

State of Minnesota

HOUSE OF REPRESENTATIVES**Unofficial Engrossment**

House Engrossment of a Senate File

EIGHTY-SEVENTH SESSION

S. F. No. 1675

Senate Author(s): Benson, Hayden and Higgins

House Action

03/26/2012 Companion to House File No. 1967. (Authors:Abeler, Hilstrom and Hosch)

Read First Time and Referred to the Committee on Health and Human Services Finance

04/02/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act

1.2 relating to state government; making changes to health and human services

1.3 policy provisions; modifying provisions related to children and family

1.4 services, child support, child care, continuing care, disability services, the

1.5 telephone equipment program, chemical and mental health, health care,

1.6 human services licensing, licensing data, and the Office of Inspector General;

1.7 providing for child safety and permanency reform including adoptions under

1.8 guardianship of the commissioner; reforming comprehensive assessment and

1.9 case management services; amending the Human Services Background Study

1.10 Act; establishing home and community-based services standards; developing

1.11 payment methodologies; modifying municipal license provisions; requiring

1.12 data sharing with the Department of Human Services; requiring eligibility

1.13 determinations; modifying fees; providing criminal penalties; making technical

1.14 changes; requiring reports; amending Minnesota Statutes 2010, sections 13.46,

1.15 subdivisions 2, 3, 4; 13.461, subdivision 17; 13.465, by adding a subdivision;

1.16 13.82, subdivision 1; 119B.09, subdivision 7; 119B.12, subdivisions 1, 2;

1.17 119B.125, subdivisions 1a, 2, 6; 119B.13, subdivision 6; 144A.071, subdivision

1.18 5a; 145.902; 237.50; 237.51; 237.52; 237.53; 237.54; 237.55; 237.56; 245.461,

1.19 by adding a subdivision; 245.462, subdivision 20; 245.487, by adding a

1.20 subdivision; 245.4871, subdivision 15; 245.4932, subdivision 1; 245A.03,

1.21 subdivision 2, by adding a subdivision; 245A.04, subdivisions 1, 7, 11, by

1.22 adding subdivisions; 245A.041, by adding subdivisions; 245A.05; 245A.07,

1.23 subdivision 3; 245A.085; 245A.11, subdivisions 2a, 8; 245A.14, subdivision 11,

1.24 by adding a subdivision; 245A.146, subdivisions 2, 3; 245A.18, subdivision 1;

1.25 245A.22, subdivision 2; 245A.66, subdivisions 2, 3; 245B.02, subdivision 10,

1.26 by adding a subdivision; 245B.04, subdivisions 1, 2, 3; 245B.05, subdivision 1;

1.27 245B.07, subdivisions 5, 9, 10, by adding a subdivision; 245C.03, subdivision 1;

1.28 245C.04, subdivision 1; 245C.05, subdivisions 2, 4, 7, by adding a subdivision;

1.29 245C.07; 245C.08, subdivision 1; 245C.14, subdivision 2; 245C.16, subdivision

1.30 1; 245C.17, subdivision 2; 245C.22, subdivision 5; 245C.23, subdivision 2;

1.31 246.53, by adding a subdivision; 252.32, subdivision 1a; 252A.21, subdivision

1.32 2; 256.476, subdivision 11; 256.9657, subdivision 1; 256.998, subdivisions 1,

1.33 5; 256B.04, subdivision 14; 256B.056, subdivision 3c; 256B.0595, subdivision

1.34 2; 256B.0625, subdivisions 13, 13d, 19c, 42; 256B.0659, subdivisions 1, 2,

1.35 3, 3a, 4, 9, 13, 14, 19, 21, 30; 256B.0911, subdivisions 1, 2b, 2c, 3, 3b, 4c, 6;

1.36 256B.0913, subdivisions 7, 8; 256B.0915, subdivisions 1a, 1b, 3c, 6; 256B.0916,

1.37 subdivision 7; 256B.092, subdivisions 1, 1a, 1b, 1e, 1g, 2, 3, 5, 7, 8, 8a, 9, 11;

1.38 256B.096, subdivision 5; 256B.15, subdivisions 1c, 1f; 256B.19, subdivision 1c;

1.39 256B.441, subdivisions 13, 31, 53; 256B.49, subdivisions 13, 21; 256B.4912;

2.1 256B.69, subdivision 5; 256F.13, subdivision 1; 256G.02, subdivision 6; 256J.08,
 2.2 subdivision 11; 256J.24, subdivisions 2, 5; 256J.32, subdivision 6; 256J.575,
 2.3 subdivisions 1, 2, 5, 6, 8; 256J.621; 256J.68, subdivision 7; 256J.95, subdivision
 2.4 3; 256L.05, subdivision 3; 257.01; 257.75, subdivision 7; 259.22, subdivision 2;
 2.5 259.23, subdivision 1; 259.24, subdivisions 1, 3, 5, 6a, 7; 259.29, subdivision
 2.6 2; 259.69; 259.73; 260.012; 260C.001; 260C.007, subdivision 4, by adding
 2.7 subdivisions; 260C.101, subdivision 2; 260C.157, subdivision 1; 260C.163,
 2.8 subdivisions 1, 4; 260C.178, subdivisions 1, 7; 260C.193, subdivisions 3,
 2.9 6; 260C.201, subdivisions 2, 10, 11a; 260C.212, subdivisions 1, 2, 5, 7;
 2.10 260C.215, subdivisions 4, 6; 260C.217; 260C.301, subdivisions 1, 8; 260C.317,
 2.11 subdivisions 3, 4; 260C.325, subdivisions 1, 3, 4; 260C.328; 260C.451; 260D.08;
 2.12 471.709; 514.982, subdivision 1; 518A.40, subdivision 4; 518C.205; 541.04;
 2.13 548.09, subdivision 1; 609.3785; 626.556, subdivisions 2, 10, 10e, 10f, 10i,
 2.14 10k, 11; Minnesota Statutes 2011 Supplement, sections 119B.13, subdivision 1;
 2.15 125A.21, subdivision 7; 144A.071, subdivisions 3, 4a; 245A.03, subdivision 7;
 2.16 254B.04, subdivision 2a; 256.01, subdivision 14b; 256B.04, subdivision 21;
 2.17 256B.056, subdivision 3; 256B.057, subdivision 9; 256B.0625, subdivisions
 2.18 13e, 13h, 14, 56; 256B.0631, subdivisions 1, 2; 256B.0659, subdivision 11;
 2.19 256B.0911, subdivisions 1a, 3a, 4a; 256B.0915, subdivision 10; 256B.49,
 2.20 subdivisions 14, 15; 256B.69, subdivisions 5a, 28; 256L.12, subdivision 9;
 2.21 256L.15, subdivision 1; 626.557, subdivision 9; 626.5572, subdivision 13;
 2.22 Laws 2009, chapter 79, article 8, section 81, as amended; proposing coding
 2.23 for new law in Minnesota Statutes, chapters 245A; 252; 256B; 260C; 611;
 2.24 proposing coding for new law as Minnesota Statutes, chapters 245D; 259A;
 2.25 repealing Minnesota Statutes 2010, sections 256.01, subdivision 18b; 256.022;
 2.26 256B.431, subdivisions 2c, 2g, 2i, 2j, 2k, 2l, 2o, 3c, 11, 14, 17b, 17f, 19, 20,
 2.27 25, 27, 29; 256B.434, subdivisions 4a, 4b, 4c, 4d, 4e, 4g, 4h, 7, 8; 256B.435;
 2.28 256B.436; 259.67; 259.71; 260C.201, subdivision 11; 260C.215, subdivision 2;
 2.29 260C.456; Minnesota Statutes 2011 Supplement, section 256B.431, subdivision
 2.30 26; Minnesota Rules, parts 9555.7700; 9560.0071; 9560.0082; 9560.0083;
 2.31 9560.0091; 9560.0093, subparts 1, 3, 4; 9560.0101; 9560.0102.

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

2.33 ARTICLE 1

2.34 CHILDREN AND FAMILIES POLICY PROVISIONS

2.35 Section 1. Minnesota Statutes 2010, section 13.461, subdivision 17, is amended to read:

2.36 Subd. 17. **Maltreatment review panels.** Data of the vulnerable adult maltreatment
 2.37 review panel ~~or the child maltreatment review panel~~ are classified under section 256.021
 2.38 ~~or 256.022.~~

2.39 Sec. 2. Minnesota Statutes 2010, section 13.465, is amended by adding a subdivision
 2.40 to read:

2.41 Subd. 5a. **Adoptive parent.** Certain data that may be disclosed to a prospective
 2.42 adoptive parent is governed by section 260C.613, subdivision 2.

2.43 Sec. 3. Minnesota Statutes 2010, section 256.998, subdivision 1, is amended to read:

3.1 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
3.2 section.

3.3 (b) "Date of hiring" means the earlier of: (1) the first day for which an employee is
3.4 owed compensation by an employer; or (2) the first day that an employee reports to work
3.5 or performs labor or services for an employer.

3.6 (c) "Earnings" means payment owed by an employer for labor or services rendered
3.7 by an employee.

3.8 (d) "Employee" means a person who resides or works in Minnesota, performs
3.9 services for compensation, in whatever form, for an employer and satisfies the criteria of
3.10 an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

3.11 (1) persons hired for domestic service in the private home of the employer, as
3.12 defined in the Federal Tax Code; or

3.13 (2) an employee of the federal or state agency performing intelligence or
3.14 counterintelligence functions, if the head of such agency has determined that reporting
3.15 according to this law would endanger the safety of the employee or compromise an
3.16 ongoing investigation or intelligence mission.

3.17 (e) "Employer" means a person or entity located or doing business in this state that
3.18 employs one or more employees for payment, and satisfies the criteria of an employer
3.19 under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as
3.20 defined in paragraph (g). Employer also includes the state, political or other governmental
3.21 subdivisions of the state, and the federal government.

3.22 (f) "Hiring" means engaging a person to perform services for compensation and
3.23 includes the reemploying or return to work of any previous employee who was laid off,
3.24 furloughed, separated, granted a leave without pay, or terminated from employment when
3.25 a period of ~~90~~ 60 days elapses from the date of layoff, furlough, separation, leave, or
3.26 termination to the date of the person's return to work.

3.27 (g) "Labor organization" means entities located or doing business in this state that
3.28 meet the criteria of labor organization under section 2(5) of the National Labor Relations
3.29 Act. This includes any entity, that may also be known as a hiring hall, used to carry out
3.30 requirements described in chapter 7 of the National Labor Relations Act.

