child shall follow the provisions of
18.31 Northstar Care for Children, chapter 256N. Foster care maintenance payments as defined
18.32 in section 256N.02, subdivision 15, represents costs for activities similar in nature to those
18.33 expected of parents and do not cover services rendered by the licensed or tribally approved
18.34 foster parent, facility, or administrative costs or fees. Payments made to foster parents

19.1 must follow the requirements of section 256N.26, subdivision 15. The legally responsible
19.2 agency must provide foster parents with the assessment and notice as specified in section
19.3 256N.24. The financially responsible agency is permitted to make additional payments for
19.4 specific services provided by the foster parents or facility, as permitted in section 256N.21,
19.5 subdivision 5. These additional payments are not considered foster care maintenance.

19.6 Sec. 22. Minnesota Statutes 2012, section 256.82, subdivision 2, is amended to read:

19.7 Subd. 2. **Foster care maintenance payments.** ~~Beginning January 1, 1986,~~ For the
19.8 purpose of foster care maintenance payments under title IV-E of the Social Security Act,
19.9 United States Code, title 42, sections 670 to 676, the county paying the maintenance
19.10 costs must be reimbursed for the costs from the federal money available for the purpose.
19.11 Beginning July 1, 1997, for the purposes of determining a child's eligibility under title
19.12 IV-E of the Social Security Act, the placing agency shall use AFDC requirements in
19.13 effect on July 16, 1996.

19.14 Sec. 23. Minnesota Statutes 2012, section 256.82, subdivision 3, is amended to read:

19.15 Subd. 3. **Setting foster care standard rates.** (a) The commissioner shall annually
19.16 establish minimum ~~standard maintenance~~ rates for foster care maintenance and including
19.17 supplemental difficulty of care payments for all children ~~in foster care~~ eligible for
19.18 Northstar Care for Children under chapter 256N.

19.19 (b) All children entering foster care on or after January 1, 2015, are eligible for
19.20 Northstar Care for Children under chapter 256N. Any increase in rates shall in no case
19.21 exceed three percent per annum.

19.22 (c) All children in foster care on December 31, 2014, must remain in the
19.23 pre-Northstar Care for Children foster care program under sections 256N.21, subdivision
19.24 6, and 260C.4411, subdivision 1. The rates for the pre-Northstar Care for Children foster
19.25 care program shall remain those in effect on January 1, 2013.

19.26 Sec. 24. Minnesota Statutes 2012, section 256.98, subdivision 8, is amended to read:

19.27 Subd. 8. **Disqualification from program.** (a) Any person found to be guilty of
19.28 wrongfully obtaining assistance by a federal or state court or by an administrative hearing
19.29 determination, or waiver thereof, through a disqualification consent agreement, or as part
19.30 of any approved diversion plan under section 401.065, or any court-ordered stay which
19.31 carries with it any probationary or other conditions, in the Minnesota family investment
19.32 program and any affiliated program to include the diversionary work program and the
19.33 work participation cash benefit program, the food stamp or food support program, the

20.1 general assistance program, the group residential housing program, or the Minnesota
20.2 supplemental aid program shall be disqualified from that program. In addition, any person
20.3 disqualified from the Minnesota family investment program shall also be disqualified from
20.4 the food stamp or food support program. The needs of that individual shall not be taken
20.5 into consideration in determining the grant level for that assistance unit:

- 20.6 (1) for one year after the first offense;
- 20.7 (2) for two years after the second offense; and
- 20.8 (3) permanently after the third or subsequent offense.

20.9 The period of program disqualification shall begin on the date stipulated on the
20.10 advance notice of disqualification without possibility of postponement for administrative
20.11 stay or administrative hearing and shall continue through completion unless and until the
20.12 findings upon which the sanctions were imposed are reversed by a court of competent
20.13 jurisdiction. The period for which sanctions are imposed is not subject to review. The
20.14 sanctions provided under this subdivision are in addition to, and not in substitution
20.15 for, any other sanctions that may be provided for by law for the offense involved. A
20.16 disqualification established through hearing or waiver shall result in the disqualification
20.17 period beginning immediately unless the person has become otherwise ineligible for
20.18 assistance. If the person is ineligible for assistance, the disqualification period begins
20.19 when the person again meets the eligibility criteria of the program from which they were
20.20 disqualified and makes application for that program.

20.21 (b) A family receiving assistance through child care assistance programs under
20.22 chapter 119B with a family member who is found to be guilty of wrongfully obtaining child
20.23 care assistance by a federal court, state court, or an administrative hearing determination
20.24 or waiver, through a disqualification consent agreement, as part of an approved diversion
20.25 plan under section 401.065, or a court-ordered stay with probationary or other conditions,
20.26 is disqualified from child care assistance programs. The disqualifications must be for
20.27 periods of ~~three months, six months, and one year~~ and two years for the first, and
20.28 ~~second, and third~~ offenses, respectively. Subsequent violations must result in permanent
20.29 disqualification. During the disqualification period, disqualification from any child care
20.30 program must extend to all child care programs and must be immediately applied.

20.31 (c) A provider caring for children receiving assistance through child care assistance
20.32 programs under chapter 119B is disqualified from receiving payment for child care
20.33 services from the child care assistance program under chapter 119B when the provider is
20.34 found to have wrongfully obtained child care assistance by a federal court, state court,
20.35 or an administrative hearing determination or waiver under section 256.046, through
20.36 a disqualification consent agreement, as part of an approved diversion plan under

21.1 section 401.065, or a court-ordered stay with probationary or other conditions. The
 21.2 disqualification must be for a period of one year for the first offense and two years for
 21.3 the second offense. Any subsequent violation must result in permanent disqualification.
 21.4 The disqualification period must be imposed immediately after a determination is made
 21.5 under this paragraph. During the disqualification period, the provider is disqualified from
 21.6 receiving payment from any child care program under chapter 119B.

21.7 (d) Any person found to be guilty of wrongfully obtaining general assistance
 21.8 medical care, MinnesotaCare for adults without children, and upon federal approval, all
 21.9 categories of medical assistance and remaining categories of MinnesotaCare, except
 21.10 for children through age 18, by a federal or state court or by an administrative hearing
 21.11 determination, or waiver thereof, through a disqualification consent agreement, or as part
 21.12 of any approved diversion plan under section 401.065, or any court-ordered stay which
 21.13 carries with it any probationary or other conditions, is disqualified from that program. The
 21.14 period of disqualification is one year after the first offense, two years after the second
 21.15 offense, and permanently after the third or subsequent offense. The period of program
 21.16 disqualification shall begin on the date stipulated on the advance notice of disqualification
 21.17 without possibility of postponement for administrative stay or administrative hearing
 21.18 and shall continue through completion unless and until the findings upon which the
 21.19 sanctions were imposed are reversed by a court of competent jurisdiction. The period for
 21.20 which sanctions are imposed is not subject to review. The sanctions provided under this
 21.21 subdivision are in addition to, and not in substitution for, any other sanctions that may be
 21.22 provided for by law for the offense involved.

21.23 **EFFECTIVE DATE.** This section is effective February 3, 2014.

21.24 Sec. 25. Minnesota Statutes 2012, section 256J.08, subdivision 24, is amended to read:

21.25 Subd. 24. **Disregard.** "Disregard" means earned income that is not counted ~~when~~
 21.26 ~~determining initial eligibility in the initial income test in section 256J.21, subdivision 3,~~
 21.27 or income that is not counted when determining ongoing eligibility and calculating the
 21.28 amount of the assistance payment for participants. The commissioner shall determine
 21.29 the amount of the disregard according to section 256J.24, subdivision 10 for ongoing
 21.30 eligibility shall be 50 percent of gross earned income.

21.31 **EFFECTIVE DATE.** This section is effective October 1, 2013, or upon approval
 21.32 from the United States Department of Agriculture, whichever is later.

21.33 Sec. 26. Minnesota Statutes 2012, section 256J.21, subdivision 2, is amended to read:

22.1 Subd. 2. **Income exclusions.** The following must be excluded in determining a
22.2 family's available income:

22.3 (1) payments for basic care, difficulty of care, and clothing allowances received for
22.4 providing family foster care to children or adults under Minnesota Rules, parts 9555.5050
22.5 to 9555.6265, 9560.0521, and 9560.0650 to 9560.0655, payments for family foster care to
22.6 children under chapter 256N, and payments received and used for care and maintenance of
22.7 a third-party beneficiary who is not a household member;

22.8 (2) reimbursements for employment training received through the Workforce
22.9 Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

22.10 (3) reimbursement for out-of-pocket expenses incurred while performing volunteer
22.11 services, jury duty, employment, or informal carpooling arrangements directly related to
22.12 employment;

22.13 (4) all educational assistance, except the county agency must count graduate student
22.14 teaching assistantships, fellowships, and other similar paid work as earned income and,
22.15 after allowing deductions for any unmet and necessary educational expenses, shall
22.16 count scholarships or grants awarded to graduate students that do not require teaching
22.17 or research as unearned income;

22.18 (5) loans, regardless of purpose, from public or private lending institutions,
22.19 governmental lending institutions, or governmental agencies;

22.20 (6) loans from private individuals, regardless of purpose, provided an applicant or
22.21 participant documents that the lender expects repayment;

22.22 (7)(i) state income tax refunds; and

22.23 (ii) federal income tax refunds;

22.24 (8)(i) federal earned income credits;

22.25 (ii) Minnesota working family credits;

22.26 (iii) state homeowners and renters credits under chapter 290A; and

22.27 (iv) federal or state tax rebates;

22.28 (9) funds received for reimbursement, replacement, or rebate of personal or real
22.29 property when these payments are made by public agencies, awarded by a court, solicited
22.30 through public appeal, or made as a grant by a federal agency, state or local government,
22.31 or disaster assistance organizations, subsequent to a presidential declaration of disaster;

22.32 (10) the portion of an insurance settlement that is used to pay medical, funeral, and
22.33 burial expenses, or to repair or replace insured property;

22.34 (11) reimbursements for medical expenses that cannot be paid by medical assistance;

22.35 (12) payments by a vocational rehabilitation program administered by the state
22.36 under chapter 268A, except those payments that are for current living expenses;

- 23.1 (13) in-kind income, including any payments directly made by a third party to a
23.2 provider of goods and services;
- 23.3 (14) assistance payments to correct underpayments, but only for the month in which
23.4 the payment is received;
- 23.5 (15) payments for short-term emergency needs under section 256J.626, subdivision 2;
- 23.6 (16) funeral and cemetery payments as provided by section 256.935;
- 23.7 (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in
23.8 a calendar month;
- 23.9 (18) any form of energy assistance payment made through Public Law 97-35,
23.10 Low-Income Home Energy Assistance Act of 1981, payments made directly to energy
23.11 providers by other public and private agencies, and any form of credit or rebate payment
23.12 issued by energy providers;
- 23.13 (19) Supplemental Security Income (SSI), including retroactive SSI payments and
23.14 other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;
- 23.15 (20) Minnesota supplemental aid, including retroactive payments;
- 23.16 (21) proceeds from the sale of real or personal property;
- 23.17 (22) ~~state adoption assistance payments under section 259.67, and up to an equal~~
23.18 ~~amount of county adoption assistance payments~~ adoption assistance payments under
23.19 chapter 259A and Minnesota Permanency Demonstration, Title IV-E waiver payments
23.20 under section 256.01, subdivision 14a;
- 23.21 (23) state-funded family subsidy program payments made under section 252.32 to
23.22 help families care for children with developmental disabilities, consumer support grant
23.23 funds under section 256.476, and resources and services for a disabled household member
23.24 under one of the home and community-based waiver services programs under chapter 256B;
- 23.25 (24) interest payments and dividends from property that is not excluded from and
23.26 that does not exceed the asset limit;
- 23.27 (25) rent rebates;
- 23.28 (26) income earned by a minor caregiver, minor child through age 6, or a minor
23.29 child who is at least a half-time student in an approved elementary or secondary education
23.30 program;
- 23.31 (27) income earned by a caregiver under age 20 who is at least a half-time student in
23.32 an approved elementary or secondary education program;
- 23.33 (28) MFIP child care payments under section 119B.05;
- 23.34 (29) all other payments made through MFIP to support a caregiver's pursuit of
23.35 greater economic stability;
- 23.36 (30) income a participant receives related to shared living expenses;

- 24.1 (31) reverse mortgages;
- 24.2 (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title
24.3 42, chapter 13A, sections 1771 to 1790;
- 24.4 (33) benefits provided by the women, infants, and children (WIC) nutrition program,
24.5 United States Code, title 42, chapter 13A, section 1786;
- 24.6 (34) benefits from the National School Lunch Act, United States Code, title 42,
24.7 chapter 13, sections 1751 to 1769e;
- 24.8 (35) relocation assistance for displaced persons under the Uniform Relocation
24.9 Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title
24.10 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States
24.11 Code, title 12, chapter 13, sections 1701 to 1750jj;
- 24.12 (36) benefits from the Trade Act of 1974, United States Code, title 19, chapter
24.13 12, part 2, sections 2271 to 2322;
- 24.14 (37) war reparations payments to Japanese Americans and Aleuts under United
24.15 States Code, title 50, sections 1989 to 1989d;
- 24.16 (38) payments to veterans or their dependents as a result of legal settlements
24.17 regarding Agent Orange or other chemical exposure under Public Law 101-239, section
24.18 10405, paragraph (a)(2)(E);
- 24.19 (39) income that is otherwise specifically excluded from MFIP consideration in
24.20 federal law, state law, or federal regulation;
- 24.21 (40) security and utility deposit refunds;
- 24.22 (41) American Indian tribal land settlements excluded under Public Laws 98-123,
24.23 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech
24.24 Lake, and Mille Lacs reservations and payments to members of the White Earth Band,
24.25 under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;
- 24.26 (42) all income of the minor parent's parents and stepparents when determining the
24.27 grant for the minor parent in households that include a minor parent living with parents or
24.28 stepparents on MFIP with other children;
- 24.29 (43) income of the minor parent's parents and stepparents equal to 200 percent of the
24.30 federal poverty guideline for a family size not including the minor parent and the minor
24.31 parent's child in households that include a minor parent living with parents or stepparents
24.32 not on MFIP when determining the grant for the minor parent. The remainder of income is
24.33 deemed as specified in section 256J.37, subdivision 1b;
- 24.34 (44) payments made to children eligible for relative custody assistance under section
24.35 257.85 and guardianship assistance under section 256N.20;

25.1 (45) vendor payments for goods and services made on behalf of a client unless the
25.2 client has the option of receiving the payment in cash;

25.3 (46) the principal portion of a contract for deed payment; and

25.4 (47) cash payments to individuals enrolled for full-time service as a volunteer under
25.5 AmeriCorps programs including AmeriCorps VISTA, AmeriCorps State, AmeriCorps
25.6 National, and AmeriCorps NCCC.

25.7 **EFFECTIVE DATE.** This section is effective January 1, 2015.

25.8 Sec. 27. Minnesota Statutes 2012, section 256J.21, subdivision 3, is amended to read:

25.9 Subd. 3. **Initial income test.** The county agency shall determine initial eligibility
25.10 by considering all earned and unearned income that is not excluded under subdivision 2.
25.11 To be eligible for MFIP, the assistance unit's countable income minus the disregards in
25.12 paragraphs (a) and (b) must be below the ~~transitional standard of assistance~~ family wage
25.13 level according to section 256J.24 for that size assistance unit.

25.14 (a) The initial eligibility determination must disregard the following items:

25.15 (1) the employment disregard is 18 percent of the gross earned income whether or
25.16 not the member is working full time or part time;

25.17 (2) dependent care costs must be deducted from gross earned income for the actual
25.18 amount paid for dependent care up to a maximum of \$200 per month for each child less
25.19 than two years of age, and \$175 per month for each child two years of age and older under
25.20 this chapter and chapter 119B;

25.21 (3) all payments made according to a court order for spousal support or the support
25.22 of children not living in the assistance unit's household shall be disregarded from the
25.23 income of the person with the legal obligation to pay support, provided that, if there has
25.24 been a change in the financial circumstances of the person with the legal obligation to pay
25.25 support since the support order was entered, the person with the legal obligation to pay
25.26 support has petitioned for a modification of the support order; and

25.27 (4) an allocation for the unmet need of an ineligible spouse or an ineligible child
25.28 under the age of 21 for whom the caregiver is financially responsible and who lives with
25.29 the caregiver according to section 256J.36.

25.30 (b) Notwithstanding paragraph (a), when determining initial eligibility for applicant
25.31 units when at least one member has received MFIP in this state within four months of
25.32 the most recent application for MFIP, apply the disregard as defined in section 256J.08,
25.33 subdivision 24, for all unit members.

25.34 After initial eligibility is established, the assistance payment calculation is based on
25.35 the monthly income test.

26.1 **EFFECTIVE DATE.** This section is effective October 1, 2013, or upon approval
 26.2 from the United States Department of Agriculture, whichever is later.

26.3 Sec. 28. Minnesota Statutes 2012, section 256J.24, subdivision 3, is amended to read:

26.4 Subd. 3. **Individuals who must be excluded from an assistance unit.** (a) The
 26.5 following individuals who are part of the assistance unit determined under subdivision 2
 26.6 are ineligible to receive MFIP:

26.7 (1) individuals who are recipients of Supplemental Security Income or Minnesota
 26.8 supplemental aid;

26.9 (2) individuals disqualified from the food stamp or food support program or MFIP,
 26.10 until the disqualification ends;

26.11 (3) children on whose behalf federal, state or local foster care payments are made,
 26.12 except as provided in sections 256J.13, subdivision 2, and 256J.74, subdivision 2;

26.13 (4) children receiving ongoing guardianship assistance payments under chapter 256N;

26.14 ~~(4)~~ (5) children receiving ongoing monthly adoption assistance payments under
 26.15 section ~~259.67~~ chapter 259A or 256N; and

26.16 ~~(5)~~ (6) individuals disqualified from the work participation cash benefit program
 26.17 until that disqualification ends.

26.18 (b) The exclusion of a person under this subdivision does not alter the mandatory
 26.19 assistance unit composition.

26.20 **EFFECTIVE DATE.** This section is effective January 1, 2015.

26.21 Sec. 29. Minnesota Statutes 2012, section 256J.24, subdivision 7, is amended to read:

26.22 Subd. 7. **Family wage level.** The family wage level is 110 percent of the transitional
 26.23 standard under subdivision 5 or 6, ~~when applicable, and is the standard used when there is~~
 26.24 ~~earned income in the assistance unit. As specified in section 256J.21.~~ If there is earned
 26.25 income in the assistance unit, earned income is subtracted from the family wage level to
 26.26 determine the amount of the assistance payment, as specified in section 256J.21. The
 26.27 assistance payment may not exceed the transitional standard under subdivision 5 or 6,
 26.28 or the shared household standard under subdivision 9, whichever is applicable, for the
 26.29 assistance unit.