3.31 (h) "Payor" means a person or entity located or doing business in Minnesota who
3.32 pays money to an independent contractor according to an agreement for the performance
3.33 of services.

3.34 Sec. 4. Minnesota Statutes 2010, section 256.998, subdivision 5, is amended to read:

4.1 Subd. 5. **Report contents.** Reports required under this section must contain: all
 4.2 the information required by federal law.

4.3 ~~(1) the employee's name, address, Social Security number, and date of birth when~~
 4.4 ~~available, which can be handwritten or otherwise added to the W-4 form, W-9 form, or~~
 4.5 ~~other document submitted; and~~

4.6 ~~(2) the employer's name, address, and federal identification number.~~

4.7 Sec. 5. Minnesota Statutes 2010, section 256J.24, subdivision 5, is amended to read:

4.8 Subd. 5. **MFIP transitional standard.** The MFIP transitional standard is based
 4.9 on the number of persons in the assistance unit eligible for both food and cash assistance
 4.10 unless the restrictions in subdivision 6 on the birth of a child apply. ~~The following table~~
 4.11 ~~represents the transitional standards including a breakdown of the cash and food portions~~
 4.12 ~~effective October 1, 2009.~~

4.13	Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
4.14	1	\$428:	\$250	\$178
4.15	2	\$764:	\$437	\$327
4.16	3	\$1,005:	\$532	\$473
4.17	4	\$1,222:	\$621	\$601
4.18	5	\$1,399:	\$697	\$702
4.19	6	\$1,608:	\$773	\$835
4.20	7	\$1,754:	\$850	\$904
4.21	8	\$1,940:	\$916	\$1,024
4.22	9	\$2,125:	\$980	\$1,145
4.23	10	\$2,304:	\$1,035	\$1,269
4.24	over 10	add \$178:	\$53	\$125
4.25	per additional member.			

4.26 The amount of the transitional standard is published annually by the Department of
 4.27 Human Services.

4.28 Sec. 6. Minnesota Statutes 2010, section 259.22, subdivision 2, is amended to read:

4.29 Subd. 2. **Persons who may be adopted.** No petition for adoption shall be filed
 4.30 unless the person sought to be adopted has been placed by ~~the commissioner of human~~
 4.31 ~~services, the commissioner's agent, or~~ a licensed child-placing agency. The provisions of
 4.32 this subdivision shall not apply if:

4.33 (1) the person to be adopted is over 14 years of age;

4.34 (2) the child is sought to be adopted by an individual who is related to the child, as
 4.35 defined by section 245A.02, subdivision 13;

5.1 (3) the child has been lawfully placed under the laws of another state while the child
5.2 and petitioner resided in that other state;

5.3 (4) the court waives the requirement of this subdivision in the best interests of the
5.4 child or petitioners, provided that the adoption does not involve a placement as defined in
5.5 section 259.21, subdivision 8; or

5.6 (5) the child has been lawfully placed under section 259.47.

5.7 Sec. 7. Minnesota Statutes 2010, section 259.23, subdivision 1, is amended to read:

5.8 Subdivision 1. **Venue.** (a) ~~Except as provided in section 260C.101, subdivision 2,~~
5.9 The juvenile court shall have original jurisdiction in all adoption proceedings. The proper
5.10 venue for an adoption proceeding shall be the county of the petitioner's residence, except
5.11 as provided in ~~paragraph (b)~~ section 260C.621, subdivision 2, for the adoption of children
5.12 under the guardianship of the commissioner.

5.13 ~~(b) Venue for the adoption of a child committed to the guardianship of the~~
5.14 ~~commissioner of human services shall be the county with jurisdiction in the matter~~
5.15 ~~according to section 260C.317, subdivision 3.~~

5.16 ~~(c) Upon request of the petitioner, the court having jurisdiction over the matter under~~
5.17 ~~section 260C.317, subdivision 3, may transfer venue of an adoption proceeding involving~~
5.18 ~~a child under the guardianship of the commissioner to the county of the petitioner's~~
5.19 ~~residence upon determining that:~~

5.20 ~~(1) the commissioner has given consent to the petitioner's adoption of the child~~
5.21 ~~or that consent is unreasonably withheld;~~

5.22 ~~(2) there is no other adoption petition for the child that has been filed or is reasonably~~
5.23 ~~anticipated by the commissioner or the commissioner's delegate to be filed; and~~

5.24 ~~(3) transfer of venue is in the best interests of the child.~~

5.25 Transfer of venue under this paragraph shall be according to the rules of adoption court
5.26 procedure.

5.27 ~~(d)~~ (b) In all ~~other~~ adoptions under this chapter, if the petitioner has acquired a new
5.28 residence in another county and requests a transfer of the adoption proceeding, the court in
5.29 which an adoption is initiated may transfer the proceeding to the appropriate court in the
5.30 new county of residence if the transfer is in the best interests of the person to be adopted.
5.31 The court transfers the proceeding by ordering a continuance and by forwarding to the
5.32 court administrator of the appropriate court a certified copy of all papers filed, together
5.33 with an order of transfer. The transferring court also shall forward copies of the order
5.34 of transfer to the commissioner of human services and any agency participating in the
5.35 proceedings. The judge of the receiving court shall accept the order of the transfer and any

6.1 other documents transmitted and hear the case; provided, however, the receiving court
6.2 may in its discretion require the filing of a new petition prior to the hearing.

6.3 Sec. 8. Minnesota Statutes 2010, section 259.24, subdivision 1, is amended to read:

6.4 Subdivision 1. **Exceptions.** (a) No child shall be adopted without the consent of the
6.5 child's parents and the child's guardian, if there be one, except in the following instances
6.6 consent is not required of a parent:

6.7 ~~(a) Consent shall not be required of a parent (1) who is not entitled to notice of the~~
6.8 ~~proceedings;~~

6.9 ~~(b) Consent shall not be required of a parent (2) who has abandoned the child, or~~
6.10 ~~of a parent who has lost custody of the child through a divorce decree or a decree of~~
6.11 ~~dissolution, and upon whom notice has been served as required by section 259.49; or~~

6.12 ~~(c) Consent shall not be required of a parent (3) whose parental rights to the child~~
6.13 ~~have been terminated by a juvenile court or who has lost custody of a child through a final~~
6.14 ~~commitment of the juvenile court or through a decree in a prior adoption proceeding.~~

6.15 ~~(d) If there be no parent or guardian qualified to consent to the adoption, the~~
6.16 ~~consent shall be given by the commissioner. After the court accepts a parent's consent~~
6.17 ~~to the adoption under section 260C.201, subdivision 11, consent by the commissioner~~
6.18 ~~or commissioner's delegate is also necessary. Agreement to the identified prospective~~
6.19 ~~adoptive parent by the responsible social services agency under section 260C.201,~~
6.20 ~~subdivision 11, does not constitute the required consent.~~

6.21 ~~(e) (b) If there is no parent or guardian qualified to consent to the adoption, the~~
6.22 ~~commissioner or agency having authority to place a child for adoption pursuant to section~~
6.23 ~~259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such the~~
6.24 ~~child. The commissioner or agency shall make every effort to place siblings together for~~
6.25 ~~adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the~~
6.26 ~~right to consent to the adoption or separation of siblings, if it is in the child's best interest,~~
6.27 ~~to a local social services agency.~~

6.28 Sec. 9. Minnesota Statutes 2010, section 259.24, subdivision 3, is amended to read:

6.29 Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's
6.30 written consent to adoption by a particular person is also necessary. ~~A child of any age~~
6.31 ~~who is under the guardianship of the commissioner and is legally available for adoption~~
6.32 ~~may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify,~~
6.33 ~~and place the child in an adoptive home required under section 260C.317, subdivision~~

7.1 ~~3, paragraph (b), or sign a document relieving county social services agencies of all~~
7.2 ~~recruitment efforts on the child's behalf.~~

7.3 Sec. 10. Minnesota Statutes 2010, section 259.24, subdivision 5, is amended to read:

7.4 Subd. 5. **Execution.** All consents to an adoption shall be in writing, executed
7.5 before two competent witnesses, and acknowledged by the consenting party. ~~In addition,~~
7.6 ~~all consents to an adoption, except those by the commissioner, the commissioner's agent,~~
7.7 ~~a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for~~
7.8 ~~adoption by a stepparent, shall be executed before a representative of the commissioner,~~
7.9 ~~the commissioner's agent, or a licensed child-placing agency.~~ All consents by a parent
7.10 to adoption under this chapter:

7.11 (1) shall contain notice to the parent of the substance of subdivision 6a, providing
7.12 for the right to withdraw consent unless the parent will not have the right to withdraw
7.13 consent ~~because consent was executed under section 260C.201, subdivision 11, following~~
7.14 ~~proper notice that consent given under that provision is irrevocable upon acceptance by~~
7.15 ~~the court as provided in subdivision 6a; and~~

7.16 (2) shall contain the following written notice in all capital letters at least one-eighth
7.17 inch high:

7.18 "~~This~~ The agency responsible for supervising the adoptive placement of the child
7.19 will submit your consent to adoption to the court. If you are consenting to adoption by
7.20 the child's stepparent, the consent will be submitted to the court by the petitioner in your
7.21 child's adoption. The consent itself does not terminate your parental rights. Parental rights
7.22 to a child may be terminated only by an adoption decree or by a court order terminating
7.23 parental rights. Unless the child is adopted or your parental rights are terminated, you
7.24 may be asked to support the child."

7.25 Consents shall be filed in the adoption proceedings at any time before the matter
7.26 is heard provided, however, that a consent executed and acknowledged outside of this
7.27 state, either in accordance with the law of this state or in accordance with the law of the
7.28 place where executed, is valid.

7.29 Sec. 11. Minnesota Statutes 2010, section 259.24, subdivision 6a, is amended to read:

7.30 Subd. 6a. **Withdrawal of consent.** ~~Except for consents executed under section~~
7.31 ~~260C.201, subdivision 11,~~ A parent's consent to adoption under this chapter may be
7.32 withdrawn for any reason within ten working days after the consent is executed and
7.33 acknowledged. No later than the tenth working day after the consent is executed and
7.34 acknowledged, written notification of withdrawal of consent must be received by: (1)

8.1 the agency to which the child was surrendered ~~no later than the tenth working day after~~
8.2 ~~the consent is executed and acknowledged~~; (2) the agency supervising the adoptive
8.3 placement of the child; or (3) in the case of adoption by the step parent or any adoption
8.4 not involving agency placement or supervision, by the district court where the adopting
8.5 stepparent or parent resides. On the day following the tenth working day after execution
8.6 and acknowledgment, the consent shall become irrevocable, except upon order of a court
8.7 of competent jurisdiction after written findings that consent was obtained by fraud. ~~A~~
8.8 ~~consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon~~
8.9 ~~proper notice to both parents of the effect of a consent to adopt and acceptance by the~~
8.10 ~~court, except upon order of the same court after written findings that the consent was~~
8.11 ~~obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents~~
8.12 ~~and the child shall be made parties~~. The proceedings shall be conducted to preserve the
8.13 confidentiality of the adoption process. There shall be no presumption in the proceedings
8.14 favoring the birth parents over the adoptive parents.