26.30 **EFFECTIVE DATE.** This section is effective October 1, 2013, or upon approval
 26.31 from the United States Department of Agriculture, whichever is later.

27.1 Sec. 30. Minnesota Statutes 2012, section 256J.621, is amended to read:

27.2 **256J.621 WORK PARTICIPATION CASH BENEFITS.**

27.3 Subdivision 1. Program characteristics. (a) Effective October 1, 2009, upon
27.4 exiting the diversionary work program (DWP) or upon terminating the Minnesota family
27.5 investment program with earnings, a participant who is employed may be eligible for work
27.6 participation cash benefits of \$25 per month to assist in meeting the family's basic needs
27.7 as the participant continues to move toward self-sufficiency.

27.8 (b) To be eligible for work participation cash benefits, the participant shall not
27.9 receive MFIP or diversionary work program assistance during the month and the
27.10 participant or participants must meet the following work requirements:

27.11 (1) if the participant is a single caregiver and has a child under six years of age, the
27.12 participant must be employed at least 87 hours per month;

27.13 (2) if the participant is a single caregiver and does not have a child under six years of
27.14 age, the participant must be employed at least 130 hours per month; or

27.15 (3) if the household is a two-parent family, at least one of the parents must be
27.16 employed 130 hours per month.

27.17 Whenever a participant exits the diversionary work program or is terminated from
27.18 MFIP and meets the other criteria in this section, work participation cash benefits are
27.19 available for up to 24 consecutive months.

27.20 (c) Expenditures on the program are maintenance of effort state funds under
27.21 a separate state program for participants under paragraph (b), clauses (1) and (2).
27.22 Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort
27.23 funds. Months in which a participant receives work participation cash benefits under this
27.24 section do not count toward the participant's MFIP 60-month time limit.

27.25 Subd. 2. Program suspension. (a) Effective December 1, 2013, the work
27.26 participation cash benefits program shall be suspended.

27.27 (b) The commissioner of human services may reinstate the work participation cash
27.28 benefits program if the United States Department of Human Services determines that the
27.29 state of Minnesota did not meet the federal TANF work participation rate, and sends a
27.30 notice of penalty to reduce Minnesota's federal TANF block grant authorized under title I
27.31 of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation
27.32 Act of 1996, and under Public Law 109-171, the Deficit Reduction Act of 2005.

27.33 (c) The commissioner shall notify the chairs of the legislative committees with
27.34 jurisdiction over human services policy and funding of the potential penalty and the
27.35 commissioner's plans to reinstate the work participation cash benefit program within 30

28.1 days of the date the commissioner receives notification that the state failed to meet the
 28.2 federal work participation rate.

28.3 Sec. 31. Minnesota Statutes 2012, section 256J.626, subdivision 7, is amended to read:

28.4 Subd. 7. **Performance base funds.** ~~(a) For the purpose of this section, the following~~
 28.5 ~~terms have the meanings given:~~

28.6 ~~(1) "Caseload Reduction Credit" (CRC) means the measure of how much Minnesota~~
 28.7 ~~TANF and separate state program caseload has fallen relative to federal fiscal year 2005~~
 28.8 ~~based on caseload data from October 1 to September 30.~~

28.9 ~~(2) "TANF participation rate target" means a 50 percent participation rate reduced by~~
 28.10 ~~the CRC for the previous year.~~

28.11 ~~(b)~~ (a) For calendar year ~~2010~~ 2016 and yearly thereafter, each county and tribe will
 28.12 must be allocated ~~95~~ 100 percent of their initial calendar year allocation. Allocations for
 28.13 counties and tribes will ~~must~~ be allocated ~~additional funds~~ adjusted based on performance
 28.14 as follows:

28.15 ~~(1) a county or tribe that achieves the TANF participation rate target or a five~~
 28.16 ~~percentage point improvement over the previous year's TANF participation rate under~~
 28.17 ~~section 256J.751, subdivision 2, clause (7), as averaged across 12 consecutive months for~~
 28.18 ~~the most recent year for which the measurements are available, will receive an additional~~
 28.19 ~~allocation equal to 2.5 percent of its initial allocation;~~

28.20 ~~(2)~~ (1) a county or tribe that performs ~~within or~~ above its range of expected
 28.21 performance on the annualized three-year self-support index under section 256J.751,
 28.22 subdivision 2, clause (6), will ~~must~~ receive an additional allocation equal to 2.5 percent of
 28.23 its initial allocation; and

28.24 ~~(3) a county or tribe that does not achieve the TANF participation rate target or~~
 28.25 ~~a five percentage point improvement over the previous year's TANF participation rate~~
 28.26 ~~under section 256J.751, subdivision 2, clause (7), as averaged across 12 consecutive~~
 28.27 ~~months for the most recent year for which the measurements are available, will not~~
 28.28 ~~receive an additional 2.5 percent of its initial allocation until after negotiating a multiyear~~
 28.29 ~~improvement plan with the commissioner; or~~

28.30 ~~(4)~~ (2) a county or tribe that ~~does not perform within or above~~ performs below its
 28.31 range of expected performance on the annualized three-year self-support index under
 28.32 section 256J.751, subdivision 2, clause (6), ~~will not receive an additional allocation equal~~
 28.33 ~~to 2.5 percent of its initial allocation until after negotiating~~ for two consecutive years must
 28.34 negotiate a multiyear improvement plan with the commissioner. If no improvement is
 28.35 shown by the end of the multiyear plan, the county's or tribe's allocation must be decreased

29.1 by 2.5 percent. The decrease must remain in effect until the tribe performs within or
 29.2 above its range of expected performance.

29.3 ~~(e)~~ (b) For calendar year ~~2009~~ 2016 and yearly thereafter, performance-based funds
 29.4 for a federally approved tribal TANF program in which the state and tribe have in place a
 29.5 contract under section 256.01, addressing consolidated funding, ~~will~~ must be allocated
 29.6 as follows:

29.7 ~~(1) a tribe that achieves the participation rate approved in its federal TANF plan~~
 29.8 ~~using the average of 12 consecutive months for the most recent year for which the~~
 29.9 ~~measurements are available, will receive an additional allocation equal to 2.5 percent of~~
 29.10 ~~its initial allocation; and~~

29.11 ~~(2)~~ (1) a tribe that performs ~~within or~~ above its range of expected performance on the
 29.12 annualized three-year self-support index under section 256J.751, subdivision 2, clause (6),
 29.13 ~~will~~ must receive an additional allocation equal to 2.5 percent of its initial allocation; or

29.14 ~~(3) a tribe that does not achieve the participation rate approved in its federal TANF~~
 29.15 ~~plan using the average of 12 consecutive months for the most recent year for which the~~
 29.16 ~~measurements are available, will not receive an additional allocation equal to 2.5 percent~~
 29.17 ~~of its initial allocation until after negotiating a multiyear improvement plan with the~~
 29.18 ~~commissioner; or~~

29.19 ~~(4)~~ (2) a tribe that ~~does not perform within or above~~ performs below its range of
 29.20 expected performance on the annualized three-year self-support index under section
 29.21 256J.751, subdivision 2, clause (6), ~~will not receive an additional allocation equal to~~
 29.22 ~~2.5 percent until after negotiating~~ for two consecutive years must negotiate a multiyear
 29.23 improvement plan with the commissioner. If no improvement is shown by the end of the
 29.24 multiyear plan, the tribe's allocation must be decreased by 2.5 percent. The decrease must
 29.25 remain in effect until the tribe performs within or above its range of expected performance.

29.26 ~~(d)~~ (c) Funds remaining unallocated after the performance-based allocations
 29.27 in paragraph ~~(b)~~ (a) are available to the commissioner for innovation projects under
 29.28 subdivision 5.

29.29 ~~(+)~~ (d) If available funds are insufficient to meet county and tribal allocations under
 29.30 ~~paragraph~~ paragraphs (a) and (b), the commissioner ~~may make available for allocation~~
 29.31 ~~funds that are unobligated and available from the innovation projects through the end of~~
 29.32 ~~the current biennium~~ shall proportionally prorate funds to counties and tribes that qualify
 29.33 for a bonus under paragraphs (a), clause (1), and (b), clause (2).

29.34 (2) ~~If after the application of clause (1) funds remain insufficient to meet county and~~
 29.35 ~~tribal allocations under paragraph (b), the commissioner must proportionally reduce the~~

30.1 ~~allocation of each county and tribe with respect to their maximum allocation available~~
 30.2 ~~under paragraph (b).~~

30.3 Sec. 32. **[256J.78] TANF DEMONSTRATION PROJECTS OR WAIVER FROM**
 30.4 **FEDERAL RULES AND REGULATIONS.**

30.5 Subdivision 1. Duties of the commissioner. The commissioner of human services
 30.6 may pursue TANF demonstration projects or waivers of TANF requirements from the
 30.7 United States Department of Health and Human Services as needed to allow the state to
 30.8 build a more results-oriented Minnesota Family Investment Program to better meet the
 30.9 needs of Minnesota families.

30.10 Subd. 2. Purpose. The purpose of the TANF demonstration projects or waivers is to:

30.11 (1) replace the federal TANF process measure and its complex administrative
 30.12 requirements with state-developed outcomes measures that track adult employment and
 30.13 exits from MFIP cash assistance;

30.14 (2) simplify programmatic and administrative requirements; and

30.15 (3) make other policy or programmatic changes that improve the performance of the
 30.16 program and the outcomes for participants.

30.17 Subd. 3. Report to legislature. The commissioner shall report to the members of
 30.18 the legislative committees having jurisdiction over human services issues by March 1,
 30.19 2014, regarding the progress of this waiver or demonstration project.

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

30.21 Sec. 33. **[256N.001] CITATION.**

30.22 Sections 256N.001 to 256N.28 may be cited as the "Northstar Care for Children Act."

30.23 Sections 256N.001 to 256N.28 establish Northstar Care for Children, which authorizes
 30.24 certain benefits to support a child in need who is served by the Minnesota child welfare
 30.25 system and who is the responsibility of the state, local county social service agencies, or
 30.26 tribal social service agencies authorized under section 256.01, subdivision 14b, or are
 30.27 otherwise eligible for federal adoption assistance. A child eligible under this chapter
 30.28 has experienced a child welfare intervention that has resulted in the child being placed
 30.29 away from the child's parents' care and is receiving foster care services consistent with
 30.30 chapter 260B, 260C, or 260D, or is in the permanent care of relatives through a transfer of
 30.31 permanent legal and physical custody, or in the permanent care of adoptive parents.

30.32 Sec. 34. **[256N.01] PUBLIC POLICY.**

31.1 (a) The legislature declares that the public policy of this state is to keep children safe
31.2 from harm and to ensure that when children suffer harmful or injurious experiences in
31.3 their lives, appropriate services are immediately available to keep them safe.

31.4 (b) Children do best in permanent, safe, nurturing homes where they can maintain
31.5 lifelong relationships with adults. Whenever safely possible, children are best served
31.6 when they can be nurtured and raised by their parents. Where services cannot be provided
31.7 to allow a child to remain safely at home, an out-of-home placement may be required.
31.8 When this occurs, reunification should be sought if it can be accomplished safely. When
31.9 it is not possible for parents to provide safety and permanency for their children, an
31.10 alternative permanent home must quickly be made available to the child, drawing from
31.11 kinship sources whenever possible.

31.12 (c) Minnesota understands the importance of having a comprehensive approach to
31.13 temporary out-of-home care and to permanent homes for children who cannot be reunited
31.14 with their families. It is critical that stable benefits be available to caregivers to ensure
31.15 that the child's needs can be met whether the child's situation and best interests call for
31.16 temporary foster care, transfer of permanent legal and physical custody to a relative, or
31.17 adoption. Northstar Care for Children focuses on the child's needs and strengths, and
31.18 the actual level of care provided by the caregiver, without consideration for the type of
31.19 placement setting. In this way caregivers are not faced with the burden of making specific
31.20 long-term decisions based upon competing financial incentives.

31.21 Sec. 35. **[256N.02] DEFINITIONS.**

31.22 Subdivision 1. **Scope.** For the purposes of sections 256N.001 to 256N.28, the terms
31.23 defined in this section have the meanings given them.

31.24 Subd. 2. **Adoption assistance.** "Adoption assistance" means medical coverage as
31.25 allowable under section 256B.055 and reimbursement of nonrecurring expenses associated
31.26 with adoption and may include financial support provided under agreement with the
31.27 financially responsible agency, the commissioner, and the parents of an adoptive child
31.28 whose special needs would otherwise make it difficult to place the child for adoption to
31.29 assist with the cost of caring for the child. Financial support may include a basic rate
31.30 payment and a supplemental difficulty of care rate.

31.31 Subd. 3. **Assessment.** "Assessment" means the process under section 256N.24 that
31.32 determines the benefits an eligible child may receive under section 256N.26.

31.33 Subd. 4. **At-risk child.** "At-risk child" means a child who does not have a
31.34 documented disability but who is at risk of developing a physical, mental, emotional, or
31.35 behavioral disability based on being related within the first or second degree to persons

32.1 who have an inheritable physical, mental, emotional, or behavioral disabling condition,
32.2 or from a background which has the potential to cause the child to develop a physical,
32.3 mental, emotional, or behavioral disability that the child is at risk of developing. The
32.4 disability must manifest during childhood.

32.5 Subd. 5. **Basic rate.** "Basic rate" means the maintenance payment made on behalf
32.6 of a child to support the costs caregivers incur to provide for a child's needs consistent with
32.7 the care parents customarily provide, including: food, clothing, shelter, daily supervision,
32.8 school supplies, and a child's personal incidentals. It also supports typical travel to the
32.9 child's home for visitation, and reasonable travel for the child to remain in the school in
32.10 which the child is enrolled at the time of placement.

32.11 Subd. 6. **Caregiver.** "Caregiver" means the foster parent or parents of a child in
32.12 foster care who meet the requirements of emergency relative placement, licensed foster
32.13 parents under chapter 245A, or foster parents licensed or approved by a tribe; the relative
32.14 custodian or custodians; or the adoptive parent or parents who have legally adopted a child.

32.15 Subd. 7. **Commissioner.** "Commissioner" means the commissioner of human
32.16 services or any employee of the Department of Human Services to whom the
32.17 commissioner has delegated appropriate authority.

32.18 Subd. 8. **County board.** "County board" means the board of county commissioners
32.19 in each county.

32.20 Subd. 9. **Disability.** "Disability" means a physical, mental, emotional, or behavioral
32.21 impairment that substantially limits one or more major life activities. Major life activities
32.22 include, but are not limited to: thinking, walking, hearing, breathing, working, seeing,
32.23 speaking, communicating, learning, developing and maintaining healthy relationships,
32.24 safely caring for oneself, and performing manual tasks. The nature, duration, and severity
32.25 of the impairment must be considered in determining if the limitation is substantial.

32.26 Subd. 10. **Financially responsible agency.** "Financially responsible agency" means
32.27 the agency that is financially responsible for a child. These agencies include both local
32.28 social service agencies under section 393.07 and tribal social service agencies authorized
32.29 in section 256.01, subdivision 14b, as part of the American Indian Child Welfare Initiative,
32.30 and Minnesota tribes who assume financial responsibility of children from other states.
32.31 Under Northstar Care for Children, the agency that is financially responsible at the time of
32.32 placement for foster care continues to be responsible under section 256N.27 for the local
32.33 share of any maintenance payments, even after finalization of the adoption of transfer of
32.34 permanent legal and physical custody of a child.

32.35 Subd. 11. **Guardianship assistance.** "Guardianship assistance" means medical
32.36 coverage, as allowable under section 256B.055, and reimbursement of nonrecurring

33.1 expenses associated with obtaining permanent legal and physical custody of a child, and
33.2 may include financial support provided under agreement with the financially responsible
33.3 agency, the commissioner, and the relative who has received a transfer of permanent legal
33.4 and physical custody of a child. Financial support may include a basic rate payment and a
33.5 supplemental difficulty of care rate to assist with the cost of caring for the child.

33.6 Subd. 12. **Human services board.** "Human services board" means a board
33.7 established under section 402.02; Laws 1974, chapter 293; or Laws 1976, chapter 340.

33.8 Subd. 13. **Initial assessment.** "Initial assessment" means the assessment conducted
33.9 within the first 30 days of a child's initial placement into foster care under section
33.10 256N.24, subdivisions 4 and 5.

33.11 Subd. 14. **Legally responsible agency.** "Legally responsible agency" means the
33.12 Minnesota agency that is assigned responsibility for placement, care, and supervision
33.13 of the child through a court order, voluntary placement agreement, or voluntary
33.14 relinquishment. These agencies include local social service agencies under section 393.07,
33.15 tribal social service agencies authorized in section 256.01, subdivision 14b, and Minnesota
33.16 tribes that assume court jurisdiction when legal responsibility is transferred to the tribal
33.17 social service agency through a Minnesota district court order. A Minnesota local social
33.18 service agency is otherwise financially responsible.

33.19 Subd. 15. **Maintenance payments.** "Maintenance payments" means the basic
33.20 rate plus any supplemental difficulty of care rate under Northstar Care for Children. It
33.21 specifically does not include the cost of initial clothing allowance, payment for social
33.22 services, or administrative payments to a child-placing agency. Payments are paid
33.23 consistent with section 256N.26.

33.24 Subd. 16. **Permanent legal and physical custody.** "Permanent legal and physical
33.25 custody" means a transfer of permanent legal and physical custody to a relative ordered by
33.26 a Minnesota juvenile court under section 260C.515, subdivision 4, or for a child under
33.27 jurisdiction of a tribal court, a judicial determination under a similar provision in tribal
33.28 code which means that a relative will assume the duty and authority to provide care,
33.29 control, and protection of a child who is residing in foster care, and to make decisions
33.30 regarding the child's education, health care, and general welfare until adulthood.

33.31 Subd. 17. **Reassessment.** "Reassessment" means an update of a previous assessment
33.32 through the process under section 256N.24 for a child who has been continuously eligible
33.33 for Northstar Care for Children, or when a child identified as an at-risk child (Level A)
33.34 under guardianship or adoption assistance has manifested the disability upon which
33.35 eligibility for the agreement was based according to section 256N.25, subdivision 3,

34.1 paragraph (b). A reassessment may be used to update an initial assessment, a special
34.2 assessment, or a previous reassessment.

34.3 Subd. 18. **Relative.** "Relative," as described in section 260C.007, subdivision 27,
34.4 means a person related to the child by blood, marriage, or adoption, or an individual who
34.5 is an important friend with whom the child has resided or had significant contact. For an
34.6 Indian child, relative includes members of the extended family as defined by the law or
34.7 custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews,
34.8 or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United
34.9 States Code, title 25, section 1903.

34.10 Subd. 19. **Relative custodian.** "Relative custodian" means a person to whom
34.11 permanent legal and physical custody of a child has been transferred under section
34.12 260C.515, subdivision 4, or for a child under jurisdiction of a tribal court, a judicial
34.13 determination under a similar provision in tribal code, which means that a relative will
34.14 assume the duty and authority to provide care, control, and protection of a child who is
34.15 residing in foster care, and to make decisions regarding the child's education, health
34.16 care, and general welfare until adulthood.

34.17 Subd. 20. **Special assessment.** "Special assessment" means an assessment
34.18 performed under section 256N.24 that determines the benefits that an eligible child may
34.19 receive under section 256N.26 at the time when a special assessment is required. A special
34.20 assessment is used in the following circumstances when a child's status within Northstar
34.21 Care is shifted from a pre-Northstar Care program into Northstar Care for Children when
34.22 the commissioner determines that a special assessment is appropriate instead of assigning
34.23 the transition child to a level under section 256N.28.

34.24 Subd. 21. **Supplemental difficulty of care rate.** "Supplemental difficulty of care
34.25 rate" means the supplemental payment under section 256N.26, if any, as determined by
34.26 the financially responsible agency or the state, based upon an assessment under section
34.27 256N.24. The rate must support activities consistent with the care a parent provides a child
34.28 with special needs and not the equivalent of a purchased service. The rate must consider
34.29 the capacity and intensity of the activities associated with parenting duties provided in
34.30 the home to nurture the child, preserve the child's connections, and support the child's
34.31 functioning in the home and community.

34.32 **Sec. 36. [256N.20] NORTHSTAR CARE FOR CHILDREN; GENERALLY.**

34.33 Subdivision 1. **Eligibility.** A child is eligible for Northstar Care for Children if
34.34 the child is eligible for:

34.35 (1) foster care under section 256N.21;

35.1 (2) guardianship assistance under section 256N.22; or

35.2 (3) adoption assistance under section 256N.23.

35.3 Subd. 2. **Assessments.** Except as otherwise specified, a child eligible for Northstar
35.4 Care for Children shall receive an assessment under section 256N.24.

35.5 Subd. 3. **Agreements.** When a child is eligible for guardianship assistance or
35.6 adoption assistance, negotiations with caregivers and the development of a written,
35.7 binding agreement must be conducted under section 256N.25.

35.8 Subd. 4. **Benefits and payments.** A child eligible for Northstar Care for Children is
35.9 entitled to benefits specified in section 256N.26, based primarily on assessments under
35.10 section 256N.24, and, if appropriate, negotiations and agreements under section 256N.25.
35.11 Although paid to the caregiver, these benefits must be considered benefits of the child
35.12 rather than of the caregiver.

35.13 Subd. 5. **Federal, state, and local shares.** The cost of Northstar Care for Children
35.14 must be shared among the federal government, state, counties of financial responsibility,
35.15 and certain tribes as specified in section 256N.27.

35.16 Subd. 6. **Administration and appeals.** The commissioner and financially
35.17 responsible agency, or other agency designated by the commissioner, shall administer
35.18 Northstar Care for Children according to section 256N.28. The notification and fair
35.19 hearing process applicable to this chapter is defined in section 256N.28.

35.20 Subd. 7. **Transition.** A child in foster care, relative custody assistance, or adoption
35.21 assistance prior to January 1, 2015, who remains with the same caregivers continues
35.22 to receive benefits under programs preceding Northstar Care for Children, unless the
35.23 child moves to a new foster care placement, permanency is obtained for the child, or the
35.24 commissioner initiates transition of a child receiving pre-Northstar Care for Children
35.25 relative custody assistance, guardianship assistance, or adoption assistance under this
35.26 chapter. Provisions for the transition to Northstar Care for Children for certain children in
35.27 preceding programs are specified in section 256N.28, subdivisions 2 and 7. Additional
35.28 provisions for children in: foster care are specified in section 256N.21, subdivision
35.29 6; relative custody assistance under section 257.85 are specified in section 256N.22,
35.30 subdivision 12; and adoption assistance under chapter 259A are specified in section
35.31 256N.23, subdivision 13.

35.32 **Sec. 37. [256N.21] ELIGIBILITY FOR FOSTER CARE BENEFITS.**

35.33 Subdivision 1. **General eligibility requirements.** (a) A child is eligible for foster
35.34 care benefits under this section if the child meets the requirements of subdivision 2 on
35.35 or after January 1, 2015.

36.1 (b) The financially responsible agency shall make a title IV-E eligibility determination
36.2 for all foster children meeting the requirements of subdivision 2, provided the agency has
36.3 such authority under the state title IV-E plan. To be eligible for title IV-E foster care, a child
36.4 must also meet any additional criteria specified in section 472 of the Social Security Act.

36.5 (c) Except as provided under section 256N.26, subdivision 1 or 6, the foster care
36.6 benefit to the child under this section must be determined under sections 256N.24 and
36.7 256N.26 through an individual assessment. Information from this assessment must be
36.8 used to determine a potential future benefit under guardianship assistance or adoption
36.9 assistance, if needed.

36.10 (d) When a child is eligible for additional services, subdivisions 3 and 4 govern
36.11 the co-occurrence of program eligibility.

36.12 Subd. 2. **Placement in foster care.** To be eligible for foster care benefits under this
36.13 section, the child must be in placement away from the child's legal parent or guardian and
36.14 all of the following criteria must be met:

36.15 (1) the legally responsible agency must have placement authority and care
36.16 responsibility, including for a child 18 years old or older and under age 21, who maintains
36.17 eligibility for foster care consistent with section 260C.451;

36.18 (2) the legally responsible agency must have authority to place the child with a
36.19 voluntary placement agreement or a court order, consistent with sections 260B.198,
36.20 260C.001, 260D.01, or continued eligibility consistent with section 260C.451; and

36.21 (3) the child must be placed in an emergency relative placement under section
36.22 245A.035, a licensed foster family setting, foster residence setting, or treatment foster
36.23 care setting licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, a family
36.24 foster home licensed or approved by a tribal agency or, for a child 18 years old or older
36.25 and under age 21, an unlicensed supervised independent living setting approved by the
36.26 agency responsible for the youth's care.

36.27 Subd. 3. **Minor parent.** A child who is a minor parent in placement with the minor
36.28 parent's child in the same home is eligible for foster care benefits under this section. The
36.29 foster care benefit is limited to the minor parent, unless the legally responsible agency has
36.30 separate legal authority for placement of the minor parent's child.

36.31 Subd. 4. **Foster children ages 18 up to 21 placed in an unlicensed supervised**
36.32 **independent living setting.** A foster child 18 years old or older and under age 21 who
36.33 maintains eligibility consistent with section 260C.451 and who is placed in an unlicensed
36.34 supervised independent living setting shall receive the level of benefit under section
36.35 256N.26.

37.1 Subd. 5. Excluded activities. The basic and supplemental difficulty of care
37.2 payment represents costs for activities similar in nature to those expected of parents,
37.3 and does not cover services rendered by the licensed or tribally approved foster parent,
37.4 facility, or administrative costs or fees. The financially responsible agency may pay an
37.5 additional fee for specific services provided by the licensed foster parent or facility. A
37.6 foster parent or residence setting must distinguish such a service from the daily care of the
37.7 child as assessed through the process under section 256N.24.

37.8 Subd. 6. Transition from pre-Northstar Care for Children program. (a) Section
37.9 256.82 establishes the pre-Northstar Care for Children foster care program for all children
37.10 residing in family foster care on December 31, 2014. Unless transitioned under paragraph
37.11 (b), a child in foster care with the same caregiver receives benefits under this pre-Northstar
37.12 Care for Children foster care program.

37.13 (b) Transition from the pre-Northstar Care for Children foster care program to
37.14 Northstar Care for Children takes place on or after January 1, 2015, when the child:

37.15 (1) moves to a different foster home or unlicensed supervised independent living
37.16 setting;

37.17 (2) has permanent legal and physical custody transferred and, if applicable, meets
37.18 eligibility requirements in section 256N.22;

37.19 (3) is adopted and, if applicable, meets eligibility requirements in section 256N.23; or

37.20 (4) re-enters foster care after reunification or a trial home visit.

37.21 (c) Upon becoming eligible, a foster child must be assessed according to section
37.22 256N.24 and then transitioned into Northstar Care for Children according to section
37.23 256N.28.

37.24 **Sec. 38. [256N.22] GUARDIANSHIP ASSISTANCE ELIGIBILITY.**

37.25 Subdivision 1. General eligibility requirements. (a) To be eligible for the
37.26 guardianship assistance under this section, there must be a judicial determination under
37.27 section 260C.515, subdivision 4, that a transfer of permanent legal and physical custody to
37.28 a relative is in the child's best interest. For a child under jurisdiction of a tribal court, a
37.29 judicial determination under a similar provision in tribal code indicating that a relative
37.30 will assume the duty and authority to provide care, control, and protection of a child who
37.31 is residing in foster care, and to make decisions regarding the child's education, health
37.32 care, and general welfare until adulthood, and that this is in the child's best interest is
37.33 considered equivalent. Additionally, a child must:

37.34 (1) have been removed from the child's home pursuant to a voluntary placement
37.35 agreement or court order;

38.1 (2)(i) have resided in foster care for at least six consecutive months in the home
38.2 of the prospective relative custodian; or

38.3 (ii) have received an exemption from the requirement in item (i) from the court
38.4 based on a determination that:

38.5 (A) an expedited move to permanency is in the child's best interest;

38.6 (B) expedited permanency cannot be completed without provision of guardianship
38.7 assistance; and

38.8 (C) the prospective relative custodian is uniquely qualified to meet the child's needs
38.9 on a permanent basis;

38.10 (3) meet the agency determinations regarding permanency requirements in
38.11 subdivision 2;

38.12 (4) meet the applicable citizenship and immigration requirements in subdivision
38.13 3; and

38.14 (5) have been consulted regarding the proposed transfer of permanent legal and
38.15 physical custody to a relative, if the child is at least 14 years of age or is expected to attain
38.16 14 years of age prior to the transfer of permanent legal and physical custody; and

38.17 (6) have a written, binding agreement under section 256N.25 among the caregiver or
38.18 caregivers, the financially responsible agency, and the commissioner established prior to
38.19 transfer of permanent legal and physical custody.

38.20 (b) In addition to the requirements in paragraph (a), the child's prospective relative
38.21 custodian or custodians must meet the applicable background study requirements in
38.22 subdivision 4.

38.23 (c) To be eligible for title IV-E guardianship assistance, a child must also meet any
38.24 additional criteria in section 473(d) of the Social Security Act. The sibling of a child
38.25 who meets the criteria for title IV-E guardianship assistance in section 473(d) of the
38.26 Social Security Act is eligible for title IV-E guardianship assistance if the child and
38.27 sibling are placed with the same prospective relative custodian or custodians, and the
38.28 legally responsible agency, relatives, and commissioner agree on the appropriateness of
38.29 the arrangement for the sibling. A child who meets all eligibility criteria except those
38.30 specific to title IV-E guardianship assistance is entitled to guardianship assistance paid
38.31 through funds other than title IV-E.

38.32 Subd. 2. Agency determinations regarding permanency. (a) To be eligible for
38.33 guardianship assistance, the legally responsible agency must complete the following
38.34 determinations regarding permanency for the child prior to the transfer of permanent
38.35 legal and physical custody:

39.1 (1) a determination that reunification and adoption are not appropriate permanency
39.2 options for the child; and

39.3 (2) a determination that the child demonstrates a strong attachment to the prospective
39.4 relative custodian and the prospective relative custodian has a strong commitment to
39.5 caring permanently for the child.

39.6 (b) The legally responsible agency shall document the determinations in paragraph
39.7 (a) and the supporting information for completing each determination in the case file and
39.8 make them available for review as requested by the financially responsible agency and the
39.9 commissioner during the guardianship assistance eligibility determination process.

39.10 Subd. 3. **Citizenship and immigration status.** A child must be a citizen of the
39.11 United States or otherwise be eligible for federal public benefits according to the Personal
39.12 Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order
39.13 to be eligible for guardianship assistance.

39.14 Subd. 4. **Background study.** (a) A background study under section 245C.33 must
39.15 be completed on each prospective relative custodian and any other adult residing in the
39.16 home of the prospective relative custodian. A background study on the prospective
39.17 relative custodian or adult residing in the household previously completed under section
39.18 245C.04 for the purposes of foster care licensure may be used for the purposes of this
39.19 section, provided that the background study is current at the time of the application for
39.20 guardianship assistance.

39.21 (b) If the background study reveals:

39.22 (1) a felony conviction at any time for:

39.23 (i) child abuse or neglect;

39.24 (ii) spousal abuse;

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

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

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

39.29 (i) physical assault;

39.30 (ii) battery; or

39.31 (iii) a drug-related offense;

39.32 the prospective relative custodian is prohibited from receiving guardianship assistance
39.33 on behalf of an otherwise eligible child.

39.34 Subd. 5. **Responsibility for determining guardianship assistance eligibility.** The
39.35 commissioner shall determine eligibility for:

40.1 (1) a child under the legal custody or responsibility of a Minnesota county social
40.2 service agency who would otherwise remain in foster care;

40.3 (2) a Minnesota child under tribal court jurisdiction who would otherwise remain
40.4 in foster care; and

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

40.8 Subd. 6. **Exclusions.** (a) A child with a guardianship assistance agreement under
40.9 Northstar Care for Children is not eligible for the Minnesota family investment program
40.10 child-only grant under chapter 256J.

40.11 (b) The commissioner shall not enter into a guardianship assistance agreement with:

40.12 (1) a child's biological parent;

40.13 (2) an individual assuming permanent legal and physical custody of a child or the
40.14 equivalent under tribal code without involvement of the child welfare system; or

40.15 (3) an individual assuming permanent legal and physical custody of a child who was
40.16 placed in Minnesota by another state or a tribe outside of Minnesota.

40.17 Subd. 7. **Guardianship assistance eligibility determination.** The financially
40.18 responsible agency shall prepare a guardianship assistance eligibility determination
40.19 for review and final approval by the commissioner. The eligibility determination must
40.20 be completed according to requirements and procedures and on forms prescribed by
40.21 the commissioner. Supporting documentation for the eligibility determination must be
40.22 provided to the commissioner. The financially responsible agency and the commissioner
40.23 must make every effort to establish a child's eligibility for title IV-E guardianship
40.24 assistance. A child who is determined to be eligible for guardianship assistance must
40.25 have a guardianship assistance agreement negotiated on the child's behalf according to
40.26 section 256N.25.

40.27 Subd. 8. **Termination of agreement.** (a) A guardianship assistance agreement must
40.28 be terminated in any of the following circumstances:

40.29 (1) the child has attained the age of 18, or up to age 21 when the child meets a
40.30 condition for extension in subdivision 11;

40.31 (2) the child has not attained the age of 18 years of age, but the commissioner
40.32 determines the relative custodian is no longer legally responsible for support of the child;

40.33 (3) the commissioner determines the relative custodian is no longer providing
40.34 financial support to the child up to age 21;

40.35 (4) the death of the child; or

41.1 (5) the relative custodian requests in writing termination of the guardianship
41.2 assistance agreement.

41.3 (b) A relative custodian is considered no longer legally responsible for support of
41.4 the child in any of the following circumstances:

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

41.7 (2) death of the relative custodian under subdivision 9;

41.8 (3) child enlists in the military;

41.9 (4) child gets married; or

41.10 (5) child is determined an emancipated minor through legal action.

41.11 Subd. 9. **Death of relative custodian or dissolution of custody.** The guardianship
41.12 assistance agreement ends upon death or dissolution of permanent legal and physical
41.13 custody of both relative custodians in the case of assignment of custody to two individuals,
41.14 or the sole relative custodian in the case of assignment of custody to one individual.
41.15 Guardianship assistance eligibility may be continued according to subdivision 10.

41.16 Subd. 10. **Assigning a child's guardianship assistance to a court-appointed**
41.17 **guardian or custodian.** (a) Guardianship assistance may be continued with the written
41.18 consent of the commissioner to an individual who is a guardian or custodian appointed by
41.19 a court for the child upon the death of both relative custodians in the case of assignment
41.20 of custody to two individuals, or the sole relative custodian in the case of assignment
41.21 of custody to one individual, unless the child is under the custody of a county, tribal,
41.22 or child-placing agency.

41.23 (b) Temporary assignment of guardianship assistance may be approved for a
41.24 maximum of six consecutive months from the death of the relative custodian or custodians
41.25 as provided in paragraph (a) and must adhere to the policies and procedures prescribed by
41.26 the commissioner. If a court has not appointed a permanent legal guardian or custodian
41.27 within six months, the guardianship assistance must terminate and must not be resumed.

41.28 (c) Upon assignment of assistance payments under this subdivision, assistance must
41.29 be provided from funds other than title IV-E.

41.30 Subd. 11. **Extension of guardianship assistance after age 18.** (a) Under the
41.31 circumstances outlined in paragraph (e), a child may qualify for extension of the
41.32 guardianship assistance agreement beyond the date the child attains age 18, up to the
41.33 date the child attains the age of 21.

41.34 (b) A request for extension of the guardianship assistance agreement must be
41.35 completed in writing and submitted, including all supporting documentation, by the

42.1 relative custodian to the commissioner at least 60 calendar days prior to the date that the
42.2 current agreement will terminate.

42.3 (c) A signed amendment to the current guardianship assistance agreement must be
42.4 fully executed between the relative custodian and the commissioner at least ten business
42.5 days prior to the termination of the current agreement. The request for extension and
42.6 the fully executed amendment must be made according to requirements and procedures
42.7 prescribed by the commissioner, including documentation of eligibility, and on forms
42.8 prescribed by the commissioner.

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

42.13 (e) A child who has attained the age of 16 prior to the effective date of the
42.14 guardianship assistance agreement is eligible for extension of the agreement up to the
42.15 date the child attains age 21 if the child:

42.16 (1) is dependent on the relative custodian for care and financial support; and

42.17 (2) meets at least one of the following conditions:

42.18 (i) is completing a secondary education program or a program leading to an
42.19 equivalent credential;

42.20 (ii) is enrolled in an institution which provides postsecondary or vocational education;

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

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

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

42.27 (f) A child who has not attained the age of 16 prior to the effective date of the
42.28 guardianship assistance agreement is eligible for extension of the guardianship assistance
42.29 agreement up to the date the child attains the age of 21 if the child is:

42.30 (1) dependent on the relative custodian for care and financial support; and

42.31 (2) possesses a physical or mental disability which impairs the capacity for
42.32 independent living and warrants continuation of financial assistance, as determined by
42.33 the commissioner.