8.15 Sec. 12. Minnesota Statutes 2010, section 259.24, subdivision 7, is amended to read:

8.16 Subd. 7. **Withholding consent; reason.** Consent to an adoption shall not be
8.17 unreasonably withheld by a guardian, who is not a parent of the child, ~~by the commissioner~~
8.18 or by an agency.

8.19 Sec. 13. Minnesota Statutes 2010, section 259.29, subdivision 2, is amended to read:

8.20 Subd. 2. **Placement with relative or friend.** The authorized child-placing agency
8.21 shall consider placement, consistent with the child's best interests and in the following
8.22 order, with (1) a relative or relatives of the child, or (2) an important friend with whom the
8.23 child has resided or had significant contact. In implementing this section, an authorized
8.24 child-placing agency may disclose private or confidential data, as defined in section 13.02,
8.25 to relatives of the child for the purpose of locating a suitable adoptive home. The agency
8.26 shall disclose only data that is necessary to facilitate implementing the preference.

8.27 If the child's birth parent or parents explicitly request that placement with relatives a
8.28 specific relative or important ~~friends~~ friend not be considered, the authorized child-placing
8.29 agency shall honor that request if it is consistent with the best interests of the child and
8.30 consistent with the requirements of sections 260C.212, subdivision 2, and 260C.221.

8.31 If the child's birth parent or parents express a preference for placing the child in an
8.32 adoptive home of the same or a similar religious background to that of the birth parent
8.33 or parents, the agency shall place the child with a family that meets the birth parent's
8.34 religious preference.

9.1 This subdivision does not affect the Indian Child Welfare Act, United States
9.2 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation
9.3 Act, sections 260.751 to 260.835.

9.4 Sec. 14. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

9.5 Subd. 3. **Best interest of the child in foster care or residential care.** (a) The
9.6 policy of the state is to ensure that the best interests of children in foster or residential care
9.7 are met by requiring individualized determinations under section 260C.212, subdivision 2,
9.8 paragraph (b), of the needs of the child and of how the selected placement will serve the
9.9 needs of the child in foster care placements.

9.10 (b) The court shall review whether the responsible social services agency made
9.11 efforts as required under section ~~260C.212, subdivision 5~~ 260C.221, and made an
9.12 individualized determination as required under section 260C.212, subdivision 2. If
9.13 the court finds the agency has not made efforts as required under section ~~260C.212,~~
9.14 ~~subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed to provide
9.15 family foster care under chapter 245A, the court may order the child placed with the
9.16 relative consistent with the child's best interests.

9.17 (c) If the child's birth parent or parents explicitly request that a relative or important
9.18 friend not be considered, the court shall honor that request if it is consistent with the
9.19 best interests of the child and consistent with the requirements of section 260C.221. If
9.20 the child's birth parent or parents express a preference for placing the child in a foster or
9.21 adoptive home of the same or a similar religious background to that of the birth parent
9.22 or parents, the court shall order placement of the child with an individual who meets the
9.23 birth parent's religious preference.

9.24 (d) Placement of a child cannot be delayed or denied based on race, color, or national
9.25 origin of the foster parent or the child.

9.26 (e) Whenever possible, siblings requiring foster care placement should be placed
9.27 together unless it is determined not to be in the best interests of a sibling after weighing
9.28 the benefits of separate placement against the benefits of sibling connections for each
9.29 sibling. If siblings are not placed together according to section 260C.212, subdivision 2,
9.30 paragraph (d), the responsible social services agency shall report to the court the efforts
9.31 made to place the siblings together and why the efforts were not successful. If the court is
9.32 not satisfied with the agency's efforts to place siblings together, the court may order the
9.33 agency to make further efforts. If siblings are not placed together the court shall review
9.34 the responsible social services agency's plan for visitation among siblings required as part
9.35 of the out-of-home placement plan under section 260C.212.

10.1 (f) This subdivision does not affect the Indian Child Welfare Act, United States
10.2 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation
10.3 Act, sections 260.751 to 260.835.

10.4 Sec. 15. Minnesota Statutes 2010, section 260C.201, subdivision 11a, is amended to
10.5 read:

10.6 Subd. 11a. **Permanency progress review for children under eight in foster care**
10.7 **for six months.** ~~(a) If the child was under eight years of age at the time the petition~~
10.8 ~~was filed alleging the child was in need of protection or services, and the~~ When a child
10.9 continues in placement out of the home of the parent or guardian from whom the child
10.10 was removed, no later than six months after the child's placement the court shall conduct a
10.11 permanency progress hearing to review:

10.12 (1) the progress of the case, the parent's progress on the case plan or out-of-home
10.13 placement plan, and whichever is applicable;

10.14 (2) the agency's reasonable, or in the case of an Indian child, active efforts for
10.15 reunification and its provision of services;

10.16 (3) the agency's reasonable efforts to finalize the permanent plan for the child
10.17 under section 260.012, paragraph (e), and to make a placement as required under section
10.18 260C.212, subdivision 2, in a home that will commit to being the legally permanent
10.19 family for the child in the event the child cannot return home according to the timelines
10.20 in this section; and

10.21 (4) in the case of an Indian child, active efforts to prevent the breakup of the Indian
10.22 family and to make a placement according to the placement preferences under United
10.23 States Code, title 25, chapter 21, section 1915.

10.24 ~~(b) Based on its assessment of the parent's or guardian's progress on the out-of-home~~
10.25 ~~placement plan, the responsible social services agency must ask the county attorney to file~~
10.26 ~~a petition for termination of parental rights, a petition for transfer of permanent legal and~~
10.27 ~~physical custody to a relative, or the report required under juvenile court rules.~~

10.28 (b) The court shall ensure that notice of the hearing is sent to any relative who:

10.29 (1) responded to the agency's notice provided under section 260C.221, indicating an
10.30 interest in participating in planning for the child or being a permanency resource for the
10.31 child and who has kept the court apprised of the relative's address; or

10.32 (2) asked to be notified of court proceedings regarding the child as is permitted in
10.33 section 260C.152, subdivision 5.

11.1 (c)(1) If the parent or guardian has maintained contact with the child and is
11.2 complying with the court-ordered out-of-home placement plan, and if the child would
11.3 benefit from reunification with the parent, the court may either:

11.4 (i) return the child home, if the conditions which led to the out-of-home placement
11.5 have been sufficiently mitigated that it is safe and in the child's best interests to return
11.6 home; or

11.7 (ii) continue the matter up to a total of six additional months. If the child has not
11.8 returned home by the end of the additional six months, the court must conduct a hearing
11.9 according to subdivision 11.

11.10 (2) If the court determines that the parent or guardian is not complying with the
11.11 out-of-home placement plan or is not maintaining regular contact with the child as outlined
11.12 in the visitation plan required as part of the out-of-home placement plan under section
11.13 260C.212, the court may order the responsible social services agency:

11.14 (i) to develop a plan for legally permanent placement of the child away from the
11.15 parent ~~and~~;

11.16 (ii) to consider, identify, recruit, and support one or more permanency resources
11.17 from the child's relatives and foster parent to be the legally permanent home in the event
11.18 the child cannot be returned to the parent. Any relative or the child's foster parent may
11.19 ask the court to order the agency to consider them for permanent placement of the child
11.20 in the event the child cannot be returned to the parent. A relative or foster parent who
11.21 wants to be considered under this item shall cooperate with the background study required
11.22 under section 245C.08, if the individual has not already done so, and with the home study
11.23 process required under chapter 245A for providing child foster care and for adoption
11.24 under section 259.41. The home study referred to in this item shall be a single-home study
11.25 in the form required by the commissioner of human services or similar study required
11.26 by the individual's state of residence when the subject of the study is not a resident of
11.27 Minnesota. The court may order the responsible social services agency to make a referral
11.28 under the Interstate Compact on the Placement of Children when necessary to obtain a
11.29 home study for an individual who wants to be considered for transfer of permanent legal
11.30 and physical custody or adoption of the child; and

11.31 (iii) to file a petition to support an order for the legally permanent placement plan.

11.32 (d) Following the review under ~~paragraphs (b) and (c)~~ this subdivision:

11.33 (1) if the court has either returned the child home or continued the matter up to a
11.34 total of six additional months, the agency shall continue to provide services to support the
11.35 child's return home or to make reasonable efforts to achieve reunification of the child and
11.36 the parent as ordered by the court under an approved case plan;

12.1 (2) if the court orders the agency to develop a plan for the transfer of permanent
12.2 legal and physical custody of the child to a relative, a petition supporting the plan shall be
12.3 filed in juvenile court within 30 days of the hearing required under this subdivision and a
12.4 trial on the petition held within ~~30~~ 60 days of the filing of the pleadings; or

12.5 (3) if the court orders the agency to file a termination of parental rights, unless the
12.6 county attorney can show cause why a termination of parental rights petition should not be
12.7 filed, a petition for termination of parental rights shall be filed in juvenile court within
12.8 30 days of the hearing required under this subdivision and a trial on the petition held
12.9 within ~~90~~ 60 days of the filing of the petition.

12.10 Sec. 16. Minnesota Statutes 2010, section 260C.212, subdivision 1, is amended to read:

12.11 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan
12.12 shall be prepared within 30 days after any child is placed in foster care by court order or a
12.13 voluntary placement agreement between the responsible social services agency and the
12.14 child's parent pursuant to subdivision 8 or chapter 260D.

12.15 (b) An out-of-home placement plan means a written document which is prepared by
12.16 the responsible social services agency jointly with the parent or parents or guardian of the
12.17 child and in consultation with the child's guardian ad litem, the child's tribe, if the child
12.18 is an Indian child, the child's foster parent or representative of the ~~residential~~ foster care
12.19 facility, and, where appropriate, the child. For a child in voluntary foster care for treatment
12.20 under chapter 260D, preparation of the out-of-home placement plan shall additionally
12.21 include the child's mental health treatment provider. As appropriate, the plan shall be:

12.22 (1) submitted to the court for approval under section 260C.178, subdivision 7;

12.23 (2) ordered by the court, either as presented or modified after hearing, under section
12.24 260C.178, subdivision 7, or 260C.201, subdivision 6; and

12.25 (3) signed by the parent or parents or guardian of the child, the child's guardian ad
12.26 litem, a representative of the child's tribe, the responsible social services agency, and, if
12.27 possible, the child.