42.34 Subd. 12. **Beginning guardianship assistance component of Northstar Care for**
42.35 **Children.** Effective November 27, 2014, a child who meets the eligibility criteria for
42.36 guardianship assistance in subdivision 1 may have a guardianship assistance agreement

43.1 negotiated on the child's behalf according to section 256N.25. The effective date of the
 43.2 agreement must be January 1, 2015, or the date of the court order transferring permanent
 43.3 legal and physical custody, whichever is later. Except as provided under section 256N.26,
 43.4 subdivision 1, paragraph (c), the rate schedule for an agreement under this subdivision
 43.5 is determined under section 256N.26 based on the age of the child on the date that the
 43.6 prospective relative custodian signs the agreement.

43.7 **Subd. 13. Transition to guardianship assistance under Northstar Care for**
 43.8 **Children.** The commissioner may execute guardianship assistance agreements for a child
 43.9 with a relative custody agreement under section 257.85 executed on the child's behalf
 43.10 on or before November 26, 2014, in accordance with the priorities outlined in section
 43.11 256N.28, subdivision 7, paragraph (b). To facilitate transition into the guardianship
 43.12 assistance program, the commissioner may waive any guardianship assistance eligibility
 43.13 requirements for a child with a relative custody agreement under section 257.85 executed
 43.14 on the child's behalf on or before November 26, 2014. Agreements negotiated under
 43.15 this subdivision must be done according to the process outlined in section 256N.28,
 43.16 subdivision 7. The maximum rate used in the negotiation process for an agreement under
 43.17 this subdivision must be as outlined in section 256N.28, subdivision 7.

43.18 **Sec. 39. [256N.23] ADOPTION ASSISTANCE ELIGIBILITY.**

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

- 43.21 (1) be determined to be a child with special needs under subdivision 2;
 43.22 (2) meet the applicable citizenship and immigration requirements in subdivision 3;
 43.23 (3)(i) meet the criteria in section 473 of the Social Security Act; or

43.24 (ii) have had foster care payments paid on the child's behalf while in out-of-home
 43.25 placement through the county or tribe and be either under the guardianship of the
 43.26 commissioner or under the jurisdiction of a Minnesota tribe and adoption, according to
 43.27 tribal law, is in the child's documented permanency plan; and

43.28 (4) have a written, binding agreement under section 256N.25 among the adoptive
 43.29 parent, the financially responsible agency, or if there is no financially responsible agency,
 43.30 the agency designated by the commissioner, and the commissioner established prior to
 43.31 finalization of the adoption.

43.32 (b) In addition to the requirements in paragraph (a), an eligible child's adoptive parent
 43.33 or parents must meet the applicable background study requirements in subdivision 4.

43.34 (c) A child who meets all eligibility criteria except those specific to title IV-E adoption
 43.35 assistance shall receive adoption assistance paid through funds other than title IV-E.

- 44.1 Subd. 2. **Special needs determination.** (a) A child is considered a child with
44.2 special needs under this section if the requirements in paragraphs (b) to (g) are met.
- 44.3 (b) There must be a determination that the child must not or should not be returned
44.4 to the home of the child's parents as evidenced by:
- 44.5 (1) a court-ordered termination of parental rights;
44.6 (2) a petition to terminate parental rights;
44.7 (3) consent of parent to adoption accepted by the court under chapter 260C;
44.8 (4) in circumstances when tribal law permits the child to be adopted without a
44.9 termination of parental rights, a judicial determination by a tribal court indicating the valid
44.10 reason why the child cannot or should not return home;
- 44.11 (5) a voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment
44.12 occurred in another state, the applicable laws in that state; or
- 44.13 (6) the death of the legal parent or parents if the child has two legal parents.
- 44.14 (c) There exists a specific factor or condition of which it is reasonable to conclude
44.15 that the child cannot be placed with adoptive parents without providing adoption
44.16 assistance as evidenced by:
- 44.17 (1) a determination by the Social Security Administration that the child meets all
44.18 medical or disability requirements of title XVI of the Social Security Act with respect to
44.19 eligibility for Supplemental Security Income benefits;
- 44.20 (2) a documented physical, mental, emotional, or behavioral disability not covered
44.21 under clause (1);
- 44.22 (3) a member of a sibling group being adopted at the same time by the same parent;
44.23 (4) an adoptive placement in the home of a parent who previously adopted a sibling
44.24 for whom they receive adoption assistance; or
- 44.25 (5) documentation that the child is an at-risk child.
- 44.26 (d) A reasonable but unsuccessful effort must have been made to place the child
44.27 with adoptive parents without providing adoption assistance as evidenced by:
- 44.28 (1) a documented search for an appropriate adoptive placement; or
44.29 (2) a determination by the commissioner that a search under clause (1) is not in the
44.30 best interests of the child.
- 44.31 (e) The requirement for a documented search for an appropriate adoptive placement
44.32 under paragraph (d), including the registration of the child with the state adoption
44.33 exchange and other recruitment methods under paragraph (f), must be waived if:
- 44.34 (1) the child is being adopted by a relative and it is determined by the child-placing
44.35 agency that adoption by the relative is in the best interests of the child;

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

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

45.8 For an Indian child covered by the Indian Child Welfare Act, a waiver must not be
45.9 granted unless the child-placing agency has complied with the placement preferences
45.10 required by the Indian Child Welfare Act, United States Code, title 25, section 1915(a).

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

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

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

45.17 (3) locate prospective adoptive families by registering the child on the state adoption
45.18 exchange, as required under section 259.75; and

45.19 (4) if registration with the state adoption exchange does not result in the identification
45.20 of an appropriate adoptive placement, the agency must employ additional recruitment
45.21 methods prescribed by the commissioner.

45.22 (g) Once the legally responsible agency has determined that placement with an
45.23 identified parent is in the child's best interests and made full written disclosure about the
45.24 child's social and medical history, the agency must ask the prospective adoptive parent if
45.25 the prospective adoptive parent is willing to adopt the child without receiving adoption
45.26 assistance under this section. If the identified parent is either unwilling or unable to
45.27 adopt the child without adoption assistance, the legally responsible agency must provide
45.28 documentation as prescribed by the commissioner to fulfill the requirement to make a
45.29 reasonable effort to place the child without adoption assistance. If the identified parent is
45.30 willing to adopt the child without adoption assistance, the parent must provide a written
45.31 statement to this effect to the legally responsible agency and the statement must be
45.32 maintained in the permanent adoption record of the legally responsible agency. For children
45.33 under guardianship of the commissioner, the legally responsible agency shall submit a copy
45.34 of this statement to the commissioner to be maintained in the permanent adoption record.

45.35 Subd. 3. **Citizenship and immigration status.** (a) A child must be a citizen of the
45.36 United States or otherwise eligible for federal public benefits according to the Personal

46.1 Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to
 46.2 be eligible for the title IV-E adoption assistance program.

46.3 (b) A child must be a citizen of the United States or meet the qualified alien
 46.4 requirements as defined in the Personal Responsibility and Work Opportunity
 46.5 Reconciliation Act of 1996, as amended, in order to be eligible for adoption assistance
 46.6 paid through funds other than title IV-E.

46.7 Subd. 4. **Background study.** A background study under section 259.41 must be
 46.8 completed on each prospective adoptive parent. If the background study reveals:

46.9 (1) a felony conviction at any time for:

46.10 (i) child abuse or neglect;

46.11 (ii) spousal abuse;

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

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

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

46.16 (i) physical assault;

46.17 (ii) battery; or

46.18 (iii) a drug-related offense;

46.19 the adoptive parent is prohibited from receiving adoption assistance on behalf of an
 46.20 otherwise eligible child.

46.21 Subd. 5. **Responsibility for determining adoption assistance eligibility.** The
 46.22 commissioner must determine eligibility for:

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

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

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

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

46.33 Subd. 6. **Exclusions.** The commissioner must not enter into an adoption assistance
 46.34 agreement with the following individuals:

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

47.1 (2) a child's relative under section 260C.007, subdivision 27, with whom the child
47.2 resided immediately prior to child welfare involvement unless:

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

47.6 (ii) the child is under guardianship of the commissioner of human services according
47.7 to the requirements of section 260C.325, subdivision 1 or 3, or is a ward of a Minnesota
47.8 tribal court after termination of parental rights, suspension of parental rights, or a finding
47.9 by the tribal court that the child cannot safely return to the care of the parent;

47.10 (3) an individual adopting a child who is the subject of a direct adoptive placement
47.11 under section 259.47 or the equivalent in tribal code;

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

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

47.16 Subd. 7. **Adoption assistance eligibility determination.** (a) The financially
47.17 responsible agency shall prepare an adoption assistance eligibility determination for
47.18 review and final approval by the commissioner. When there is no financially responsible
47.19 agency, the adoption assistance eligibility determination must be completed by the
47.20 agency designated by the commissioner. The eligibility determination must be completed
47.21 according to requirements and procedures and on forms prescribed by the commissioner.
47.22 The financially responsible agency and the commissioner shall make every effort to
47.23 establish a child's eligibility for title IV-E adoption assistance. Documentation from a
47.24 qualified expert for the eligibility determination must be provided to the commissioner
47.25 to verify that a child meets the special needs criteria in subdivision 2. A child who
47.26 is determined to be eligible for adoption assistance must have an adoption assistance
47.27 agreement negotiated on the child's behalf according to section 256N.25.

47.28 (b) Documentation from a qualified expert of a disability is limited to evidence
47.29 deemed appropriate by the commissioner and must be submitted to the commissioner with
47.30 the eligibility determination. Examples of appropriate documentation include, but are not
47.31 limited to, medical records, psychological assessments, educational or early childhood
47.32 evaluations, court findings, and social and medical history.

47.33 (c) Documentation that the child is at risk of developing physical, mental, emotional,
47.34 or behavioral disabilities must be submitted according to policies and procedures
47.35 prescribed by the commissioner.

48.1 Subd. 8. **Termination of agreement.** (a) An adoption assistance agreement must
48.2 terminate in any of the following circumstances:

48.3 (1) the child has attained the age of 18, or up to age 21 when the child meets a
48.4 condition for extension in subdivision 12;

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

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

48.9 (4) the death of the child; or

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

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

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

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

48.18 (3) death of the adoptive parent under subdivision 9;

48.19 (4) the child enlists in the military;

48.20 (5) the child gets married; or

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

48.22 Subd. 9. **Death of adoptive parent or adoption dissolution.** The adoption
48.23 assistance agreement ends upon death or termination of parental rights of both adoptive
48.24 parents in the case of a two-parent adoption, or the sole adoptive parent in the case of
48.25 a single-parent adoption. The child's adoption assistance eligibility may be continued
48.26 according to subdivision 10.

48.27 Subd. 10. **Continuing a child's title IV-E adoption assistance in a subsequent**
48.28 **adoption.** (a) The child maintains eligibility for title IV-E adoption assistance in a
48.29 subsequent adoption if the following criteria are met:

48.30 (1) the child is determined to be a child with special needs as outlined in subdivision
48.31 2; and

48.32 (2) the subsequent adoptive parent resides in Minnesota.

48.33 (b) If a child had a title IV-E adoption assistance agreement in effect prior to the
48.34 death of the adoptive parent or dissolution of the adoption, and the subsequent adoptive
48.35 parent resides outside of Minnesota, the commissioner is not responsible for determining
48.36 whether the child meets the definition of special needs, entering into the adoption

49.1 assistance agreement, and making any adoption assistance payments outlined in the new
49.2 agreement unless a state agency in Minnesota has responsibility for placement and care of
49.3 the child at the time of the subsequent adoption. If there is no state agency in Minnesota
49.4 that has responsibility for placement and care of the child at the time of the subsequent
49.5 adoption, the public child welfare agency in the subsequent adoptive parent's residence is
49.6 responsible for determining whether the child meets the definition of special needs and
49.7 entering into the adoption assistance agreement.

49.8 **Subd. 11. Assigning a child's adoption assistance to a court-appointed guardian**
49.9 **or custodian.** (a) State-funded adoption assistance may be continued with the written
49.10 consent of the commissioner to an individual who is a guardian appointed by a court for
49.11 the child upon the death of both the adoptive parents in the case of a two-parent adoption,
49.12 or the sole adoptive parent in the case of a single-parent adoption, unless the child is
49.13 under the custody of a state agency.

49.14 (b) Temporary assignment of adoption assistance may be approved by the
49.15 commissioner for a maximum of six consecutive months from the death of the adoptive
49.16 parent or parents under subdivision 9 and must adhere to the requirements and procedures
49.17 prescribed by the commissioner. If, within six months, the child has not been adopted by a
49.18 person agreed upon by the commissioner, or a court has not appointed a permanent legal
49.19 guardian under section 260C.325, 525.5-313, or similar law of another jurisdiction, the
49.20 adoption assistance must terminate.

49.21 (c) Upon assignment of payments under this subdivision, assistance must be from
49.22 funds other than title IV-E.

49.23 **Subd. 12. Extension of adoption assistance agreement.** (a) Under certain limited
49.24 circumstances a child may qualify for extension of the adoption assistance agreement
49.25 beyond the date the child attains age 18, up to the date the child attains the age of 21.

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

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

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

50.5 (e) A child who has attained the age of 16 prior to the finalization of the child's
50.6 adoption is eligible for extension of the adoption assistance agreement up to the date the
50.7 child attains age 21 if the child is:

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

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

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

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

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

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

50.18 (f) A child who has not attained the age of 16 prior to finalization of the child's
50.19 adoption is eligible for extension of the adoption assistance agreement up to the date the
50.20 child attains the age of 21 if the child is:

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

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

50.24 (ii) possesses a physical or mental disability that impairs the capacity for independent
50.25 living and warrants continuation of financial assistance as determined by the commissioner.

50.26 Subd. 13. **Beginning adoption assistance under Northstar Care for Children.**

50.27 Effective November 27, 2014, a child who meets the eligibility criteria for adoption
50.28 assistance in subdivision 1, may have an adoption assistance agreement negotiated on
50.29 the child's behalf according to section 256N.25, and the effective date of the agreement
50.30 must be January 1, 2015, or the date of the court order finalizing the adoption, whichever
50.31 is later. Except as provided under section 256N.26, subdivision 1, paragraph (c), the
50.32 maximum rate schedule for the agreement must be determined according to section
50.33 256N.26 based on the age of the child on the date that the prospective adoptive parent or
50.34 parents sign the agreement.

50.35 Subd. 14. **Transition to adoption assistance under Northstar Care for Children.**

50.36 The commissioner may offer adoption assistance agreements under this chapter to a

51.1 child with an adoption assistance agreement under chapter 259A executed on the child's
51.2 behalf on or before November 26, 2014, according to the priorities outlined in section
51.3 256N.28, subdivision 7, paragraph (b). To facilitate transition into the Northstar Care for
51.4 Children adoption assistance program, the commissioner has the authority to waive any
51.5 Northstar Care for Children adoption assistance eligibility requirements for a child with
51.6 an adoption assistance agreement under chapter 259A executed on the child's behalf on
51.7 or before November 26, 2014. Agreements negotiated under this subdivision must be in
51.8 accordance with the process in section 256N.28, subdivision 7. The maximum rate used in
51.9 the negotiation process for an agreement under this subdivision must be as outlined in
51.10 section 256N.28, subdivision 7.

51.11 Sec. 40. **[256N.24] ASSESSMENTS.**

51.12 Subdivision 1. **Assessment.** (a) Each child eligible under sections 256N.21,
51.13 256N.22, and 256N.23, must be assessed to determine the benefits the child may receive
51.14 under section 256N.26, in accordance with the assessment tool, process, and requirements
51.15 specified in subdivision 2.

51.16 (b) If an agency applies the emergency foster care rate for initial placement under
51.17 section 256N.26, the agency may wait up to 30 days to complete the initial assessment.

51.18 (c) Unless otherwise specified in paragraph (d), a child must be assessed at the basic
51.19 level, level B, or one of ten supplemental difficulty of care levels, levels C to L.

51.20 (d) An assessment must not be completed for:

51.21 (1) a child eligible for guardianship assistance under section 256N.22 or adoption
51.22 assistance under section 256N.23 who is determined to be an at-risk child. A child under
51.23 this clause must be assigned level A under section 256N.26, subdivision 1; and

51.24 (2) a child transitioning into Northstar Care for Children under section 256N.28,
51.25 subdivision 7, unless the commissioner determines an assessment is appropriate.

51.26 Subd. 2. **Establishment of assessment tool, process, and requirements.** Consistent
51.27 with sections 256N.001 to 256N.28, the commissioner shall establish an assessment tool
51.28 to determine the basic and supplemental difficulty of care, and shall establish the process
51.29 to be followed and other requirements, including appropriate documentation, when
51.30 conducting the initial assessment of a child entering Northstar Care for Children or when
51.31 the special assessment and reassessments may be needed for children continuing in the
51.32 program. The assessment tool must take into consideration the strengths and needs of the
51.33 child and the extra parenting provided by the caregiver to meet the child's needs.

- 52.1 Subd. 3. Child care allowance portion of assessment. (a) The assessment tool
52.2 established under subdivision 2 must include consideration of the caregiver's need for
52.3 child care under this subdivision, with greater consideration for children of younger ages.
- 52.4 (b) The child's assessment must include consideration of the caregiver's need for
52.5 child care if the following criteria are met:
- 52.6 (1) the child is under age 13;
52.7 (2) all available adult caregivers are employed or attending educational or vocational
52.8 training programs;
52.9 (3) the caregiver does not receive child care assistance for the child under chapter
52.10 119B.
- 52.11 (c) For children younger than seven years of age, the level determined by the
52.12 non-child care portions of the assessment must be adjusted based on the average number
52.13 of hours child care is needed each week due to employment or attending a training or
52.14 educational program as follows:
- 52.15 (1) fewer than ten hours or if the caregiver is participating in the child care assistance
52.16 program under chapter 119B, no adjustment;
52.17 (2) ten to 19 hours or if needed during school summer vacation or equivalent only,
52.18 increase one level;
52.19 (3) 20 to 29 hours, increase two levels;
52.20 (4) 30 to 39 hours, increase three levels; and
52.21 (5) 40 or more hours, increase four levels.
- 52.22 (d) For children at least seven years of age but younger than 13, the level determined
52.23 by the non-child care portions of the assessment must be adjusted based on the average
52.24 number of hours child care is needed each week due to employment or attending a training
52.25 or educational program as follows:
- 52.26 (1) fewer than 20 hours, needed during school summer vacation or equivalent only,
52.27 or if the caregiver is participating in the child care assistance program under chapter
52.28 119B, no adjustment;
52.29 (2) 20 to 39 hours, increase one level; and
52.30 (3) 40 or more hours, increase two levels.
- 52.31 (e) When the child attains the age of seven, the child care allowance must be reduced
52.32 by reducing the level to that available under paragraph (d). For children in foster care,
52.33 benefits under section 256N.26 must be automatically reduced when the child turns seven.
52.34 For children who receive guardianship assistance or adoption assistance, agreements must
52.35 include similar provisions to ensure that the benefit provided to these children does not
52.36 exceed the benefit provided to children in foster care.