12.28 (c) The out-of-home placement plan shall be explained to all persons involved in its
12.29 implementation, including the child who has signed the plan, and shall set forth:

12.30 (1) a description of the ~~residential facility~~ foster care home or facility selected
12.31 including how the out-of-home placement plan is designed to achieve a safe placement
12.32 for the child in the least restrictive, most family-like, setting available which is in close
12.33 proximity to the home of the parent or parents or guardian of the child when the case plan
12.34 goal is reunification, and how the placement is consistent with the best interests and
12.35 special needs of the child according to the factors under subdivision 2, paragraph (b);

13.1 (2) the specific reasons for the placement of the child in ~~a residential facility~~ foster
13.2 care, and when reunification is the plan, a description of the problems or conditions in the
13.3 home of the parent or parents which necessitated removal of the child from home and the
13.4 changes the parent or parents must make in order for the child to safely return home;

13.5 (3) a description of the services offered and provided to prevent removal of the child
13.6 from the home and to reunify the family including:

13.7 (i) the specific actions to be taken by the parent or parents of the child to eliminate
13.8 or correct the problems or conditions identified in clause (2), and the time period during
13.9 which the actions are to be taken; and

13.10 (ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made
13.11 to achieve a safe and stable home for the child including social and other supportive
13.12 services to be provided or offered to the parent or parents or guardian of the child, the
13.13 child, and the residential facility during the period the child is in the residential facility;

13.14 (4) a description of any services or resources that were requested by the child or the
13.15 child's parent, guardian, foster parent, or custodian since the date of the child's placement
13.16 in the residential facility, and whether those services or resources were provided and if
13.17 not, the basis for the denial of the services or resources;

13.18 (5) the visitation plan for the parent or parents or guardian, other relatives as defined
13.19 in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed
13.20 together in foster care, and whether visitation is consistent with the best interest of the
13.21 child, during the period the child is in foster care;

13.22 (6) documentation of steps to finalize the adoption or legal guardianship of the child
13.23 if the court has issued an order terminating the rights of both parents of the child or of the
13.24 only known, living parent of the child. At a minimum, the documentation must include
13.25 child-specific recruitment efforts such as relative search and the use of state, regional, and
13.26 national adoption exchanges to facilitate orderly and timely placements in and outside
13.27 of the state. A copy of this documentation shall be provided to the court in the review
13.28 required under section 260C.317, subdivision 3, paragraph (b);

13.29 (7) efforts to ensure the child's educational stability while in foster care, including:

13.30 (i) efforts to ensure that the child ~~in placement~~ remains in the same school in which
13.31 the child was enrolled prior to placement or upon the child's move from one placement
13.32 to another, including efforts to work with the local education authorities to ensure the
13.33 child's educational stability; or

13.34 (ii) if it is not in the child's best interest to remain in the same school that the child
13.35 was enrolled in prior to placement or move from one placement to another, efforts to
13.36 ensure immediate and appropriate enrollment for the child in a new school;

- 14.1 (8) the educational records of the child including the most recent information
14.2 available regarding:
- 14.3 (i) the names and addresses of the child's educational providers;
 - 14.4 (ii) the child's grade level performance;
 - 14.5 (iii) the child's school record;
 - 14.6 (iv) a statement about how the child's placement in foster care takes into account
14.7 proximity to the school in which the child is enrolled at the time of placement; and
 - 14.8 (v) any other relevant educational information;
- 14.9 (9) the efforts by the local agency to ensure the oversight and continuity of health
14.10 care services for the foster child, including:
- 14.11 (i) the plan to schedule the child's initial health screens;
 - 14.12 (ii) how the child's known medical problems and identified needs from the screens,
14.13 including any known communicable diseases, as defined in section 144.4172, subdivision
14.14 2, will be monitored and treated while the child is in foster care;
 - 14.15 (iii) how the child's medical information will be updated and shared, including
14.16 the child's immunizations;
 - 14.17 (iv) who is responsible to coordinate and respond to the child's health care needs,
14.18 including the role of the parent, the agency, and the foster parent;
 - 14.19 (v) who is responsible for oversight of the child's prescription medications;
 - 14.20 (vi) how physicians or other appropriate medical and nonmedical professionals
14.21 will be consulted and involved in assessing the health and well-being of the child and
14.22 determine the appropriate medical treatment for the child; and
 - 14.23 (vii) the responsibility to ensure that the child has access to medical care through
14.24 either medical insurance or medical assistance;
- 14.25 (10) the health records of the child including information available regarding:
- 14.26 (i) the names and addresses of the child's health care and dental care providers;
 - 14.27 (ii) a record of the child's immunizations;
 - 14.28 (iii) the child's known medical problems, including any known communicable
14.29 diseases as defined in section 144.4172, subdivision 2;
 - 14.30 (iv) the child's medications; and
 - 14.31 (v) any other relevant health care information such as the child's eligibility for
14.32 medical insurance or medical assistance;
- 14.33 (11) an independent living plan for a child age 16 or older ~~who is in placement as~~
14.34 ~~a result of a permanency disposition~~. The plan should include, but not be limited to,
14.35 the following objectives:
- 14.36 (i) educational, vocational, or employment planning;

- 15.1 (ii) health care planning and medical coverage;
- 15.2 (iii) transportation including, where appropriate, assisting the child in obtaining a
15.3 driver's license;
- 15.4 (iv) money management, including the responsibility of the agency to ensure that
15.5 the youth annually receives, at no cost to the youth, a consumer report as defined under
15.6 section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;
- 15.7 (v) planning for housing;
- 15.8 (vi) social and recreational skills; and
- 15.9 (vii) establishing and maintaining connections with the child's family and
15.10 community; and
- 15.11 (12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic
15.12 and assessment information, specific services relating to meeting the mental health care
15.13 needs of the child, and treatment outcomes.
- 15.14 (d) The parent or parents or guardian and the child each shall have the right to legal
15.15 counsel in the preparation of the case plan and shall be informed of the right at the time
15.16 of placement of the child. The child shall also have the right to a guardian ad litem.
15.17 If unable to employ counsel from their own resources, the court shall appoint counsel
15.18 upon the request of the parent or parents or the child or the child's legal guardian. The
15.19 parent or parents may also receive assistance from any person or social services agency
15.20 in preparation of the case plan.
- 15.21 After the plan has been agreed upon by the parties involved or approved or ordered
15.22 by the court, the foster parents shall be fully informed of the provisions of the case plan
15.23 and shall be provided a copy of the plan.
- 15.24 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and
15.25 physical custodian, as appropriate, and the child, if appropriate, must be provided with
15.26 a current copy of the child's health and education record.

15.27 Sec. 17. Minnesota Statutes 2010, section 260C.212, subdivision 2, is amended to read:

15.28 **Subd. 2. Placement decisions based on best interest of the child.** (a) The policy
15.29 of the state of Minnesota is to ensure that the child's best interests are met by requiring an
15.30 individualized determination of the needs of the child and of how the selected placement
15.31 will serve the needs of the child being placed. The authorized child-placing agency shall
15.32 place a child, released by court order or by voluntary release by the parent or parents, in
15.33 a family foster home selected by considering placement with relatives and important
15.34 friends in the following order:

15.35 (1) with an individual who is related to the child by blood, marriage, or adoption; or

16.1 (2) with an individual who is an important friend with whom the child has resided or
 16.2 had significant contact.

16.3 (b) Among the factors the agency shall consider in determining the needs of the
 16.4 child are the following:

16.5 (1) the child's current functioning and behaviors;

16.6 (2) the medical, needs of the child;

16.7 (3) the educational, ~~and~~ needs of the child;

16.8 (4) the developmental needs of the child;

16.9 ~~(3)~~ (5) the child's history and past experience;

16.10 ~~(4)~~ (6) the child's religious and cultural needs;

16.11 ~~(5)~~ (7) the child's connection with a community, school, and faith community;

16.12 ~~(6)~~ (8) the child's interests and talents;

16.13 ~~(7)~~ (9) the child's relationship to current caretakers, parents, siblings, and relatives;

16.14 and

16.15 ~~(8)~~ (10) the reasonable preference of the child, if the court, or the child-placing
 16.16 agency in the case of a voluntary placement, deems the child to be of sufficient age to
 16.17 express preferences.

16.18 (c) Placement of a child cannot be delayed or denied based on race, color, or national
 16.19 origin of the foster parent or the child.

16.20 (d) Siblings should be placed together for foster care and adoption at the earliest
 16.21 possible time unless it is documented that a joint placement would be contrary to the
 16.22 safety or well-being of any of the siblings or unless it is not possible after reasonable
 16.23 efforts by the responsible social services agency. In cases where siblings cannot be placed
 16.24 together, the agency is required to provide frequent visitation or other ongoing interaction
 16.25 between siblings unless the agency documents that the interaction would be contrary to
 16.26 the safety or well-being of any of the siblings.

16.27 (e) Except for emergency placement as provided for in section 245A.035, a
 16.28 completed background study is required under section 245C.08 before the approval of a
 16.29 foster placement in a related or unrelated home.

16.30 Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

16.31 Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise
 16.32 due diligence to identify and notify adult relatives prior to placement or within 30 days
 16.33 after the child's removal from the parent. The county agency shall consider placement
 16.34 with a relative under ~~subdivision 2~~ section 260C.221 without delay. The relative search
 16.35 required by this section shall be reasonable and comprehensive in scope and may last up

17.1 to six months or until a fit and willing relative is identified. The relative search required by
17.2 this section shall include both maternal relatives of the child and paternal relatives of the
17.3 child, if paternity is adjudicated. The relatives must be notified:

17.4 (1) of the need for a foster home for the child, the option to become a placement
17.5 resource for the child, and the possibility of the need for a permanent placement for the
17.6 child;

17.7 (2) of their responsibility to keep the responsible social services agency and the court
17.8 informed of their current address in order to receive notice in the event that a permanent
17.9 placement is sought for the child and to receive notice of the permanency progress review
17.10 hearing under section 260C.204. A relative who fails to provide a current address to the
17.11 responsible social services agency and the court forfeits the right to receive notice of
17.12 the possibility of permanent placement and of the permanency progress review hearing
17.13 under section 260C.204. A decision by a relative not to be a placement resource at the
17.14 beginning of the case shall not affect whether the relative is considered for placement of
17.15 the child with that relative later;

17.16 (3) that the relative may participate in the care and planning for the child, including
17.17 that the opportunity for such participation may be lost by failing to respond to the notice
17.18 sent under this subdivision; and

17.19 (4) of the family foster care licensing requirements, including how to complete an
17.20 application and how to request a variance from licensing standards that do not present a
17.21 safety or health risk to the child in the home under section 245A.04 and supports that are
17.22 available for relatives and children who reside in a family foster home.