53.1 (f) When the child attains the age of 13, the child care allowance must be eliminated
53.2 by reducing the level to that available prior to any consideration of the caregiver's need
53.3 for child care. For children in foster care, benefits under section 256N.26 must be
53.4 automatically reduced when the child attains the age of 13. For children who receive
53.5 guardianship assistance or adoption assistance, agreements must include similar provisions
53.6 to ensure that the benefit provided to these children does not exceed the benefit provided
53.7 to children in foster care.

53.8 (g) The child care allowance under this subdivision is not available to caregivers
53.9 who receive the child care assistance under chapter 119B. A caregiver receiving a child
53.10 care allowance under this subdivision must notify the commissioner if the caregiver
53.11 subsequently receives the child care assistance program under chapter 119B, and the
53.12 level must be reduced to that available prior to any consideration of the caregiver's need
53.13 for child care.

53.14 (h) In establishing the assessment tool under subdivision 2, the commissioner must
53.15 design the tool so that the levels applicable to the non-child care portions of the assessment
53.16 at a given age accommodate the requirements of this subdivision.

53.17 Subd. 4. **Timing of initial assessment.** For a child entering Northstar Care for
53.18 Children under section 256N.21, the initial assessment must be completed within 30
53.19 days after the child is placed in foster care.

53.20 Subd. 5. **Completion of initial assessment.** (a) The assessment must be completed
53.21 in consultation with the child's caregiver. Face-to-face contact with the caregiver is not
53.22 required to complete the assessment.

53.23 (b) Initial assessments are completed for foster children, eligible under section
53.24 256N.21.

53.25 (c) The initial assessment must be completed by the financially responsible agency,
53.26 in consultation with the legally responsible agency if different, within 30 days of the
53.27 child's placement in foster care.

53.28 (d) If the foster parent is unable or unwilling to cooperate with the assessment process,
53.29 the child shall be assigned the basic level, level B under section 256N.26, subdivision 3.

53.30 (e) Notice to the foster parent shall be provided as specified in subdivision 12.

53.31 Subd. 6. **Timing of special assessment.** (a) A special assessment is required as part
53.32 of the negotiation of the guardianship assistance agreement under section 256N.22 if:

53.33 (1) the child was not placed in foster care with the prospective relative custodian
53.34 or custodians prior to the negotiation of the guardianship assistance agreement under
53.35 section 256N.25; or

53.36 (2) any requirement for reassessment under subdivision 8 is met.

54.1 (b) A special assessment is required as part of the negotiation of the adoption
54.2 assistance agreement under section 256N.23 if:

54.3 (1) the child was not placed in foster care with the prospective adoptive parent
54.4 or parents prior to the negotiation of the adoption assistance agreement under section
54.5 256N.25; or

54.6 (2) any requirement for reassessment under subdivision 8 is met.

54.7 (c) A special assessment is required when a child transitions from a pre-Northstar
54.8 Care for Children program into Northstar Care for Children if the commissioner
54.9 determines that a special assessment is appropriate instead of assigning the transition child
54.10 to a level under section 256N.28.

54.11 (d) The special assessment must be completed prior to the establishment of a
54.12 guardianship assistance or adoption assistance agreement on behalf of the child.

54.13 Subd. 7. **Completing the special assessment.** (a) The special assessment must
54.14 be completed in consultation with the child's caregiver. Face-to-face contact with the
54.15 caregiver is not required to complete the special assessment.

54.16 (b) If a new special assessment is required prior to the effective date of the
54.17 guardianship assistance agreement, it must be completed by the financially responsible
54.18 agency, in consultation with the legally responsible agency if different. If the prospective
54.19 relative custodian is unable or unwilling to cooperate with the special assessment process,
54.20 the child shall be assigned the basic level, level B under section 256N.26, subdivision 3,
54.21 unless the child is known to be an at-risk child, in which case, the child shall be assigned
54.22 level A under section 256N.26, subdivision 1.

54.23 (c) If a special assessment is required prior to the effective date of the adoption
54.24 assistance agreement, it must be completed by the financially responsible agency, in
54.25 consultation with the legally responsible agency if different. If there is no financially
54.26 responsible agency, the special assessment must be completed by the agency designated by
54.27 the commissioner. If the prospective adoptive parent is unable or unwilling to cooperate
54.28 with the special assessment process, the child must be assigned the basic level, level B
54.29 under section 256N.26, subdivision 3, unless the child is known to be an at-risk child, in
54.30 which case, the child shall be assigned level A under section 256N.26, subdivision 1.

54.31 (d) Notice to the prospective relative custodians or prospective adoptive parents
54.32 must be provided as specified in subdivision 12.

54.33 Subd. 8. **Timing of and requests for reassessments.** Reassessments for an eligible
54.34 child must be completed within 30 days of any of the following events:

54.35 (1) for a child in continuous foster care, when six months have elapsed since
54.36 completion of the last assessment;

- 55.1 (2) for a child in continuous foster care, change of placement location;
55.2 (3) for a child in foster care, at the request of the financially responsible agency or
55.3 legally responsible agency;
55.4 (4) at the request of the commissioner; or
55.5 (5) at the request of the caregiver under subdivision 9.

55.6 Subd. 9. **Caregiver requests for reassessments.** (a) A caregiver may initiate
55.7 a reassessment request for an eligible child in writing to the financially responsible
55.8 agency or, if there is no financially responsible agency, the agency designated by the
55.9 commissioner. The written request must include the reason for the request and the
55.10 name, address, and contact information of the caregivers. For an eligible child with a
55.11 guardianship assistance or adoption assistance agreement, the caregiver may request a
55.12 reassessment if at least six months have elapsed since any previously requested review.
55.13 For an eligible foster child, a foster parent may request reassessment in less than six
55.14 months with written documentation that there have been significant changes in the child's
55.15 needs that necessitate an earlier reassessment.

55.16 (b) A caregiver may request a reassessment of an at-risk child for whom a
55.17 guardianship assistance or adoption assistance agreement has been executed if the
55.18 caregiver has satisfied the commissioner with written documentation from a qualified
55.19 expert that the potential disability upon which eligibility for the agreement was based has
55.20 manifested itself, consistent with section 256N.25, subdivision 3, paragraph (b).

55.21 (c) If the reassessment cannot be completed within 30 days of the caregiver's request,
55.22 the agency responsible for reassessment must notify the caregiver of the reason for the
55.23 delay and a reasonable estimate of when the reassessment can be completed.

55.24 Subd. 10. **Completion of reassessment.** (a) The reassessment must be completed
55.25 in consultation with the child's caregiver. Face-to-face contact with the caregiver is not
55.26 required to complete the reassessment.

55.27 (b) For foster children eligible under section 256N.21, reassessments must be
55.28 completed by the financially responsible agency, in consultation with the legally
55.29 responsible agency if different.

55.30 (c) If reassessment is required after the effective date of the guardianship assistance
55.31 agreement, the reassessment must be completed by the financially responsible agency.

55.32 (d) If a reassessment is required after the effective date of the adoption assistance
55.33 agreement, it must be completed by the financially responsible agency or, if there is no
55.34 financially responsible agency, the agency designated by the commissioner.

55.35 (e) If the child's caregiver is unable or unwilling to cooperate with the reassessment,
55.36 the child must be assessed at level B under section 256N.26, subdivision 3, unless the

56.1 child has an adoption assistance or guardianship assistance agreement in place and is
56.2 known to be an at-risk child, in which case the child must be assessed at level A under
56.3 section 256N.26, subdivision 1.

56.4 Subd. 11. **Approval of initial assessments, special assessments, and**
56.5 **reassessments.** (a) Any agency completing initial assessments, special assessments, or
56.6 reassessments must designate one or more supervisors or other staff to examine and approve
56.7 assessments completed by others in the agency under subdivision 2. The person approving
56.8 an assessment must not be the case manager or staff member completing that assessment.

56.9 (b) In cases where a special assessment or reassessment for guardian assistance
56.10 and adoption assistance is required under subdivision 7 or 10, the commissioner shall
56.11 review and approve the assessment as part of the eligibility determination process outlined
56.12 in section 256N.22, subdivision 7, for guardianship assistance, or section 256N.23,
56.13 subdivision 7, for adoption assistance. The assessment determines the maximum for the
56.14 negotiated agreement amount under section 256N.25.

56.15 (c) The new rate is effective the calendar month that the assessment is approved,
56.16 or the effective date of the agreement, whichever is later.

56.17 Subd. 12. **Notice for caregiver.** (a) The agency as defined in subdivision 5 or 10
56.18 that is responsible for completing the initial assessment or reassessment must provide the
56.19 child's caregiver with written notice of the initial assessment or reassessment.

56.20 (b) Initial assessment notices must be sent within 15 days of completion of the initial
56.21 assessment and must minimally include the following:

56.22 (1) a summary of the child's completed individual assessment used to determine the
56.23 initial rating;

56.24 (2) statement of rating and benefit level;

56.25 (3) statement of the circumstances under which the agency must reassess the child;

56.26 (4) procedure to seek reassessment;

56.27 (5) notice that the caregiver has the right to a fair hearing review of the assessment
56.28 and how to request a fair hearing, consistent with section 256.045, subdivision 3; and

56.29 (6) the name, telephone number, and e-mail, if available, of a contact person at the
56.30 agency completing the assessment.

56.31 (c) Reassessment notices must be sent within 15 days after the completion of the
56.32 reassessment and must minimally include the following:

56.33 (1) a summary of the child's individual assessment used to determine the new rating;

56.34 (2) any change in rating and its effective date;

56.35 (3) procedure to seek reassessment;

57.1 (4) notice that if a change in rating results in a reduction of benefits, the caregiver
57.2 has the right to a fair hearing review of the assessment and how to request a fair hearing
57.3 consistent with section 256.045, subdivision 3;

57.4 (5) notice that a caregiver who requests a fair hearing of the reassessed rating within
57.5 ten days may continue at the current rate pending the hearing, but the agency may recover
57.6 any overpayment; and

57.7 (6) name, telephone number, and e-mail, if available, of a contact person at the
57.8 agency completing the reassessment.

57.9 (d) Notice is not required for special assessments since the notice is part of the
57.10 guardianship assistance or adoption assistance negotiated agreement completed according
57.11 to section 256N.25.

57.12 Subd. 13. **Assessment tool determines rate of benefits.** The assessment tool
57.13 established by the commissioner in subdivision 2 determines the monthly benefit level
57.14 for children in foster care. The monthly payment for guardian assistance or adoption
57.15 assistance may be negotiated up to the monthly benefit level under foster care for those
57.16 children eligible for a payment under section 256N.26, subdivision 1.

57.17 Sec. 41. **[256N.25] AGREEMENTS.**

57.18 Subdivision 1. **Agreement; guardianship assistance; adoption assistance.** (a)
57.19 In order to receive guardianship assistance or adoption assistance benefits on behalf of
57.20 an eligible child, a written, binding agreement between the caregiver or caregivers, the
57.21 financially responsible agency, or, if there is no financially responsible agency, the agency
57.22 designated by the commissioner, and the commissioner must be established prior to
57.23 finalization of the adoption or a transfer of permanent legal and physical custody. The
57.24 agreement must be negotiated with the caregiver or caregivers under subdivision 2.

57.25 (b) The agreement must be on a form approved by the commissioner and must
57.26 specify the following:

57.27 (1) duration of the agreement;

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

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

57.31 (4) the terms of the payment, including any child care portion as specified in section
57.32 256N.24, subdivision 3;

57.33 (5) eligibility for reimbursement of nonrecurring expenses associated with adopting
57.34 or obtaining permanent legal and physical custody of the child, to the extent that the
57.35 total cost does not exceed \$2,000 per child;

58.1 (6) that the agreement must remain in effect regardless of the state of which the
58.2 adoptive parents or relative custodians are residents at any given time;

58.3 (7) provisions for modification of the terms of the agreement, including renegotiation
58.4 of the agreement; and

58.5 (8) the effective date of the agreement.

58.6 (c) The caregivers, the commissioner, and the financially responsible agency, or, if
58.7 there is no financially responsible agency, the agency designated by the commissioner, must
58.8 sign the agreement. A copy of the signed agreement must be given to each party. Once
58.9 signed by all parties, the commissioner shall maintain the official record of the agreement.

58.10 (d) The effective date of the guardianship assistance agreement must be the date of the
58.11 court order that transfers permanent legal and physical custody to the relative. The effective
58.12 date of the adoption assistance agreement is the date of the finalized adoption decree.

58.13 (e) Termination or disruption of the preadoptive placement or the foster care
58.14 placement prior to assignment of custody makes the agreement with that caregiver void.

58.15 Subd. 2. **Negotiation of agreement.** (a) When a child is determined to be eligible
58.16 for guardianship assistance or adoption assistance, the financially responsible agency, or,
58.17 if there is no financially responsible agency, the agency designated by the commissioner,
58.18 must negotiate with the caregiver to develop an agreement under subdivision 1. If and when
58.19 the caregiver and agency reach concurrence as to the terms of the agreement, both parties
58.20 shall sign the agreement. The agency must submit the agreement, along with the eligibility
58.21 determination outlined in sections 256N.22, subdivision 7, and 256N.23, subdivision 7, to
58.22 the commissioner for final review, approval, and signature according to subdivision 1.

58.23 (b) A monthly payment is provided as part of the adoption assistance or guardianship
58.24 assistance agreement to support the care of children unless the child is determined to be an
58.25 at-risk child, in which case the special at-risk monthly payment under section 256N.26,
58.26 subdivision 7, must be made until the caregiver obtains written documentation from a
58.27 qualified expert that the potential disability upon which eligibility for the agreement
58.28 was based has manifested itself.

58.29 (1) The amount of the payment made on behalf of a child eligible for guardianship
58.30 assistance or adoption assistance is determined through agreement between the prospective
58.31 relative custodian or the adoptive parent and the financially responsible agency, or, if there
58.32 is no financially responsible agency, the agency designated by the commissioner, using
58.33 the assessment tool established by the commissioner in section 256N.24, subdivision 2,
58.34 and the associated benefit and payments outlined in section 256N.26. Except as provided
58.35 under section 256N.24, subdivision 1, paragraph (c), the assessment tool establishes
58.36 the monthly benefit level for a child under foster care. The monthly payment under a

59.1 guardianship assistance agreement or adoption assistance agreement may be negotiated up
59.2 to the monthly benefit level under foster care. In no case may the amount of the payment
59.3 under a guardianship assistance agreement or adoption assistance agreement exceed the
59.4 foster care maintenance payment which would have been paid during the month if the
59.5 child with respect to whom the guardianship assistance or adoption assistance payment is
59.6 made had been in a foster family home in the state.

59.7 (2) The rate schedule for the agreement is determined based on the age of the
59.8 child on the date that the prospective adoptive parent or parents or relative custodian or
59.9 custodians sign the agreement.

59.10 (3) The income of the relative custodian or custodians or adoptive parent or parents
59.11 must not be taken into consideration when determining eligibility for guardianship
59.12 assistance or adoption assistance or the amount of the payments under section 256N.26.

59.13 (4) With the concurrence of the relative custodian or adoptive parent, the amount of
59.14 the payment may be adjusted periodically using the assessment tool established by the
59.15 commissioner in section 256N.24, subdivision 2, and the agreement renegotiated under
59.16 subdivision 3 when there is a change in the child's needs or the family's circumstances.

59.17 (5) The guardianship assistance or adoption assistance agreement of a child who is
59.18 identified as at-risk receives the special at-risk monthly payment under section 256N.26,
59.19 subdivision 7, unless and until the potential disability manifests itself, as documented by
59.20 an appropriate professional, and the commissioner authorizes commencement of payment
59.21 by modifying the agreement accordingly. A relative custodian or adoptive parent of an
59.22 at-risk child with a guardianship assistance or adoption assistance agreement may request
59.23 a reassessment of the child under section 256N.24, subdivision 9, and renegotiation of
59.24 the guardianship assistance or adoption assistance agreement under subdivision 3 to
59.25 include a monthly payment, if the caregiver has written documentation from a qualified
59.26 expert that the potential disability upon which eligibility for the agreement was based has
59.27 manifested itself. Documentation of the disability must be limited to evidence deemed
59.28 appropriate by the commissioner.

59.29 (c) For guardianship assistance agreements:

59.30 (1) the initial amount of the monthly guardianship assistance payment must be
59.31 equivalent to the foster care rate in effect at the time that the agreement is signed less any
59.32 offsets under section 256N.26, subdivision 11, or a lesser negotiated amount if agreed to
59.33 by the prospective relative custodian and specified in that agreement, unless the child is
59.34 identified as at-risk or the guardianship assistance agreement is entered into when a child
59.35 is under the age of six;

60.1 (2) an at-risk child must be assigned level A as outlined in section 256N.26 and
60.2 receive the special at-risk monthly payment under section 256N.26, subdivision 7, unless
60.3 and until the potential disability manifests itself, as documented by a qualified expert and
60.4 the commissioner authorizes commencement of payment by modifying the agreement
60.5 accordingly; and

60.6 (3) the amount of the monthly payment for a guardianship assistance agreement for
60.7 a child, other than an at-risk child, who is under the age of six must be as specified in
60.8 section 256N.26, subdivision 5.