17.23 (b) A responsible social services agency may disclose private or confidential data,
17.24 as defined in section 13.02, to relatives of the child for the purpose of locating a suitable
17.25 placement. The agency shall disclose only data that is necessary to facilitate possible
17.26 placement with relatives. If the child's parent refuses to give the responsible social
17.27 services agency information sufficient to identify the maternal and paternal relatives of the
17.28 child, the agency shall ask the juvenile court to order the parent to provide the necessary
17.29 information. If a parent makes an explicit request that ~~relatives or~~ a specific relative not
17.30 be contacted or considered for placement due to safety reasons including past family or
17.31 domestic violence, the agency shall bring the parent's request to the attention of the court
17.32 to determine whether the parent's request is consistent with the best interests of the child
17.33 and the agency shall not contact ~~relatives or a~~ the specific relative ~~unless authorized to do~~
17.34 ~~so by~~ when the juvenile court finds that contacting the specific relative would endanger
17.35 the parent, guardian, child, sibling, or any family member.

18.1 (c) When the placing agency determines that a permanent placement hearing is
18.2 necessary because there is a likelihood that the child will not return to a parent's care, the
18.3 agency may send the notice provided in paragraph (d), may ask the court to modify the
18.4 requirements of the agency under this paragraph, or may ask the court to completely
18.5 relieve the agency of the requirements of ~~this paragraph (d)~~. ~~The relative notification~~
18.6 ~~requirements of this paragraph do not apply when the child is placed with an appropriate~~
18.7 ~~relative or a foster home that has committed to being the permanent legal placement for~~
18.8 ~~the child and the agency approves of that foster home for permanent placement of the~~
18.9 ~~child~~. The actions ordered by the court under this section must be consistent with the best
18.10 interests, safety, and welfare of the child.

18.11 (d) Unless required under the Indian Child Welfare Act or relieved of this duty by the
18.12 court under paragraph (c), when the agency determines that it is necessary to prepare for
18.13 the permanent placement determination hearing, or in anticipation of filing a termination
18.14 of parental rights petition, the agency shall send notice to the relatives, any adult with
18.15 whom the child is currently residing, any adult with whom the child has resided for one
18.16 year or longer in the past, and any adults who have maintained a relationship or exercised
18.17 visitation with the child as identified in the agency case plan. The notice must state that a
18.18 permanent home is sought for the child and that the individuals receiving the notice may
18.19 indicate to the agency their interest in providing a permanent home. The notice must state
18.20 that within 30 days of receipt of the notice an individual receiving the notice must indicate
18.21 to the agency the individual's interest in providing a permanent home for the child or that
18.22 the individual may lose the opportunity to be considered for a permanent placement.

18.23 (e) The Department of Human Services shall develop a best practices guide and
18.24 specialized staff training to assist the responsible social services agency in performing and
18.25 complying with the relative search requirements under this subdivision.

18.26 Sec. 19. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

18.27 Subd. 7. **Administrative or court review of placements.** (a) There shall be an
18.28 administrative review of the out-of-home placement plan of each child placed in foster
18.29 care no later than 180 days after the initial placement of the child in foster care and at least
18.30 every six months thereafter if the child is not returned to the home of the parent or parents
18.31 within that time. The out-of-home placement plan must be monitored and updated at each
18.32 administrative review. The administrative review shall be conducted by the responsible
18.33 social services agency using a panel of appropriate persons at least one of whom is not
18.34 responsible for the case management of, or the delivery of services to, either the child or

19.1 the parents who are the subject of the review. The administrative review shall be open to
19.2 participation by the parent or guardian of the child and the child, as appropriate.

19.3 (b) As an alternative to the administrative review required in paragraph (a), the court
19.4 may, as part of any hearing required under the Minnesota Rules of Juvenile Protection
19.5 Procedure, conduct a hearing to monitor and update the out-of-home placement plan
19.6 pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d).
19.7 The party requesting review of the out-of-home placement plan shall give parties to the
19.8 proceeding notice of the request to review and update the out-of-home placement plan.
19.9 A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11;
19.10 260C.141, subdivision 2; 260C.317; or 260D.06 shall satisfy the requirement for the
19.11 review so long as the other requirements of this section are met.

19.12 (c) As appropriate to the stage of the proceedings and relevant court orders, the
19.13 responsible social services agency or the court shall review:

19.14 (1) the safety, permanency needs, and well-being of the child;

19.15 (2) the continuing necessity for and appropriateness of the placement;

19.16 (3) the extent of compliance with the out-of-home placement plan;

19.17 (4) the extent of progress which has been made toward alleviating or mitigating the
19.18 causes necessitating placement in foster care;

19.19 (5) the projected date by which the child may be returned to and safely maintained in
19.20 the home or placed permanently away from the care of the parent or parents or guardian;
19.21 and

19.22 (6) the appropriateness of the services provided to the child.

19.23 (d) When a child is age 16 or older, in addition to any administrative review
19.24 conducted by the agency, at the in-court review required under section 260C.201,
19.25 subdivision 11, or 260C.317, subdivision 3, clause (3), the court shall review the
19.26 independent living plan required under subdivision 1, paragraph (c), clause (11), and the
19.27 provision of services to the child related to the well-being of the child as the child prepares
19.28 to leave foster care. The review shall include the actual plans related to each item in the
19.29 plan necessary to the child's future safety and well-being when the child is no longer
19.30 in foster care.

19.31 (1) At the court review, the responsible social services agency shall establish that it
19.32 has given the notice required under section 260C.456 or Minnesota Rules, part 9560.0660,
19.33 regarding the right to continued access to services for certain children in foster care past
19.34 age 18 and of the right to appeal a denial of social services under section 256.045. If the
19.35 agency is unable to establish that the notice, including the right to appeal a denial of social
19.36 services, has been given, the court shall require the agency to give it.

20.1 (2) Consistent with the requirements of the independent living plan, the court shall
20.2 review progress toward or accomplishment of the following goals:

20.3 (i) the child has obtained a high school diploma or its equivalent;

20.4 (ii) the child has completed a driver's education course or has demonstrated the
20.5 ability to use public transportation in the child's community;

20.6 (iii) the child is employed or enrolled in postsecondary education;

20.7 (iv) the child has applied for and obtained postsecondary education financial aid for
20.8 which the child is eligible;

20.9 (v) the child has health care coverage and health care providers to meet the child's
20.10 physical and mental health needs;

20.11 (vi) the child has applied for and obtained disability income assistance for which
20.12 the child is eligible;

20.13 (vii) the child has obtained affordable housing with necessary supports, which does
20.14 not include a homeless shelter;

20.15 (viii) the child has saved sufficient funds to pay for the first month's rent and a
20.16 damage deposit;

20.17 (ix) the child has an alternative affordable housing plan, which does not include a
20.18 homeless shelter, if the original housing plan is unworkable;

20.19 (x) the child, if male, has registered for the Selective Service; and

20.20 (xi) the child has a permanent connection to a caring adult.

20.21 (3) The court shall ensure that the responsible agency in conjunction with the
20.22 placement provider assists the child in obtaining the following documents prior to the
20.23 child's leaving foster care: a Social Security card; the child's birth certificate; a state
20.24 identification card or driver's license, green card, or school visa; the child's school,
20.25 medical, and dental records; a contact list of the child's medical, dental, and mental health
20.26 providers; and contact information for the child's siblings, if the siblings are in foster care.

20.27 (e) When a child is age 17 or older, during the 90-day period immediately prior to
20.28 the date the child is expected to be discharged from foster care, the responsible social
20.29 services agency is required to provide the child with assistance and support in developing
20.30 a transition plan that is personalized at the direction of the child. The transition plan
20.31 must be as detailed as the child may elect and include specific options on housing, health
20.32 insurance, education, local opportunities for mentors and continuing support services, and
20.33 work force supports and employment services. The agency shall ensure that the youth
20.34 receives, at no cost to the youth, a copy of the youth's consumer credit report as defined
20.35 in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the
20.36 report. The county agency shall also provide the individual youth with appropriate contact

21.1 information if the ~~individual~~ youth needs more information or needs help dealing with a
21.2 crisis situation through age 21.

21.3 Sec. 20. Minnesota Statutes 2010, section 260C.317, subdivision 3, is amended to read:

21.4 Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and
21.5 the order terminating parental rights, and a summary of the court's information concerning
21.6 the child shall be furnished by the court to the commissioner or the agency to which
21.7 guardianship is transferred.

21.8 (b) The orders shall be on a document separate from the findings. The court shall
21.9 furnish the ~~individual to whom guardianship is transferred~~ guardian a copy of the order
21.10 terminating parental rights.

21.11 ~~(b)~~ (c) When the court orders guardianship pursuant to this section, the court
21.12 ~~shall retain jurisdiction in a case where adoption is the intended permanent placement~~
21.13 ~~disposition until the child's adoption is finalized, the child is 18 years of age, or, for~~
21.14 ~~children in foster care beyond age 18 pursuant to section 260C.451, until the individual~~
21.15 ~~becomes 21 years of age according to the provisions set forth in sections 260C.193,~~
21.16 ~~subdivision 6, and 260C.451. The guardian ad litem and counsel for the child shall~~
21.17 ~~continue on the case until an adoption decree is entered. An in-court appearance hearing~~
21.18 ~~must be held every 90 days following termination of parental rights for the court to review~~
21.19 ~~progress toward an adoptive placement and the specific recruitment efforts the agency~~
21.20 ~~has taken to find an adoptive family or other placement living arrangement for the child~~
21.21 ~~and to finalize the adoption or other permanency plan. Review of the progress toward~~
21.22 ~~adoption of a child under guardianship of the commissioner of human services shall be~~
21.23 ~~conducted according to section 260C.607.~~

21.24 ~~(c)~~ The responsible social services agency may make a determination of compelling
21.25 ~~reasons for a child to be in long-term foster care when the agency has made exhaustive~~
21.26 ~~efforts to recruit, identify, and place the child in an adoptive home, and the child continues~~
21.27 ~~in foster care for at least 24 months after the court has issued the order terminating~~
21.28 ~~parental rights. A child of any age who is under the guardianship of the commissioner of~~
21.29 ~~the Department of Human Services and is legally available for adoption may not refuse~~
21.30 ~~or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the~~
21.31 ~~child in an adoptive home required under paragraph (b) or sign a document relieving~~
21.32 ~~county social services agencies of all recruitment efforts on the child's behalf. Upon~~
21.33 ~~approving the agency's determination of compelling reasons, the court may order the child~~
21.34 ~~placed in long-term foster care. At least every 12 months thereafter as long as the child~~
21.35 ~~continues in out-of-home placement, the court shall conduct an in-court permanency~~

22.1 ~~review hearing to determine the future status of the child using the review requirements of~~
 22.2 ~~section 260C.201, subdivision 11, paragraph (g).~~

22.3 (d) Upon terminating parental rights or upon a parent's consent to adoption
 22.4 under section 260C.201, subdivision 11, resulting in an order for guardianship to the
 22.5 commissioner of human services, the court shall retain jurisdiction:

22.6 (1) until the child is adopted;

22.7 (2) through the child's minority in a case where long-term; or

22.8 (3) as long as the child continues in or reenters foster care is the permanent
 22.9 ~~disposition whether under paragraph (c) or section 260C.201, subdivision 11, or, for~~
 22.10 ~~children in foster care age 18 or older under section 260C.451, until the individual~~
 22.11 ~~becomes 21 years of age according to the provisions in sections 260C.193, subdivision 6,~~
 22.12 ~~and 260C.451.~~

22.13 Sec. 21. Minnesota Statutes 2010, section 260C.317, subdivision 4, is amended to read:

22.14 Subd. 4. **Rights of terminated parent.** (a) Upon entry of an order terminating the
 22.15 parental rights of any person who is identified as a parent on the original birth record of
 22.16 the child as to whom the parental rights are terminated, the court shall cause written
 22.17 notice to be made to that person setting forth:

22.18 (1) the right of the person to file at any time with the state registrar of vital statistics
 22.19 a consent to disclosure, as defined in section 144.212, subdivision 11;

22.20 (2) the right of the person to file at any time with the state registrar of vital statistics
 22.21 an affidavit stating that the information on the original birth record shall not be disclosed
 22.22 as provided in section 144.2252; and

22.23 (3) the effect of a failure to file either a consent to disclosure, as defined in section
 22.24 144.212, subdivision 11, or an affidavit stating that the information on the original birth
 22.25 record shall not be disclosed.

22.26 (b) A parent whose rights are terminated under this section shall retain the ability to
 22.27 enter into a contact or communication agreement under section 260C.619 if an agreement
 22.28 is determined by the court to be in the best interests of the child. The agreement shall be
 22.29 filed with the court at or prior to the time the child is adopted. An order for termination of
 22.30 parental rights shall not be conditioned on an agreement under section 260C.619.

22.31 Sec. 22. Minnesota Statutes 2010, section 260C.325, subdivision 1, is amended to read:

22.32 Subdivision 1. ~~Transfer of custody~~ **Guardianship.** (a) ~~When~~ When the court terminates
 22.33 parental rights of both parents or of the only known living legal parent, the court shall
 22.34 order the guardianship ~~and the legal custody~~ of the child ~~transferred~~ to:

- 23.1 (1) the commissioner of human services;
 23.2 (2) a licensed child-placing agency; or
 23.3 (3) an individual who is willing and capable of assuming the appropriate duties
 23.4 and responsibilities to the child.

23.5 (b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to
 23.6 the commissioner of human services ~~only~~ when the responsible county social services
 23.7 agency had legal responsibility for planning for the permanent placement of the child and
 23.8 the child was in foster care under the legal responsibility of the responsible county social
 23.9 services agency at the time the court orders guardianship ~~and legal custody~~ transferred to
 23.10 the commissioner. The court shall not order guardianship to the commissioner under any
 23.11 other circumstances, except as provided in subdivision 3.

23.12 Sec. 23. Minnesota Statutes 2010, section 260C.325, subdivision 3, is amended to read:

23.13 Subd. 3. **Both parents deceased.** (a) If upon petition ~~to the juvenile court for~~
 23.14 guardianship by a reputable person, including but not limited to ~~an~~ the responsible social
 23.15 services agency as agent of the commissioner of human services, and upon hearing in
 23.16 the manner provided in section 260C.163, the court finds that both parents or the only
 23.17 known legal parent are or is deceased and no appointment has been made or petition for
 23.18 appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the
 23.19 guardianship ~~and legal custody~~ of the child transferred to:

- 23.20 (1) the commissioner of human services; or
 23.21 ~~(2) a licensed child-placing agency; or~~
 23.22 ~~(3)~~ (2) an individual who is willing and capable of assuming the appropriate duties
 23.23 and responsibilities to the child.

23.24 (b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to the
 23.25 commissioner of human services only if there is no individual who is willing and capable
 23.26 of assuming the appropriate duties and responsibilities to the child.

23.27 Sec. 24. Minnesota Statutes 2010, section 260C.325, subdivision 4, is amended to read:

23.28 Subd. 4. **Guardian's responsibilities.** (a) A guardian appointed under ~~the~~
 23.29 ~~provisions of this section~~ has legal custody of ~~a ward unless the court which appoints~~
 23.30 ~~the guardian gives legal custody to some other person. If the court awards custody to a~~
 23.31 ~~person other than the guardian, the guardian nonetheless has the right and responsibility of~~
 23.32 ~~reasonable visitation, except as limited by court order.~~ the child and the right to visit the
 23.33 child in foster care, the adoptive placement, or any other suitable setting at any time prior
 23.34 to finalization of the adoption of the child. When the child is under the guardianship of the

24.1 commissioner, the responsible social services agency, as agent of the commissioner, has
 24.2 the right to visit the child.

24.3 (b) When the guardian is a licensed child-placing agency, the guardian may shall
 24.4 make all major decisions affecting the person of the ward child, including, but not limited
 24.5 to, giving consent, (when consent is legally required), to the marriage, enlistment in
 24.6 the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward
 24.7 child. When, pursuant to this section, the commissioner of human services is appointed
 24.8 guardian, the commissioner may delegate to the responsible social services agency of
 24.9 the county in which, after the appointment, the ward resides, the authority to act for the
 24.10 commissioner in decisions affecting the person of the ward, including but not limited
 24.11 to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or
 24.12 psychiatric treatment of the ward.

24.13 (c) When the commissioner is appointed guardian, the duties of the commissioner of
 24.14 human services are established under sections 260C.601 to 260C.635.

24.15 ~~(e)~~ (d) A guardianship created under the provisions of this section shall not of itself
 24.16 include the guardianship of the estate of the ward child.

24.17 (e) The commissioner of human services, through the responsible social services
 24.18 agency, or a licensed child-placing agency who is a guardian or who has authority and
 24.19 responsibility for planning for the adoption of the child under section 259.25 or 259.47,
 24.20 has the duty to make reasonable efforts to finalize the adoption of the child.

24.21 Sec. 25. Minnesota Statutes 2010, section 260C.328, is amended to read:

24.22 **260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

24.23 (a) Upon its own motion or upon petition of an interested party, the juvenile court
 24.24 having jurisdiction of the child may, after notice to the parties and a hearing, remove
 24.25 the guardian appointed by the juvenile court and appoint a new guardian in accordance
 24.26 with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a
 24.27 showing that the child is emancipated, the court may discharge the guardianship. Any
 24.28 child 14 years of age or older who is not adopted but who is placed in a satisfactory foster
 24.29 home, may, with the consent of the foster parents, join with the guardian appointed by the
 24.30 juvenile court in a petition to the court having jurisdiction of the child to discharge the
 24.31 existing guardian and appoint the foster parents as guardians of the child.

24.32 (b) The authority of a guardian appointed by the juvenile court terminates when the
 24.33 individual under guardianship is no longer a minor or when guardianship is otherwise
 24.34 discharged. becomes age 18. However, an individual who has been under the guardianship
 24.35 of the commissioner and who has not been adopted may continue in foster care or reenter

25.1 foster care pursuant to section 260C.451 and the responsible social services agency has
25.2 continuing legal responsibility for the placement of the individual.

25.3 Sec. 26. **[260C.601] ADOPTION OF CHILDREN UNDER GUARDIANSHIP**
25.4 **OF COMMISSIONER.**

25.5 Subdivision 1. **Review and finalization requirements; adoption procedures.** (a)
25.6 Sections 260C.601 to 260C.635 establish:

25.7 (1) the requirements for court review of children under the guardianship of the
25.8 commissioner; and

25.9 (2) procedures for timely finalizing adoptions in the best interests of children under
25.10 the guardianship of the commissioner.

25.11 (b) Adoption proceedings for children not under the guardianship of the
25.12 commissioner are governed by chapter 259.

25.13 Subd. 2. **Duty of responsible agency.** The responsible social services agency has
25.14 the duty to act as the commissioner's agent in making reasonable efforts to finalize the
25.15 adoption of all children under the guardianship of the commissioner pursuant to section
25.16 260C.325. In implementing these duties, the agency shall ensure that:

25.17 (1) the best interests of the child are met in the planning and granting of adoptions;

25.18 (2) a child under the guardianship of the commissioner is appropriately involved
25.19 in planning for adoption;

25.20 (3) the diversity of Minnesota's population and diverse needs including culture,
25.21 religion, and language of persons affected by adoption are recognized and respected; and

25.22 (4) the court has the timely information it needs to make a decision that is in the best
25.23 interests of the child in reviewing the agency's planning for adoption and when ordering
25.24 the adoption of the child.

25.25 Subd. 3. **Background study.** Consistent with section 245C.33 and United States
25.26 Code, title 42, section 671, a completed background study is required before the adoptive
25.27 placement of the child in a related or an unrelated home.

25.28 Sec. 27. **[260C.603] DEFINITIONS.**

25.29 Subdivision 1. **Scope.** For the purposes of sections 260C.601 to 260C.635, the terms
25.30 defined in this section have the meanings given them.

25.31 Subd. 2. **Adopting parent.** "Adopting parent" means an adult who has signed
25.32 an adoption placement agreement regarding the child and has the same meaning as
25.33 preadoptive parent under section 259A.01, subdivision 23.

26.1 Subd. 3. **Adoption placement agreement.** "Adoption placement agreement" means
26.2 the written agreement between the responsible social services agency, the commissioner,
26.3 and the adopting parent which reflects the intent of all the signatories to the agreement that
26.4 the adopting parent establish a parent and child relationship by adoption with the child
26.5 who is under the guardianship of the commissioner. The adoptive placement agreement
26.6 must be in the commissioner's designated format.