60.9 (d) For adoption assistance agreements:

60.10 (1) for a child in foster care with the prospective adoptive parent immediately prior
60.11 to adoptive placement, the initial amount of the monthly adoption assistance payment
60.12 must be equivalent to the foster care rate in effect at the time that the agreement is signed
60.13 less any offsets in section 256N.26, subdivision 11, or a lesser negotiated amount if agreed
60.14 to by the prospective adoptive parents and specified in that agreement, unless the child is
60.15 identified as at-risk or the adoption assistance agreement is entered into when a child is
60.16 under the age of six;

60.17 (2) an at-risk child must be assigned level A as outlined in section 256N.26 and
60.18 receive the special at-risk monthly payment under section 256N.26, subdivision 7, unless
60.19 and until the potential disability manifests itself, as documented by an appropriate
60.20 professional and the commissioner authorizes commencement of payment by modifying
60.21 the agreement accordingly;

60.22 (3) the amount of the monthly payment for an adoption assistance agreement for
60.23 a child under the age of six, other than an at-risk child, must be as specified in section
60.24 256N.26, subdivision 5;

60.25 (4) for a child who is in the guardianship assistance program immediately prior
60.26 to adoptive placement, the initial amount of the adoption assistance payment must be
60.27 equivalent to the guardianship assistance payment in effect at the time that the adoption
60.28 assistance agreement is signed or a lesser amount if agreed to by the prospective adoptive
60.29 parent and specified in that agreement; and

60.30 (5) for a child who is not in foster care placement or the guardianship assistance
60.31 program immediately prior to adoptive placement or negotiation of the adoption assistance
60.32 agreement, the initial amount of the adoption assistance agreement must be determined
60.33 using the assessment tool and process in this section and the corresponding payment
60.34 amount outlined in section 256N.26.

60.35 Subd. 3. **Renegotiation of agreement.** (a) A relative custodian or adoptive parent
60.36 of a child with a guardianship assistance or adoption assistance agreement may request

61.1 renegotiation of the agreement when there is a change in the needs of the child or in the
 61.2 family's circumstances. When a relative custodian or adoptive parent requests renegotiation
 61.3 of the agreement, a reassessment of the child must be completed consistent with section
 61.4 256N.24, subdivisions 9 and 10. If the reassessment indicates that the child's level has
 61.5 changed, the financially responsible agency, or, if there is no financially responsible
 61.6 agency, the agency designated by the commissioner or a designee and the caregiver must
 61.7 renegotiate the agreement to include a payment with the level determined through the
 61.8 reassessment process. The agreement must not be renegotiated unless the commissioner,
 61.9 the financially responsible agency, and the caregiver mutually agree to the changes. The
 61.10 effective date of any renegotiated agreement must be determined by the commissioner.

61.11 (b) A relative custodian or adoptive parent of an at-risk child with a guardianship
 61.12 assistance or adoption assistance agreement may request renegotiation of the agreement to
 61.13 include a monthly payment higher than the special at-risk monthly payment under section
 61.14 256N.26, subdivision 7, if the caregiver has written documentation from a qualified
 61.15 expert that the potential disability upon which eligibility for the agreement was based has
 61.16 manifested itself. Documentation of the disability must be limited to evidence deemed
 61.17 appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment
 61.18 of the child must be conducted as outlined in section 256N.24, subdivision 9. The
 61.19 reassessment must be used to renegotiate the agreement to include an appropriate monthly
 61.20 payment. The agreement must not be renegotiated unless the commissioner, the financially
 61.21 responsible agency, and the caregiver mutually agree to the changes. The effective date of
 61.22 any renegotiated agreement must be determined by the commissioner.

61.23 (c) Renegotiation of a guardianship assistance or adoption assistance agreement is
 61.24 required when one of the circumstances outlined in section 256N.26, subdivision 13,
 61.25 occurs.

61.26 **Sec. 42. [256N.26] BENEFITS AND PAYMENTS.**

61.27 Subdivision 1. **Benefits.** (a) There are three benefits under Northstar Care for
 61.28 Children: medical assistance, basic payment, and supplemental difficulty of care payment.

61.29 (b) A child is eligible for medical assistance under subdivision 2.

61.30 (c) A child is eligible for the basic payment under subdivision 3, except for a child
 61.31 assigned level A under section 256N.24, subdivision 1, because the child is determined to
 61.32 be an at-risk child receiving guardianship assistance or adoption assistance.

61.33 (d) A child, including a foster child age 18 to 21, is eligible for an additional
 61.34 supplemental difficulty of care payment under subdivision 4, as determined by the
 61.35 assessment under section 256N.24.

62.1 (e) An eligible child entering guardianship assistance or adoption assistance under
 62.2 the age of six receives a basic payment and supplemental difficulty of care payment as
 62.3 specified in subdivision 5.

62.4 (f) A child transitioning in from a pre-Northstar Care for Children program under
 62.5 section 256N.28, subdivision 7, shall receive basic and difficulty of care supplemental
 62.6 payments according to those provisions.

62.7 Subd. 2. **Medical assistance.** Eligibility for medical assistance under this chapter
 62.8 must be determined according to section 256B.055.

62.9 Subd. 3. **Basic monthly rate.** From January 1, 2015, to June 30, 2016, the basic
 62.10 monthly rate must be according to the following schedule:

62.11	<u>Ages 0-5</u>	<u>\$565 per month</u>
62.12	<u>Ages 6-12</u>	<u>\$670 per month</u>
62.13	<u>Ages 13 and older</u>	<u>\$790 per month</u>

62.14 Subd. 4. **Difficulty of care supplemental monthly rate.** From January 1, 2015,
 62.15 to June 30, 2016, the supplemental difficulty of care monthly rate is determined by the
 62.16 following schedule:

62.17	<u>Level A</u>	<u>none (special rate under subdivision 7</u>
62.18		<u>applies)</u>
62.19	<u>Level B</u>	<u>none (basic under subdivision 3 only)</u>
62.20	<u>Level C</u>	<u>\$100 per month</u>
62.21	<u>Level D</u>	<u>\$200 per month</u>
62.22	<u>Level E</u>	<u>\$300 per month</u>
62.23	<u>Level F</u>	<u>\$400 per month</u>
62.24	<u>Level G</u>	<u>\$500 per month</u>
62.25	<u>Level H</u>	<u>\$600 per month</u>
62.26	<u>Level I</u>	<u>\$700 per month</u>
62.27	<u>Level J</u>	<u>\$800 per month</u>
62.28	<u>Level K</u>	<u>\$900 per month</u>
62.29	<u>Level L</u>	<u>\$1,000 per month</u>

62.30 A child assigned level A is not eligible for either the basic or supplemental difficulty
 62.31 of care payment, while a child assigned level B is not eligible for the supplemental
 62.32 difficulty of care payment but is eligible for the basic monthly rate under subdivision 3.

62.33 Subd. 5. **Alternate rates for preschool entry and certain transitioned children.**

62.34 A child who entered the guardianship assistance or adoption assistance components
 62.35 of Northstar Care for Children while under the age of six shall receive 50 percent of
 62.36 the amount the child would otherwise be entitled to under subdivisions 3 and 4. The
 62.37 commissioner may also use the 50 percent rate for a child who was transitioned into those
 62.38 components through declaration of the commissioner under section 256N.28, subdivision 7.

63.1 Subd. 6. **Emergency foster care rate for initial placement.** (a) A child who enters
63.2 foster care due to immediate custody by a police officer or court order, consistent with
63.3 section 260C.175, subdivisions 1 and 2, or equivalent provision under tribal code, shall
63.4 receive the emergency foster care rate for up to 30 days. The emergency foster care rate
63.5 cannot be extended beyond 30 days of the child's placement.

63.6 (b) For this payment rate to be applied, at least one of three conditions must apply:

63.7 (1) the child's initial placement must be in foster care in Minnesota;

63.8 (2) the child's previous placement was more than two years ago; or

63.9 (3) the child's previous placement was for fewer than 30 days and an assessment
63.10 under section 256N.24 was not completed by an agency under section 256N.24.

63.11 (c) The emergency foster care rate consists of the appropriate basic monthly rate
63.12 under subdivision 3 plus a difficulty of care supplemental monthly rate of level D under
63.13 subdivision 4.

63.14 (d) The emergency foster care rate ends under any of three conditions:

63.15 (1) when an assessment under section 256N.24 is completed;

63.16 (2) when the placement ends; or

63.17 (3) after 30 days have elapsed.

63.18 (e) The financially responsible agency, in consultation with the legally responsible
63.19 agency, if different, may replace the emergency foster care rate at any time by completing
63.20 an initial assessment on which a revised difficulty of care supplemental monthly rate
63.21 would be based. Consistent with section 256N.24, subdivision 9, the caregiver may
63.22 request a reassessment in writing for an initial assessment to replace the emergency foster
63.23 care rate. This written request would initiate an initial assessment under section 256N.24,
63.24 subdivision 5. If the revised difficulty of care supplemental level based on the initial
63.25 assessment is higher than Level D, then the revised higher rate shall apply retroactively to
63.26 the beginning of the placement. If the revised level is lower, the lower rate shall apply on
63.27 the date the initial assessment was completed.

63.28 (f) If a child remains in foster care placement for more than 30 days, the emergency
63.29 foster care rate ends after the 30th day of placement and an assessment under section
63.30 256N.26 must be completed.

63.31 Subd. 7. **Special at-risk monthly payment for at-risk children in guardianship**
63.32 **assistance and adoption assistance.** A child eligible for guardianship assistance under
63.33 section 256N.22 or adoption assistance under section 256N.23 who is determined to be
63.34 an at-risk child shall receive a special at-risk monthly payment of \$1 per month basic,
63.35 unless and until the potential disability manifests itself and the agreement is renegotiated
63.36 to include reimbursement. Such an at-risk child shall receive neither a supplemental

64.1 difficulty of care monthly rate under subdivision 4 nor home and vehicle modifications
64.2 under subdivision 10, but must be considered for medical assistance under subdivision 2.

64.3 Subd. 8. **Daily rates.** (a) The commissioner shall establish prorated daily rates to
64.4 the nearest cent for the monthly rates under subdivisions 3 to 7. Daily rates must be
64.5 routinely used when a partial month is involved for foster care, guardianship assistance, or
64.6 adoption assistance.

64.7 (b) A full month payment is permitted if a foster child is temporarily absent from
64.8 the foster home if the brief absence does not exceed 14 days and the child's placement
64.9 continues with the same caregiver.

64.10 Subd. 9. **Revision.** By April 1, 2016, for fiscal year 2017, and by each succeeding
64.11 April 1 for the subsequent fiscal year, the commissioner shall review and revise the rates
64.12 under subdivisions 3 to 7 based on the United States Department of Agriculture, Estimates
64.13 of the Cost of Raising a Child, published by the United States Department of Agriculture,
64.14 Agricultural Resources Service, Publication 1411. The revision shall be the average
64.15 percentage by which costs increase for the age ranges represented in the United States
64.16 Department of Agriculture, Estimates of the Cost of Raising a Child, except that in no
64.17 instance must the increase be more than three percent per annum. The monthly rates must
64.18 be revised to the nearest dollar and the daily rates to the nearest cent.

64.19 Subd. 10. **Home and vehicle modifications.** (a) Except for a child assigned level A
64.20 under section 256N.24, subdivision 1, paragraph (b), clause (1), a child who is eligible
64.21 for an adoption assistance agreement may have reimbursement of home and vehicle
64.22 modifications necessary to accommodate the child's special needs upon which eligibility
64.23 for adoption assistance was based and included as part of the negotiation of the agreement
64.24 under section 256N.25, subdivision 2. Reimbursement of home and vehicle modifications
64.25 must not be available for a child who is assessed at level A under subdivision 1, unless
64.26 and until the potential disability manifests itself and the agreement is renegotiated to
64.27 include reimbursement.

64.28 (b) Application for and reimbursement of modifications must be completed
64.29 according to a process specified by the commissioner. The type and cost of each
64.30 modification must be preapproved by the commissioner. The type of home and vehicle
64.31 modifications must be limited to those specified by the commissioner.

64.32 (c) Reimbursement for home modifications as outlined in this subdivision is limited
64.33 to once every five years per child. Reimbursement for vehicle modifications as outlined in
64.34 this subdivision is limited to once every five years per family.

64.35 Subd. 11. **Child income or income attributable to the child.** (a) A monthly
64.36 guardianship assistance or adoption assistance payment must be considered as income

65.1 and resource attributable to the child. Guardianship assistance and adoption assistance
65.2 are exempt from garnishment, except as permissible under the laws of the state where the
65.3 child resides.

65.4 (b) When a child is placed into foster care, any income and resources attributable
65.5 to the child are treated as provided in sections 252.27 and 260C.331, or 260B.331, as
65.6 applicable to the child being placed.

65.7 (c) Consideration of income and resources attributable to the child must be part of
65.8 the negotiation process outlined in section 256N.25, subdivision 2. In some circumstances,
65.9 the receipt of other income on behalf of the child may impact the amount of the monthly
65.10 payment received by the relative custodian or adoptive parent on behalf of the child
65.11 through Northstar Care for Children. Supplemental Security Income (SSI), retirement
65.12 survivor's disability insurance (RSDI), veteran's benefits, railroad retirement benefits, and
65.13 black lung benefits are considered income and resources attributable to the child.

65.14 Subd. 12. **Treatment of Supplemental Security Income.** If a child placed in foster
65.15 care receives benefits through Supplemental Security Income (SSI) at the time of foster
65.16 care placement or subsequent to placement in foster care, the financially responsible
65.17 agency may apply to be the payee for the child for the duration of the child's placement in
65.18 foster care. If a child continues to be eligible for SSI after finalization of the adoption or
65.19 transfer of permanent legal and physical custody and is determined to be eligible for a
65.20 payment under Northstar Care for Children, a permanent caregiver may choose to receive
65.21 payment from both programs simultaneously. The permanent caregiver is responsible
65.22 to report the amount of the payment to the Social Security Administration and the SSI
65.23 payment will be reduced as required by Social Security.

65.24 Subd. 13. **Treatment of retirement survivor's disability insurance, veteran's**
65.25 **benefits, railroad retirement benefits, and black lung benefits.** (a) If a child placed
65.26 in foster care receives retirement survivor's disability insurance, veteran's benefits,
65.27 railroad retirement benefits, or black lung benefits at the time of foster care placement or
65.28 subsequent to placement in foster care, the financially responsible agency may apply to
65.29 be the payee for the child for the duration of the child's placement in foster care. If it is
65.30 anticipated that a child will be eligible to receive retirement survivor's disability insurance,
65.31 veteran's benefits, railroad retirement benefits, or black lung benefits after finalization
65.32 of the adoption or assignment of permanent legal and physical custody, the permanent
65.33 caregiver shall apply to be the payee of those benefits on the child's behalf. The monthly
65.34 amount of the other benefits must be considered an offset to the amount of the payment
65.35 the child is determined eligible for under Northstar Care for Children.

66.1 (b) If a child becomes eligible for retirement survivor's disability insurance, veteran's
66.2 benefits, railroad retirement benefits, or black lung benefits, after the initial amount of the
66.3 payment under Northstar Care for Children is finalized, the permanent caregiver shall
66.4 contact the commissioner to redetermine the payment under Northstar Care for Children.
66.5 The monthly amount of the other benefits must be considered an offset to the amount of
66.6 the payment the child is determined eligible for under Northstar Care for Children.

66.7 (c) If a child ceases to be eligible for retirement survivor's disability insurance,
66.8 veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount
66.9 of the payment under Northstar Care for Children is finalized, the permanent caregiver
66.10 shall contact the commissioner to redetermine the payment under Northstar Care for
66.11 Children. The monthly amount of the payment under Northstar Care for Children must be
66.12 the amount the child was determined to be eligible for prior to consideration of any offset.

66.13 (d) If the monthly payment received on behalf of the child under retirement survivor's
66.14 disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits
66.15 changes after the adoption assistance or guardianship assistance agreement is finalized,
66.16 the permanent caregiver shall notify the commissioner as to the new monthly payment
66.17 amount, regardless of the amount of the change in payment. If the monthly payment
66.18 changes by \$75 or more, even if the change occurs incrementally over the duration of
66.19 the term of the adoption assistance or guardianship assistance agreement, the monthly
66.20 payment under Northstar Care for Children must be adjusted without further consent
66.21 to reflect the amount of the increase or decrease in the offset amount. Any subsequent
66.22 change to the payment must be reported and handled in the same manner. A change of
66.23 monthly payments of less than \$75 is not a permissible reason to renegotiate the adoption
66.24 assistance or guardianship assistance agreement under section 256N.25, subdivision 3.
66.25 The commissioner shall review and revise the limit at which the adoption assistance or
66.26 guardian assistance agreement must be renegotiated in accordance with subdivision 9.

66.27 Subd. 14. **Treatment of child support and Minnesota family investment**
66.28 **program.** (a) If a child placed in foster care receives child support, the child support
66.29 payment may be redirected to the financially responsible agency for the duration of the
66.30 child's placement in foster care. In cases where the child qualifies for Northstar Care
66.31 for Children by meeting the adoption assistance eligibility criteria or the guardianship
66.32 assistance eligibility criteria, any court ordered child support must not be considered
66.33 income attributable to the child and must have no impact on the monthly payment.

66.34 (b) Consistent with section 256J.24, a child eligible for Northstar Care for Children
66.35 whose caregiver receives a payment on the child's behalf is excluded from a Minnesota
66.36 family investment program assistance unit.

67.1 Subd. 15. **Payments.** (a) Payments to caregivers under Northstar Care for Children
67.2 must be made monthly. Consistent with section 256N.24, subdivision 12, the financially
67.3 responsible agency must send the caregiver the required written notice within 15 days of
67.4 a completed assessment or reassessment.

67.5 (b) Unless paragraph (c) or (d) applies, the financially responsible agency shall pay
67.6 foster parents directly for eligible children in foster care.

67.7 (c) When the legally responsible agency is different than the financially responsible
67.8 agency, the legally responsible agency may make the payments to the caregiver, provided
67.9 payments are made on a timely basis. The financially responsible agency must pay
67.10 the legally responsible agency on a timely basis. Caregivers must have access to the
67.11 financially and legally responsible agencies' records of the transaction, consistent with
67.12 the retention schedule for the payments.

67.13 (d) For eligible children in foster care, the financially responsible agency may pay
67.14 the foster parent's payment for a licensed child-placing agency instead of paying the foster
67.15 parents directly. The licensed child-placing agency must timely pay the foster parents
67.16 and maintain records of the transaction. Caregivers must have access to the financially
67.17 responsible agency's records on the transaction and the child-placing agency's records of
67.18 the transaction, consistent with the retention schedule for the payments.

67.19 Subd. 16. **Effect of benefit on other aid.** Payments received under this section
67.20 must not be considered as income for child care assistance under chapter 119B or any
67.21 other financial benefit. Consistent with section 256J.24, a child receiving a maintenance
67.22 payment under Northstar Care for Children is excluded from any Minnesota family
67.23 investment program assistance unit.