26.7 Subd. 4. **Adoptive parent.** "Adoptive parent" has the meaning given in section
26.8 259A.01, subdivision 3.

26.9 Subd. 5. **Adoptive placement.** "Adoptive placement" means a placement made by
26.10 the responsible social services agency upon a fully executed adoption placement agreement
26.11 including the signatures of the adopting parent, the responsible social services agency, and
26.12 the commissioner of human services according to section 260C.613, subdivision 1.

26.13 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human
26.14 services or any employee of the Department of Human Services to whom the commissioner
26.15 has delegated authority regarding children under the commissioner's guardianship.

26.16 Subd. 7. **Guardianship.** "Guardianship" has the meaning given in section 259A.01,
26.17 subdivision 17; 260C.325; or 260C.515, subdivision 3.

26.18 Subd. 8. **Prospective adoptive parent.** "Prospective adoptive parent" means an
26.19 individual who may become an adopting parent regardless of whether the individual
26.20 has an adoption study approving the individual for adoption, but who has not signed an
26.21 adoption placement agreement.

26.22 Sec. 28. **[260C.605] REASONABLE EFFORTS TO FINALIZE AN ADOPTION.**

26.23 Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a
26.24 child under the guardianship of the commissioner shall be made by the responsible social
26.25 services agency responsible for permanency planning for the child.

26.26 (b) Reasonable efforts to make a placement in a home according to the placement
26.27 considerations under section 260C.212, subdivision 2, with a relative or foster parent
26.28 who will commit to being the permanent resource for the child in the event the child
26.29 cannot be reunified with a parent are required under section 260.012 and may be made
26.30 concurrently with reasonable, or if the child is an Indian child, active efforts to reunify
26.31 the child with the parent.

26.32 (c) Reasonable efforts under paragraph (b) must begin as soon as possible when the
26.33 child is in foster care under this chapter, but not later than the hearing required under
26.34 section 260C.204.

26.35 (d) Reasonable efforts to finalize the adoption of the child include:

- 27.1 (1) using age-appropriate engagement strategies to plan for adoption with the child;
27.2 (2) identifying an appropriate prospective adoptive parent for the child by updating
27.3 the child's identified needs using the factors in section 260C.212, subdivision 2;
27.4 (3) making an adoptive placement that meets the child's needs by:
27.5 (i) completing or updating the relative search required under section 260C.221 and
27.6 giving notice of the need for an adoptive home for the child to:
27.7 (A) relatives who have kept the agency or the court apprised of their whereabouts
27.8 and who have indicated an interest in adopting the child; or
27.9 (B) relatives of the child who are located in an updated search;
27.10 (ii) an updated search is required whenever:
27.11 (A) there is no identified prospective adoptive placement for the child
27.12 notwithstanding a finding by the court that the agency made diligent efforts under section
27.13 260C.221, in a hearing required under section 260C.202;
27.14 (B) the child is removed from the home of an adopting parent; or
27.15 (C) the court determines a relative search by the agency is in the best interests of
27.16 the child;
27.17 (iii) engaging child's foster parent and the child's relatives identified as an adoptive
27.18 resource during the search conducted under section 260C.221, to commit to being the
27.19 prospective adoptive parent of the child; or
27.20 (iv) when there is no identified prospective adoptive parent:
27.21 (A) registering the child on the state adoption exchange as required in section 259.75
27.22 unless the agency documents to the court an exception to placing the child on the state
27.23 adoption exchange reported to the commissioner;
27.24 (B) reviewing all families with approved adoption home studies associated with the
27.25 responsible social services agency;
27.26 (C) presenting the child to adoption agencies and adoption personnel who may assist
27.27 with finding an adoptive home for the child;
27.28 (D) using newspapers and other media to promote the particular child;
27.29 (E) using a private agency under grant contract with the commissioner to provide
27.30 adoption services for intensive child-specific recruitment efforts; and
27.31 (F) making any other efforts or using any other resources reasonably calculated to
27.32 identify a prospective adoption parent for the child;
27.33 (4) updating and completing the social and medical history required under sections
27.34 259.43 and 260C.609;
27.35 (5) making, and keeping updated, appropriate referrals required by section 260.851,
27.36 the Interstate Compact on the Placement of Children;

28.1 (6) giving notice regarding the responsibilities of an adoptive parent to any
28.2 prospective adoptive parent as required under section 259.35;

28.3 (7) offering the adopting parent the opportunity to apply for or decline adoption
28.4 assistance under chapter 259A;

28.5 (8) certifying the child for adoption assistance, assessing the amount of adoption
28.6 assistance, and ascertaining the status of the commissioner's decision on the level of
28.7 payment if the adopting parent has applied for adoption assistance;

28.8 (9) placing the child with siblings. If the child is not placed with siblings, the agency
28.9 must document reasonable efforts to place the siblings together, as well as the reason for
28.10 separation. The agency may not cease reasonable efforts to place siblings together for final
28.11 adoption until the court finds further reasonable efforts would be futile or that placement
28.12 together for purposes of adoption is not in the best interests of one of the siblings; and

28.13 (10) working with the adopting parent to file a petition to adopt the child and with
28.14 the court administrator to obtain a timely hearing to finalize the adoption.

28.15 Subd. 2. **No waiver.** (a) The responsible social services agency shall make
28.16 reasonable efforts to recruit, assess, and match an adoptive home for any child under
28.17 the guardianship of the commissioner and reasonable efforts shall continue until an
28.18 adoptive placement is made and adoption finalized or until the child is no longer under the
28.19 guardianship of the commissioner.

28.20 (b) A child of any age who is under the guardianship of the commissioner and is
28.21 legally available for adoption may not refuse or waive the responsible social services
28.22 agency's reasonable efforts to recruit, identify, and place the child in an adoptive home
28.23 required under this section. The agency has an ongoing responsibility to work with the
28.24 child to explore the child's opportunities for adoption, and what adoption means for the
28.25 child, and may not accept a child's refusal to consider adoption as an option.

28.26 (c) The court may not relieve or otherwise order the responsible social services
28.27 agency to cease fulfilling the responsible social services agency's duty regarding
28.28 reasonable efforts to recruit, identify, and place the child in an adoptive home.

28.29 **Sec. 29. [260C.607] REVIEW OF PROGRESS TOWARD ADOPTION.**

28.30 Subdivision 1. **Review hearings.** (a) The court shall conduct a review of the
28.31 responsible social services agency's reasonable efforts to finalize adoption for any child
28.32 under the guardianship of the commissioner and of the progress of the case toward
28.33 adoption at least every 90 days after the court issues an order that the commissioner is
28.34 the guardian of the child.

29.1 (b) The review of progress toward adoption shall continue notwithstanding that an
29.2 appeal is made of the order for guardianship.

29.3 (c) The agency's reasonable efforts to finalize the adoption must continue during the
29.4 pendency of the appeal and all progress toward adoption shall continue except that the
29.5 court may not finalize an adoption while the appeal is pending.

29.6 Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

29.7 (1) the responsible social services agency;

29.8 (2) the child, if the child is age ten and older;

29.9 (3) the child's guardian ad litem;

29.10 (4) relatives of the child who have kept the court informed of their whereabouts
29.11 as required in section 260C.221 and who have responded to the agency's notice under
29.12 section 260C.221, indicating a willingness to provide an adoptive home for the child
29.13 unless the relative has been previously ruled out by the court as a suitable foster parent or
29.14 permanency resource for the child;

29.15 (5) the current foster or adopting parent of the child;

29.16 (6) any foster or adopting parents of siblings of the child; and

29.17 (7) the Indian child's tribe.

29.18 Subd. 3. **Right to participate.** Any individual or entity listed in subdivision 2 may
29.19 participate in the continuing reviews conducted under this section. No other individual
29.20 or entity is required to be given notice or to participate in the reviews unless the court
29.21 specifically orders that notice be given or participation in the reviews be required.

29.22 Subd. 4. **Content of review.** (a) The court shall review:

29.23 (1) the agency's reasonable efforts under section 260C.605 to finalize an adoption
29.24 for the child as appropriate to the stage of the case; and

29.25 (2) the child's current out-of-home placement plan required under section 260C.212,
29.26 subdivision 1, to ensure the child is receiving all services and supports required to meet
29.27 the child's needs as they relate to the child's:

29.28 (i) placement;

29.29 (ii) visitation and contact with siblings;

29.30 (iii) visitation and contact with relatives;

29.31 (iv) medical, mental, and dental health; and

29.32 (v) education.

29.33 (b) When the child is age 16 and older, and as long as the child continues in foster
29.34 care, the court shall also review the agency's planning for the child's independent living
29.35 after leaving foster care including how the agency is meeting the requirements of section

30.1 260C.212, subdivision 1, paragraph (c), clause (11). The court shall use the review
30.2 requirements of section 260C.203, in any review conducted under this paragraph.

30.3 Subd. 5. **Required placement by responsible social services agency.** (a) No
30.4 petition for adoption shall be filed for a child under the guardianship of the commissioner
30.5 unless the child sought to be adopted has been placed for adoption with the adopting
30.6 parent by the responsible social services agency. The court may order the agency to make
30.7 an adoptive placement using standards and procedures under subdivision 6.

30.8 (b) Any relative or the child's foster parent who believes the responsible agency
30.9 has not reasonably considered their request to be considered for adoptive placement as
30.10 required under section 260C.212, subdivision 2, and who wants to be considered for
30.11 adoptive placement of the child shall bring their request for consideration to the attention
30.12 of the court during a review required under this section. The child's guardian ad litem and
30.13 the child may also bring a request for a relative or the child's foster parent to be considered
30.14 for adoptive placement. After hearing from the agency, the court may order the agency to
30.15 take appropriate action regarding the relative's or foster parent's request for consideration
30.16 under section 260C.212, subdivision 2, paragraph (b).

30.17 Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after
30.18 the district court orders the child under the guardianship of the commissioner of human
30.19 services, but not later than 30 days after receiving notice required under section 260C.613,
30.20 subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative
30.21 or the child's foster parent may file a motion for an order for adoptive placement of a
30.22 child who is under the guardianship of the commissioner if the relative or the child's
30.23 foster parent:

30.24 (1) has an adoption home study under section 259.41 approving the relative or foster
30.25 parent for adoption and has been a resident of Minnesota for at least six months before
30.26 filing the motion; the court may waive the residency requirement for the moving party
30.27 if there is a reasonable basis to do so; or

30.28 (2) is not a resident of Minnesota, but has an approved adoption home study by
30.29 an agency licensed or approved to complete an adoption home study in the state of the
30.30 individual's residence and the study is filed with the motion for adoptive placement.