67.24 Subd. 17. **Home and community-based services waiver for persons with**
67.25 **disabilities.** A child in foster care may qualify for home and community-based waived
67.26 services, consistent with section 256B.092 for developmental disabilities, or section
67.27 256B.49 for community alternative care, community alternatives for disabled individuals,
67.28 or traumatic brain injury waivers. A waiver service must not be substituted for the foster
67.29 care program. When the child is simultaneously eligible for waived services and for
67.30 benefits under Northstar Care for Children, the financially responsible agency must
67.31 assess and provide basic and supplemental difficulty of care rates as determined by the
67.32 assessment according to section 256N.24. If it is determined that additional services are
67.33 needed to meet the child's needs in the home that is not or cannot be met by the foster care
67.34 program, the need would be referred to the local waived service program.

67.35 Subd. 18. **Overpayments.** The commissioner has the authority to collect any
67.36 amount of foster care payment, adoption assistance, or guardianship assistance paid

68.1 to a caregiver in excess of the payment due. Payments covered by this subdivision
68.2 include basic maintenance needs payments, supplemental difficulty of care payments, and
68.3 reimbursement of home and vehicle modifications under subdivision 10. Prior to any
68.4 collection, the commissioner or designee shall notify the caregiver in writing, including:

68.5 (1) the amount of the overpayment and an explanation of the cause of overpayment;

68.6 (2) clarification of the corrected amount;

68.7 (3) a statement of the legal authority for the decision;

68.8 (4) information about how the caregiver can correct the overpayment;

68.9 (5) if repayment is required, when the payment is due and a person to contact to

68.10 review a repayment plan;

68.11 (6) a statement that the caregiver has a right to a fair hearing review by the

68.12 department; and

68.13 (7) the procedure for seeking a fair hearing review by the department.

68.14 Subd. 19. **Payee.** For adoption assistance and guardianship assistance cases, the
68.15 payment must only be made to the adoptive parent or relative custodian specified on the
68.16 agreement. If there is more than one adoptive parent or relative custodian, both parties will
68.17 be listed as the payee unless otherwise specified in writing according to policies outlined
68.18 by the commissioner. In the event of divorce or separation of the caregivers, a change of
68.19 payee must be made in writing according to policies outlined by the commissioner. If both
68.20 caregivers are in agreement as to the change, it may be made according to a process outlined
68.21 by the commissioner. If there is not agreement as to the change, a court order indicating
68.22 the party who is to receive the payment is needed before a change can be processed. If the
68.23 change of payee is disputed, the commissioner may withhold the payment until agreement
68.24 is reached. A noncustodial caregiver may request notice in writing of review, modification,
68.25 or termination of the adoption assistance or guardianship assistance agreement. In the
68.26 event of the death of a payee, a change of payee consistent with sections 256N.22 and
68.27 256N.23 may be made in writing according to policies outlined by the commissioner.

68.28 Subd. 20. **Notification of change.** (a) A caregiver who has an adoption assistance
68.29 agreement or guardianship assistance agreement in place shall keep the agency
68.30 administering the program informed of changes in status or circumstances which would
68.31 make the child ineligible for the payments or eligible for payments in a different amount.

68.32 (b) For the duration of the agreement, the caregiver agrees to notify the agency
68.33 administering the program in writing within 30 days of any of the following:

68.34 (1) a change in the child's or caregiver's legal name;

68.35 (2) a change in the family's address;

68.36 (3) a change in the child's legal custody status;

- 69.1 (4) the child's completion of high school, if this occurs after the child attains age 18;
 69.2 (5) the end of the caregiver's legal responsibility to support the child based on
 69.3 termination of parental rights of the caregiver, transfer of guardianship to another person,
 69.4 or transfer of permanent legal and physical custody to another person;
 69.5 (6) the end of the caregiver's financial support of the child;
 69.6 (7) the death of the child;
 69.7 (8) the death of the caregiver;
 69.8 (9) the child enlists in the military;
 69.9 (10) the child gets married;
 69.10 (11) the child becomes an emancipated minor through legal action;
 69.11 (12) the caregiver separates or divorces; and
 69.12 (13) the child is residing outside the caregiver's home for a period of more than
 69.13 30 consecutive days.

69.14 Subd. 21. **Correct and true information.** The caregiver must be investigated for
 69.15 fraud if the caregiver reports information the caregiver knows is untrue, the caregiver
 69.16 fails to notify the commissioner of changes that may affect eligibility, or the agency
 69.17 administering the program receives relevant information that the caregiver did not report.

69.18 Subd. 22. **Termination notice for caregiver.** The agency that issues the
 69.19 maintenance payment shall provide the child's caregiver with written notice of termination
 69.20 of payment. Termination notices must be sent at least 15 days before the final payment or
 69.21 in the case of an unplanned termination, the notice is sent within three days of the end of
 69.22 the payment. The written notice must minimally include the following:

- 69.23 (1) the date payment will end;
 69.24 (2) the reason payments will end and the event that is the basis to terminate payment;
 69.25 (3) a statement that the provider has a right to a fair hearing review by the department
 69.26 consistent with section 256.045, subdivision 3;
 69.27 (4) the procedure to request a fair hearing; and
 69.28 (5) name, telephone number, and email address of a contact person at the agency.

69.29 **Sec. 43. [256N.27] FEDERAL, STATE, AND LOCAL SHARES.**

69.30 Subdivision 1. **Federal share.** For the purposes of determining a child's eligibility
 69.31 under title IV-E of the Social Security Act for a child in foster care, the financially
 69.32 responsible agency shall use the eligibility requirements outlined in section 472 of the
 69.33 Social Security Act. For a child who qualifies for guardianship assistance or adoption
 69.34 assistance, the financially responsible agency and the commissioner shall use the
 69.35 eligibility requirements outlined in section 473 of the Social Security Act. In each case,

70.1 the agency paying the maintenance payments must be reimbursed for the costs from the
70.2 federal money available for this purpose.

70.3 Subd. 2. **State share.** The commissioner shall pay the state share of the maintenance
70.4 payments as determined under subdivision 4, and an identical share of the pre-Northstar
70.5 Care foster care program under section 260C.4411, subdivision 1, the relative custody
70.6 assistance program under section 257.85, and the pre-Northstar Care for Children adoption
70.7 assistance program under chapter 259A. The commissioner may transfer funds into the
70.8 account if a deficit occurs.

70.9 Subd. 3. **Local share.** (a) The financially responsible agency at the time of
70.10 placement for foster care or finalization of the agreement for guardianship assistance or
70.11 adoption assistance shall pay the local share of the maintenance payments as determined
70.12 under subdivision 4, and an identical share of the pre-Northstar Care for Children foster
70.13 care program under section 260C.4411, subdivision 1, the relative custody assistance
70.14 program under section 257.85, and the pre-Northstar Care for Children adoption assistance
70.15 program under chapter 259A.

70.16 (b) The financially responsible agency shall pay the entire cost of any initial clothing
70.17 allowance, administrative payments to child caring agencies specified in section 317A.907,
70.18 or other support services it authorizes, except as provided under other provisions of law.

70.19 (c) In cases of federally required adoption assistance where there is no financially
70.20 responsible agency as provided in section 256N.24, subdivision 5, the commissioner
70.21 shall pay the local share.

70.22 (d) When an Indian child being placed in Minnesota meets title IV-E eligibility
70.23 defined in section 473(d) of the Social Security Act and is receiving guardianship
70.24 assistance or adoption assistance, the agency or entity assuming responsibility for the
70.25 child is responsible for the nonfederal share of the payment.

70.26 Subd. 4. **Nonfederal share.** (a) The commissioner shall establish a percentage share
70.27 of the maintenance payments, reduced by federal reimbursements under title IV-E of the
70.28 Social Security Act, to be paid by the state and to be paid by the financially responsible
70.29 agency.

70.30 (b) These state and local shares must initially be calculated based on the ratio of the
70.31 average appropriate expenditures made by the state and all financially responsible agencies
70.32 during calendar years 2011, 2012, 2013, and 2014. For purposes of this calculation,
70.33 appropriate expenditures for the financially responsible agencies must include basic and
70.34 difficulty of care payments for foster care reduced by federal reimbursements, but not
70.35 including any initial clothing allowance, administrative payments to child care agencies
70.36 specified in section 317A.907, child care, or other support or ancillary expenditures. For

71.1 purposes of this calculation, appropriate expenditures for the state shall include adoption
71.2 assistance and relative custody assistance, reduced by federal reimbursements.

71.3 (c) For each of the periods January 1, 2015, to June 30, 2016, fiscal years 2017, 2018,
71.4 and 2019, the commissioner shall adjust this initial percentage of state and local shares to
71.5 reflect the relative expenditure trends during calendar years 2011, 2012, 2013, and 2014,
71.6 taking into account appropriations for Northstar Care for Children and the turnover rates
71.7 of the components. In making these adjustments, the commissioner's goal shall be to make
71.8 these state and local expenditures other than the appropriations for Northstar Care to be
71.9 the same as they would have been had Northstar Care not been implemented, or if that
71.10 is not possible, proportionally higher or lower, as appropriate. The state and local share
71.11 percentages for fiscal year 2019 must be used for all subsequent years.

71.12 Subd. 5. **Adjustments for proportionate shares among financially responsible**
71.13 **agencies.** (a) The commissioner shall adjust the expenditures under subdivision 4 by each
71.14 financially responsible agency so that its relative share is proportional to its foster care
71.15 expenditures, with the goal of making the local share similar to what the county or tribe
71.16 would have spent had Northstar Care for Children not been enacted.

71.17 (b) For the period January 1, 2015, to June 30, 2016, the relative shares must be as
71.18 determined under subdivision 4 for calendar years 2011, 2012, 2013, and 2014 compared
71.19 with similar costs of all financially responsible agencies.

71.20 (c) For subsequent fiscal years, the commissioner shall update the relative shares
71.21 based on actual utilization of Northstar Care for Children by the financially responsible
71.22 agencies during the previous period, so that those using relatively more than they did
71.23 historically are adjusted upward and those using less are adjusted downward.

71.24 (d) The commissioner must ensure that the adjustments are not unduly influenced by
71.25 onetime events, anomalies, small changes that appear large compared to a narrow historic
71.26 base, or fluctuations that are the results of the transfer of responsibilities to tribal social
71.27 service agencies authorized in section 256.01, subdivision 14b, as part of the American
71.28 Indian Child Welfare Initiative.

71.29 Sec. 44. **[256N.28] ADMINISTRATION AND APPEALS.**

71.30 Subdivision 1. **Responsibilities.** (a) The financially responsible agency shall
71.31 determine the eligibility for Northstar Care for Children for children in foster care under
71.32 section 256N.21, and for those children determined eligible, shall further determine each
71.33 child's eligibility for title IV-E of the Social Security Act, provided the agency has such
71.34 authority under the state title IV-E plan.

72.1 (b) Subject to commissioner review and approval, the financially responsible agency
72.2 shall prepare the eligibility determination for Northstar Care for Children for children in
72.3 guardianship assistance under section 256N.22 and children in adoption assistance under
72.4 section 256N.23. The AFDC relatedness determination, when necessary to determine a
72.5 child's eligibility for title IV-E funding, shall be made only by an authorized agency
72.6 according to policies and procedures prescribed by the commissioner.

72.7 (c) The financially responsible agency is responsible for the administration of
72.8 Northstar Care for Children for children in foster care. The agency designated by the
72.9 commissioner is responsible for assisting the commissioner with the administration of
72.10 the Northstar Care for Children for children in guardianship assistance and adoption
72.11 assistance by conducting assessments, reassessments, negotiations, and other activities as
72.12 specified by the commissioner under subdivision 2.

72.13 Subd. 2. **Procedures, requirements, and deadlines.** The commissioner shall
72.14 specify procedures, requirements, and deadlines for the administration of Northstar Care
72.15 for Children in accordance with sections 256N.001 to 256N.28, including for children
72.16 transitioning into Northstar Care for Children under subdivision 7. The commissioner
72.17 shall periodically review all procedures, requirements, and deadlines, including the
72.18 assessment tool and process under section 256N.24, in consultation with counties, tribes,
72.19 and representatives of caregivers, and may alter them as needed.

72.20 Subd. 3. **Administration of title IV-E programs.** The title IV-E foster care,
72.21 guardianship assistance, and adoption assistance programs must operate within the
72.22 statutes, rules, and policies set forth by the federal government in the Social Security Act.

72.23 Subd. 4. **Reporting.** The commissioner shall specify required fiscal and statistical
72.24 reports under section 256.01, subdivision 2, paragraph (q), and other reports as necessary.

72.25 Subd. 5. **Promotion of programs.** Families who adopt a child under the
72.26 commissioner's guardianship must be informed as to the adoption tax credit. The
72.27 commissioner shall actively seek ways to promote the guardianship assistance and
72.28 adoption assistance programs, including informing prospective caregivers of eligible
72.29 children of the availability of guardianship assistance and adoption assistance.

72.30 Subd. 6. **Appeals and fair hearings.** (a) A caregiver has the right to appeal to the
72.31 commissioner under section 256.045 when eligibility for Northstar Care for Children is
72.32 denied, and when payment or the agreement for an eligible child is modified or terminated.

72.33 (b) A relative custodian or adoptive parent has additional rights to appeal to the
72.34 commissioner pursuant to section 256.045. These rights include when the commissioner
72.35 terminates or modifies the guardianship assistance or adoption assistance agreement or
72.36 when the commissioner denies an application for guardianship assistance or adoption

73.1 assistance. A prospective relative custodian or adoptive parent who disagrees with a
 73.2 decision by the commissioner before transfer of permanent legal and physical custody or
 73.3 finalization of the adoption may request review of the decision by the commissioner or
 73.4 may appeal the decision under section 256.045. A guardianship assistance or adoption
 73.5 assistance agreement must be signed and in effect before the court order that transfers
 73.6 permanent legal and physical custody or the adoption finalization; however in some cases,
 73.7 there may be extenuating circumstances as to why an agreement was not entered into
 73.8 before finalization of permanency for the child. Caregivers who believe that extenuating
 73.9 circumstances exist in the case of their child may request a fair hearing. Caregivers have the
 73.10 responsibility of proving that extenuating circumstances exist. Caregivers must be required
 73.11 to provide written documentation of each eligibility criterion at the fair hearing. Examples
 73.12 of extenuating circumstances include: relevant facts regarding the child were known by
 73.13 the placing agency and not presented to the caregivers before transfer of permanent legal
 73.14 and physical custody or finalization of the adoption, or failure by the commissioner or a
 73.15 designee to advise potential caregivers about the availability of guardianship assistance or
 73.16 adoption assistance for children in the state foster care system. If an appeals judge finds
 73.17 through the fair hearing process that extenuating circumstances existed and that the child
 73.18 met all eligibility criteria at the time the transfer of permanent legal and physical custody
 73.19 was ordered or the adoption was finalized, the effective date and any associated federal
 73.20 financial participation shall be retroactive from the date of the request for a fair hearing.

73.21 Subd. 7. **Transitions from pre-Northstar Care for Children programs.** (a) A child
 73.22 in foster care who remains with the same caregiver shall continue to receive benefits under
 73.23 the pre-Northstar Care for Children foster care program under section 256.82. Transitions
 73.24 to Northstar Care for Children must occur as provided in section 256N.21, subdivision 6.

73.25 (b) The commissioner may seek to transition into Northstar Care for Children a child
 73.26 who is in pre-Northstar Care for Children relative custody assistance under section 257.85
 73.27 or pre-Northstar Care for Children adoption assistance under chapter 259A, in accordance
 73.28 with these priorities, in order of priority:

73.29 (1) financial and budgetary constraints;

73.30 (2) complying with federal regulations;

73.31 (3) converting pre-Northstar Care for Children relative custody assistance under
 73.32 section 257.85 to the guardianship assistance component of Northstar Care for Children;

73.33 (4) improving permanency for a child or children;

73.34 (5) maintaining permanency for a child or children;

73.35 (6) accessing additional federal funds; and

73.36 (7) administrative simplification.

74.1 (c) Transitions shall be accomplished according to procedures, deadlines, and
74.2 requirements specified by the commissioner under subdivision 2.

74.3 (d) The commissioner may accomplish a transition of a child from pre-Northstar
74.4 Care for Children relative custody assistance under section 257.85 to the guardianship
74.5 assistance component of Northstar Care for Children by declaration and appropriate notice
74.6 to the caregiver, provided that the benefit for a child under this paragraph is not reduced.

74.7 (e) The commissioner may offer a transition of a child from pre-Northstar Care for
74.8 Children adoption assistance under chapter 259A to the adoption assistance component
74.9 of Northstar Care for Children by contacting the caregiver with an offer. The transition
74.10 must be accomplished only when the caregiver agrees to the offer. The caregiver shall
74.11 have a maximum of 90 days to review and accept the commissioner's offer. If the
74.12 commissioner's offer is not accepted within 90 days, the pre-Northstar Care for Children
74.13 adoption assistance agreement remains in effect until it terminates or a subsequent offer is
74.14 made by the commissioner.

74.15 (f) For a child transitioning into Northstar Care for Children, the commissioner shall
74.16 assign an equivalent assessment level based on the most recently completed supplemental
74.17 difficulty of care level assessment, unless the commissioner determines that arranging
74.18 for a new assessment under section 256N.24 would be more appropriate based on the
74.19 priorities specified in paragraph (b).

74.20 (g) For a child transitioning into Northstar Care for Children, regardless of the age
74.21 of the child, the commissioner shall use the rates under section 256N.26, subdivision 5,
74.22 unless the rates under section 256N.26, subdivisions 3 and 4, are more appropriate based
74.23 on the priorities specified in paragraph (b), as determined by the commissioner.

74.24 Subd. 8. **Purchase of child-specific adoption services.** The commissioner may
74.25 reimburse the placing agency for appropriate adoption services for children eligible
74.26 under section 259A.75.

74.27 Sec. 45. Minnesota Statutes 2012, section 257.85, subdivision 2, is amended to read:

74.28 Subd. 2. **Scope.** The provisions of this section apply to those situations in which
74.29 the legal and physical custody of a child is established with a relative or important friend
74.30 with whom the child has resided or had significant contact according to section 260C.515,
74.31 subdivision 4, by a district court order issued on or after July 1, 1997, but on or before
74.32 November 26, 2014, or a tribal court order issued on or after July 1, 2005, but on or
74.33 before November 26, 2014, when the child has been removed from the care of the parent
74.34 by previous district or tribal court order.

75.1 Sec. 46. Minnesota Statutes 2012, section 257.85, subdivision 5, is amended to read:

75.2 Subd. 5. **Relative custody assistance agreement.** (a) A relative custody assistance
75.3 agreement will not be effective, unless it is signed by the local agency and the relative
75.4 custodian no later than 30 days after the date of the order establishing permanent legal and
75.5 physical custody, and on or before November 26, 2014, except that a local agency may
75.6 enter into a relative custody assistance agreement with a relative custodian more than 30
75.7 days after the date of the order if it certifies that the delay in entering the agreement was
75.8 through no fault of the relative custodian and the agreement is signed and in effect on or
75.9 before November 26, 2014. There must be a separate agreement for each child for whom
75.10 the relative custodian is receiving relative custody assistance.

75.11 (b) Regardless of when the relative custody assistance agreement is signed by the
75.12 local agency and relative custodian, the effective date of the agreement shall be the date of
75.13 the order establishing permanent legal and physical custody.

75.14 (c) If MFIP is not the applicable program for a child at the time that a relative
75.15 custody assistance agreement is entered on behalf of the child, when MFIP becomes
75.16 the applicable program, if the relative custodian had been receiving custody assistance
75.17 payments calculated based upon a different program, the amount of relative custody
75.18 assistance payment under subdivision 7 shall be recalculated under the Minnesota family
75.19 investment program.

75.20 (d) The relative custody assistance agreement shall be in a form specified by the
75.21 commissioner and shall include provisions relating to the following:

75.22 (1) the responsibilities of all parties to the agreement;

75.23 (2) the payment terms, including the financial circumstances of the relative
75.24 custodian, the needs of the child, the amount and calculation of the relative custody
75.25 assistance payments, and that the amount of the payments shall be reevaluated annually;

75.26 (3) the effective date of the agreement, which shall also be the anniversary date for
75.27 the purpose of submitting the annual affidavit under subdivision 8;

75.28 (4) that failure to submit the affidavit as required by subdivision 8 will be grounds
75.29 for terminating the agreement;

75.30 (5) the agreement's expected duration, which shall not extend beyond the child's
75.31 eighteenth birthday;

75.32 (6) any specific known circumstances that could cause the agreement or payments
75.33 to be modified, reduced, or terminated and the relative custodian's appeal rights under
75.34 subdivision 9;

75.35 (7) that the relative custodian must notify the local agency within 30 days of any of
75.36 the following:

- 76.1 (i) a change in the child's status;
- 76.2 (ii) a change in the relationship between the relative custodian and the child;
- 76.3 (iii) a change in composition or level of income of the relative custodian's family;
- 76.4 (iv) a change in eligibility or receipt of benefits under MFIP, or other assistance
- 76.5 program; and
- 76.6 (v) any other change that could affect eligibility for or amount of relative custody
- 76.7 assistance;
- 76.8 (8) that failure to provide notice of a change as required by clause (7) will be
- 76.9 grounds for terminating the agreement;
- 76.10 (9) that the amount of relative custody assistance is subject to the availability of state
- 76.11 funds to reimburse the local agency making the payments;
- 76.12 (10) that the relative custodian may choose to temporarily stop receiving payments
- 76.13 under the agreement at any time by providing 30 days' notice to the local agency and may
- 76.14 choose to begin receiving payments again by providing the same notice but any payments
- 76.15 the relative custodian chooses not to receive are forfeit; and
- 76.16 (11) that the local agency will continue to be responsible for making relative custody
- 76.17 assistance payments under the agreement regardless of the relative custodian's place of
- 76.18 residence.

76.19 Sec. 47. Minnesota Statutes 2012, section 257.85, subdivision 6, is amended to read:

76.20 Subd. 6. **Eligibility criteria.** (a) A local agency shall enter into a relative custody

76.21 assistance agreement under subdivision 5 if it certifies that the following criteria are met:

76.22 (1) the juvenile court has determined or is expected to determine that the child,

76.23 under the former or current custody of the local agency, cannot return to the home of

76.24 the child's parents;

76.25 (2) the court, upon determining that it is in the child's best interests, has issued

76.26 or is expected to issue an order transferring permanent legal and physical custody of

76.27 the child; and

76.28 (3) the child either:

76.29 (i) is a member of a sibling group to be placed together; or

76.30 (ii) has a physical, mental, emotional, or behavioral disability that will require

76.31 financial support.

76.32 When the local agency bases its certification that the criteria in clause (1) or (2) are

76.33 met upon the expectation that the juvenile court will take a certain action, the relative

76.34 custody assistance agreement does not become effective until and unless the court acts as

76.35 expected.

77.1 (b) After November 26, 2014, new relative custody assistance agreements must not
 77.2 be executed. Agreements that were signed by all parties on or before November 26, 2014,
 77.3 and were not in effect because the proposed transfer of permanent legal and physical
 77.4 custody of the child did not occur on or before November 26, 2014, must be renegotiated
 77.5 under the terms of Northstar Care for Children in chapter 256N.

77.6 Sec. 48. **[259A.12] NO NEW EXECUTION OF ADOPTION ASSISTANCE**
 77.7 **AGREEMENTS.**

77.8 After November 26, 2014, new adoption assistance agreements must not be executed
 77.9 under this section. Agreements that were signed on or before November 26, 2014, and
 77.10 were not in effect because the adoption finalization of the child did not occur on or before
 77.11 November 26, 2014, must be renegotiated according to the terms of Northstar Care for
 77.12 Children under chapter 256N. Agreements signed and in effect on or before November 26,
 77.13 2014, must continue according to the terms of this section and applicable rules for the
 77.14 duration of the agreement, unless the commissioner and the adoptive parents choose to
 77.15 renegotiated the agreements under Northstar Care for Children consistent with section
 77.16 256N.28, subdivision 7. After November 26, 2014, this section and associated rules must
 77.17 be referred to as the pre-Northstar Care for Children adoption assistance program and
 77.18 shall apply to children whose adoption assistance agreements were in effect on or before
 77.19 November 26, 2014, and whose adoptive parents have not renegotiated their agreements
 77.20 according to the terms of Northstar Care for Children.

77.21 Sec. 49. **[260C.4411] PRE-NORTHSTAR CARE FOR CHILDREN FOSTER**
 77.22 **CARE PROGRAM.**

77.23 Subdivision 1. **Pre-Northstar Care for Children foster care program.** (a) For a
 77.24 child placed in family foster care on or before December 31, 2014, the county of financial
 77.25 responsibility under section 256G.02 or tribal agency authorized under section 256.01,
 77.26 subdivision 14b, shall pay the local share under section 256N.27, subdivision 3, for foster
 77.27 care maintenance including any difficulty of care as defined in Minnesota Rules, part
 77.28 9560.0521, subparts 7 and 10. Family foster care includes:

77.29 (1) emergency relative placement under section 245A.035;

77.30 (2) licensed foster family settings, foster residence settings, or treatment foster care
 77.31 settings, licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, served by a public
 77.32 or private child care agency authorized by Minnesota Rules, parts 9545.0755 to 9545.0845;

77.33 (3) family foster care homes approved by a tribal agency; and

77.34 (4) unlicensed supervised settings for foster youth ages 18 to 21.

78.1 (b) The county of financial responsibility under section 256G.02 or tribal social
78.2 services agency authorized in section 256.01, subdivision 14b, shall pay the entire cost of
78.3 any initial clothing allowance, administrative payments to child care agencies specified
78.4 in section 317A.907, or any other support services it authorizes, except as otherwise
78.5 provided by law.

78.6 (c) The rates for the pre-Northstar Care for Children foster care program remain
78.7 those in effect on January 1, 2013, continuing the preexisting rate structure for foster
78.8 children who remain with the same caregivers and do not transition into Northstar Care for
78.9 Children under section 256N.21, subdivision 6.

78.10 (d) Difficulty of care payments must be maintained consistent with Minnesota Rules,
78.11 parts 9560.0652 and 9560.0653, using the established reassessment tool in part 9560.0654.
78.12 The preexisting rate structure for the pre-Northstar Care for Children foster care program
78.13 must be maintained, provided that when the number of foster children in the program is
78.14 less than ten percent of the population in 2012, the commissioner may apply the same
78.15 assessment tool to both the pre-Northstar Care for Children foster care program and
78.16 Northstar Care for Children under the authority granted in section 256N.24, subdivision 2.

78.17 (e) The county of financial responsibility under section 256G.02 or tribal agency
78.18 authorized under section 256.01, subdivision 14b, shall document the determined
78.19 pre-Northstar Care for Children foster care rate in the case record, including a description
78.20 of each condition on which the difficulty of care assessment is based. The difficulty
78.21 of care rate is reassessed:

78.22 (1) every 12 months;

78.23 (2) at the request of the foster parent; or

78.24 (3) if the child's level of need changes in the current foster home.

78.25 (f) The pre-Northstar Care for Children foster care program must maintain the
78.26 following existing program features:

78.27 (1) monthly payments must be made to the family foster home provider;

78.28 (2) notice and appeal procedures must be consistent with Minnesota Rules, part
78.29 9560.0665; and

78.30 (3) medical assistance eligibility for foster children must continue to be determined
78.31 according to section 256B.055.

78.32 (g) The county of financial responsibility under section 256G.02 or tribal agency
78.33 authorized under section 256.01, subdivision 14b, may continue existing program features,
78.34 including:

78.35 (1) establishing a local fund of county money through which the agency may
78.36 reimburse foster parents for the cost of repairing damage done to the home and contents by

79.1 the foster child and the additional care insurance premium cost of a child who possesses a
 79.2 permit or license to drive a car; and

79.3 (2) paying a fee for specific services provided by the foster parent, based on the
 79.4 parent's skills, experience, or training. This fee must not be considered foster care
 79.5 maintenance.

79.6 (h) The following events end the child's enrollment in the pre-Northstar Care for
 79.7 Children foster care program:

79.8 (1) reunification with parent or other relative;

79.9 (2) adoption or transfer of permanent legal and physical custody;

79.10 (3) removal from the current foster home to a different foster home;

79.11 (4) another event that ends the current placement episode; or

79.12 (5) attaining the age of 21.

79.13 Subd. 2. **Consideration of other programs.** (a) When a child in foster care
 79.14 is eligible to receive a grant of Retirement Survivors Disability Insurance (RSDI)
 79.15 or Supplemental Security Income for the aged, blind, and disabled, or a foster care
 79.16 maintenance payment under title IV-E of the Social Security Act, United States Code, title
 79.17 42, sections 670 to 676, the child's needs must be met through these programs. Every
 79.18 effort must be made to establish a child's eligibility for a title IV-E grant to reimburse the
 79.19 county or tribe from the federal funds available for this purpose.

79.20 (b) When a child in foster care qualifies for home and community-based waived
 79.21 services under section 256B.49 for community alternative care (CAC), community
 79.22 alternatives for disabled individuals (CADI), or traumatic brain injury (TBI) waivers,
 79.23 this service does not substitute for the child foster care program. When a foster child is
 79.24 receiving waived services benefits, the county of financial responsibility under section
 79.25 256G.02 or tribal agency authorized under section 256.01, subdivision 14b, assesses and
 79.26 provides foster care maintenance including difficulty of care using the established tool in
 79.27 Minnesota Rules, part 9560.0654. If it is determined that additional services are needed to
 79.28 meet the child's needs in the home that are not or cannot be met by the foster care program,
 79.29 the needs must be referred to the waived service program.

79.30 **Sec. 50. [260C.4412] PAYMENT FOR RESIDENTIAL PLACEMENTS.**

79.31 When a child is placed in a foster care group residential setting under Minnesota
 79.32 Rules, parts 2960.0020 to 2960.0710, foster care maintenance payments must be made on
 79.33 behalf of the child to cover the cost of providing food, clothing, shelter, daily supervision,
 79.34 school supplies, child's personal incidentals and supports, reasonable travel for visitation,
 79.35 or other transportation needs associated with the items listed. Daily supervision in the

80.1 group residential setting includes routine day-to-day direction and arrangements to
 80.2 ensure the well-being and safety of the child. It may also include reasonable costs of
 80.3 administration and operation of the facility.

80.4 **EFFECTIVE DATE.** This section is effective January 1, 2015.

80.5 Sec. 51. **[260C.4413] INITIAL CLOTHING ALLOWANCE.**

80.6 (a) An initial clothing allowance must be available to a child eligible for:

80.7 (1) the pre-Northstar Care for Children foster care program under section 260C.4411,
 80.8 subdivision 1; and

80.9 (2) the Northstar Care for Children benefits under section 256N.21.

80.10 (b) An initial clothing allowance must also be available for a foster child in a group
 80.11 residential setting based on the child's individual needs during the first 60 days of the
 80.12 child's initial placement. The agency must consider the parent's ability to provide for a
 80.13 child's clothing needs and the residential facility contracts.

80.14 (c) The county of financial responsibility under section 256G.02 or tribal agency
 80.15 authorized under section 256.01, subdivision 14b, shall approve an initial clothing
 80.16 allowance consistent with the child's needs. The amount of the initial clothing allowance
 80.17 must not exceed the monthly basic rate for the child's age group under section 256N.26,
 80.18 subdivision 3.

80.19 **EFFECTIVE DATE.** This section is effective January 1, 2015.

80.20 Sec. 52. Minnesota Statutes 2012, section 260C.446, is amended to read:

80.21 **260C.446 DISTRIBUTION OF FUNDS RECOVERED FOR ASSISTANCE**
 80.22 **FURNISHED.**

80.23 When any amount shall be recovered from any source for assistance furnished
 80.24 under the provisions of sections 260C.001 to 260C.421 ~~and 260C.441~~, there shall be paid
 80.25 into the treasury of the state or county in the proportion in which they have respectively
 80.26 contributed toward the total assistance paid.

80.27 **EFFECTIVE DATE.** This section is effective January 1, 2015.

80.28 Sec. 53. **REPEALER.**

80.29 (a) Minnesota Statutes 2012, sections 256.82, subdivision 4; and 260C.441, are
 80.30 repealed effective January 1, 2015.

81.1 (b) Minnesota Statutes 2012, section 256J.24, subdivision 10, is repealed effective
81.2 October 1, 2013, or upon approval from the United States Department of Agriculture,
81.3 whichever is later.

81.4 (c) Minnesota Rules, part 3400.0130, subpart 8, is repealed effective retroactively
81.5 from September 3, 2012.

81.6 (d) Minnesota Rules, parts 9560.0650, subparts 1, 3, and 6; 9560.0651; and
81.7 9560.0655, are repealed effective January 1, 2015.

81.8 (e) Minnesota Rules, part 9502.0355, subpart 4, is repealed.

256.82 PAYMENTS BY STATE.

Subd. 4. **Rules.** The commissioner shall adopt rules to implement subdivision 3. In developing rules, the commissioner shall take into consideration any existing difficulty of care payment rates so that, to the extent possible, no child for whom a difficulty of care rate is currently established will be adversely affected.

256J.24 FAMILY COMPOSITION; ASSISTANCE STANDARDS; EXIT LEVEL.

Subd. 10. **MFIP exit level.** The commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least 115 percent of the federal poverty guidelines at the time of the adjustment. The adjustment to the disregard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented whenever a Supplemental Nutrition Assistance Program adjustment is reflected in the food portion of the MFIP transitional standard as required under subdivision 5a.

260C.441 COST, PAYMENT.

In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Where such child is eligible to receive a grant of Minnesota family investment program or supplemental security income for the aged, blind, and disabled, or a foster care maintenance payment under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs.

3400.0130 CHILD CARE PROVIDER RATES.

Subp. 8. [Repealed, L 2011 1Sp9 art 3 s 35]

9502.0355 CAREGIVER QUALIFICATIONS.

Subp. 4. **Day care insurance coverage.** A provider shall have:

A. a certificate of insurance for the residence for general liability coverage for bodily injury in the amount of at least \$100,000 per person and \$250,000 per occurrence; or

B. if the provider has liability coverage of lesser limits or no liability coverage, the provider shall give a written notice of the level of liability coverage to parents of all children in care prior to admission or when there is a change in the amount of insurance coverage; and

C. the provider shall maintain copies of the notice, signed by the parents to indicate they have read and understood it, in the provider's records on the residence as specified in part 9502.0405.

9560.0650 MAINTENANCE STANDARDS.

Subpart 1. **Payments.** The local agency shall make payments based on the following maintenance standards:

Age	Monthly Maintenance Standard	Initial Clothing
0-11	\$212 (\$244 effective January 1984)	up to \$146 (up to \$168 effective January 1984)
12-14	\$293	up to \$288
15-18	\$320	up to \$348

The initial clothing allowance shall be available based on the child's needs during the first 60 days of the initial placement. The state agency shall annually review and revise the maintenance standard based on "USDA Estimates of the Cost of Raising a Child," issued by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411 (October, 1982).

9560.0650 MAINTENANCE STANDARDS.

Subp. 3. **Agency contract care.** When foster care is provided for a child by a provider licensed under parts 9545.0010 to 9545.0260 through contract with a public or private agency, foster care maintenance payments and difficulty of care payments shall be determined according to the rate schedules in subpart 1 and parts 9560.0653 to 9560.0655. If the local agency is contracting for administrative or social services costs, the payments to the contracting agency shall be in addition to the rates established in subpart 1 and parts 9560.0653 to 9560.0655.

9560.0650 MAINTENANCE STANDARDS.

Subp. 6. **Reassessment.** The agency shall reassess a child:

- A. at the end of 12 months;
- B. at the request of a foster parent;
- C. when a child is placed in a different facility; or
- D. if a child's level of need changes.

9560.0651 DIFFICULTY OF CARE ASSESSMENTS AND PAYMENTS.

Parts 9560.0652 to 9560.0656 provide criteria for assessing the difficulty of care and the payment rate for a child in foster care.

9560.0655 DIFFICULTY OF CARE PAYMENT RATE.

Subpart 1. **Payment rate.** Except as provided by subpart 2, the local agency shall make payments to the foster care provider at the rate of \$3.70 per month for each point assessed under part 9560.0654.

Subp. 2. **Existing placements.** In a placement for which a difficulty of care payment was established and was being made prior to January 1, 1989, and the payment is greater than the payment which would be made under subpart 1, the local agency shall continue to pay the greater amount until the child's difficulty of care changes or the placement terminates.

APPENDIX

Repealed Minnesota Rule: 13-2551

Subp. 3. **Annual revision of payment rate.** By November 1 of each year following January 1, 1989, the commissioner shall review and revise the difficulty of care payment rate in subpart 1 based on USDA Estimates of the Cost of Raising a Child, published by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411. The revision shall be the average percentage by which costs increase for the age ranges represented in the USDA Estimates of the Cost of Raising a Child. The USDA Estimates of the Cost of Raising a Child is subject to annual revision.