30.31 (b) The motion shall be filed with the court conducting reviews of the child's
30.32 progress toward adoption under this section. The motion and supporting documents must
30.33 make a prima facie showing that the agency has been unreasonable in failing to make the
30.34 requested adoptive placement. The motion must be served according to the requirements
30.35 for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be
30.36 made on all individuals and entities listed in subdivision 2.

31.1 (c) If the motion and supporting documents do not make a prima facie showing for
31.2 the court to determine whether the agency has been unreasonable in failing to make the
31.3 requested adoptive placement, the court shall dismiss the motion. If the court determines a
31.4 prima facie basis is made, the court shall set the matter for evidentiary hearing.

31.5 (d) At the evidentiary hearing the responsible social services agency shall proceed
31.6 first with evidence about the reason for not making the adoptive placement proposed by the
31.7 moving party. The moving party then has the burden of proving by a preponderance of the
31.8 evidence that the agency has been unreasonable in failing to make the adoptive placement.

31.9 (e) At the conclusion of the evidentiary hearing, if the court finds that the agency
31.10 has been unreasonable in failing to make the adoptive placement and that the relative or
31.11 the child's foster parent is the most suitable adoptive home to meet the child's needs
31.12 using the factors in section 260C.212, subdivision 2, paragraph (b), the court may order
31.13 the responsible social services agency to make an adoptive placement in the home of the
31.14 relative or the child's foster parent.

31.15 (f) If, in order to ensure that a timely adoption may occur, the court orders the
31.16 responsible social services agency to make an adoptive placement under this subdivision,
31.17 the agency shall:

31.18 (1) make reasonable efforts to obtain a fully executed adoption placement agreement;

31.19 (2) work with the moving party regarding eligibility for adoption assistance as
31.20 required under chapter 259A; and

31.21 (3) if the moving party is not a resident of Minnesota, timely refer the matter for
31.22 approval of the adoptive placement through the Interstate Compact on the Placement of
31.23 Children.

31.24 (g) Denial or granting of a motion for an order for adoptive placement after an
31.25 evidentiary hearing is an order which may be appealed by the responsible social services
31.26 agency, the moving party, the child, when age ten or over, the child's guardian ad litem,
31.27 and any individual who had a fully executed adoption placement agreement regarding
31.28 the child at the time the motion was filed if the court's order has the effect of terminating
31.29 the adoption placement agreement. An appeal shall be conducted according to the
31.30 requirements of the Rules of Juvenile Protection Procedure.

31.31 **Subd. 7. Changing adoptive plan when parent has consented to adoption.**
31.32 When the child's parent has consented to adoption under section 260C.515, subdivision 3,
31.33 only the person identified by the parent and agreed to by the agency as the prospective
31.34 adoptive parent qualifies for adoptive placement of the child until the responsible social
31.35 services agency has reported to the court and the court has found in a hearing under this
31.36 section that it is not possible to finalize an adoption by the identified prospective adoptive

32.1 parent within 12 months of the execution of the consent to adopt under section 260C.515,
32.2 subdivision 3, unless the responsible social services agency certifies that the failure to
32.3 finalize is not due to either an action or a failure to act by the prospective adoptive parent.

32.4 Subd. 8. **Timing modified.** (a) The court may review the responsible social services
32.5 agency's reasonable efforts to finalize an adoption more frequently than every 90 days
32.6 whenever a more frequent review would assist in finalizing the adoption.

32.7 (b) In appropriate cases, the court may review the responsible social services
32.8 agency's reasonable efforts to finalize an adoption less frequently than every 90 days. The
32.9 court shall not find it appropriate to review progress toward adoption less frequently
32.10 than every 90 days except when:

32.11 (1) the court has approved the agency's reasonable efforts to recruit, identify, and
32.12 place the child in an adoptive home on a continuing basis for at least 24 months after the
32.13 court has issued the order for guardianship;

32.14 (2) the child is at least 16 years old; and

32.15 (3) the child's guardian ad litem agrees that review less frequently than every 90
32.16 days is in the child's best interests.

32.17 (c) In no event shall the court's review be less frequent than every six months.

32.18 Sec. 30. **[260C.609] SOCIAL AND MEDICAL HISTORY.**

32.19 (a) The responsible social services agency shall work with the birth family of the
32.20 child, foster family, medical and treatment providers, and the child's school to ensure there
32.21 is a detailed, thorough, and currently up-to-date social and medical history of the child as
32.22 required under section 259.43 on the forms required by the commissioner.

32.23 (b) When the child continues in foster care, the agency's reasonable efforts to
32.24 complete the history shall begin no later than the permanency progress review hearing
32.25 required under section 260C.204 or six months after the child's placement in foster care.

32.26 (c) The agency shall thoroughly discuss the child's history with the adopting parent
32.27 of the child and shall give a copy of the report of the child's social and medical history
32.28 to the adopting parent. A copy of the child's social and medical history may also be
32.29 given to the child as appropriate.

32.30 (d) The report shall not include information that identifies birth relatives. Redacted
32.31 copies of all the child's relevant evaluations, assessments, and records must be attached
32.32 to the social and medical history.

32.33 Sec. 31. **[260C.611] ADOPTION STUDY REQUIRED.**

33.1 An adoption study under section 259.41 approving placement of the child in the
33.2 home of the prospective adoptive parent shall be completed before placing any child
33.3 under the guardianship of the commissioner in a home for adoption. If a prospective
33.4 adoptive parent has previously held a foster care license or adoptive home study, any
33.5 update necessary to the foster care license, or updated or new adoptive home study, if not
33.6 completed by the licensing authority responsible for the previous license or home study,
33.7 shall include collateral information from the previous licensing or approving agency, if
33.8 available.

33.9 Sec. 32. **[260C.613] SOCIAL SERVICES AGENCY AS COMMISSIONER'S**
33.10 **AGENT.**

33.11 Subdivision 1. **Adoptive placement decisions.** (a) The responsible social services
33.12 agency has exclusive authority to make an adoptive placement of a child under the
33.13 guardianship of the commissioner. The child shall be considered placed for adoption when
33.14 the adopting parent, the agency, and the commissioner have fully executed an adoption
33.15 placement agreement on the form prescribed by the commissioner.

33.16 (b) The responsible social services agency shall use an individualized determination
33.17 of the child's current needs pursuant to section 260C.212, subdivision 2, paragraph (b), to
33.18 determine the most suitable adopting parent for the child in the child's best interests.

33.19 (c) The responsible social services agency shall notify the court and parties entitled
33.20 to notice under section 260C.607, subdivision 2, when there is a fully executed adoption
33.21 placement agreement for the child.

33.22 (d) In the event an adoption placement agreement terminates, the responsible
33.23 social services agency shall notify the court, the parties entitled to notice under section
33.24 260C.607, subdivision 2, and the commissioner that the agreement and the adoptive
33.25 placement have terminated.

33.26 Subd. 2. **Disclosure of data permitted to identify adoptive parent.** The
33.27 responsible social services agency may disclose private data, as defined in section 13.02, to
33.28 prospective adoptive parents for the purpose of identifying an adoptive parent willing and
33.29 able to meet the child's needs as outlined in section 260C.212, subdivision 2, paragraph (b).

33.30 Subd. 3. **Siblings placed together.** The responsible social services agency shall
33.31 place siblings together for adoption according to section 260.012, paragraph (e), clause
33.32 (4), unless:

33.33 (1) the court makes findings required under section 260C.617; and

34.1 (2) the court orders that the adoption or progress toward adoption of the child under
34.2 the court's jurisdiction may proceed notwithstanding that the adoption will result in
34.3 siblings being separated.

34.4 Subd. 4. **Other considerations.** Placement of a child cannot be delayed or denied
34.5 based on the race, color, or national origin of the prospective parent or the child.

34.6 Subd. 5. **Required record keeping.** The responsible social services agency
34.7 shall document, in the records required to be kept under section 259.79, the reasons
34.8 for the adoptive placement decision regarding the child, including the individualized
34.9 determination of the child's needs based on the factors in section 260C.212, subdivision
34.10 2, paragraph (b), and the assessment of how the selected adoptive placement meets the
34.11 identified needs of the child. The responsible social services agency shall retain in the
34.12 records required to be kept under section 259.79, copies of all out-of-home placement
34.13 plans made since the child was ordered under guardianship of the commissioner and all
34.14 court orders from reviews conducted pursuant to section 260C.607.

34.15 Subd. 6. **Death notification.** (a) The agency shall inform the adoptive parents
34.16 that the adoptive parents of an adopted child under age 19 or an adopted person age 19
34.17 or older may maintain a current address on file with the agency and indicate a desire to
34.18 be notified if the agency receives information of the death of a birth parent. The agency
34.19 shall notify birth parents of the child's death and the cause of death, if known, provided
34.20 that the birth parents desire notice and maintain current addresses on file with the agency.
34.21 The agency shall inform birth parents entitled to notice under section 259.27, that they
34.22 may designate individuals to notify the agency if a birth parent dies and that the agency
34.23 receiving information of the birth parent's death will share the information with adoptive
34.24 parents, if the adopted person is under age 19, or an adopted person age 19 or older who
34.25 has indicated a desire to be notified of the death of a birth parent and who maintains
34.26 a current address on file with the agency.

34.27 (b) Notice to a birth parent that a child has died or to the adoptive parents or an
34.28 adopted person age 19 or older that a birth parent has died shall be provided by an
34.29 employee of the agency through personal and confidential contact, but not by mail.

34.30 Subd. 7. **Terminal illness notification.** If a birth parent or the child is terminally ill,
34.31 the responsible social services agency shall inform the adoptive parents and birth parents
34.32 of a child who is adopted that the birth parents, the adoptive parents of an adopted person
34.33 under age 19, or an adopted person age 19 or older may request to be notified of the
34.34 terminal illness. The agency shall notify the other parties if a request is received under
34.35 this subdivision and upon a party's request the agency shall share information regarding a
34.36 terminal illness with the adoptive or birth parents or an adopted person age 19 or older.

35.1 Subd. 8. Postadoption search services. The responsible social services agency
35.2 shall respond to requests from adopted persons age 19 years and over, adoptive parents
35.3 of a minor child, and birth parents for social and medical history and genetic health
35.4 conditions of the adopted person's birth family and genetic sibling information according
35.5 to section 259.83.

35.6 Sec. 33. [260C.615] DUTIES OF COMMISSIONER.

35.7 Subdivision 1. Duties. (a) For any child who is under the guardianship of the
35.8 commissioner, the commissioner has the exclusive rights to consent to:

35.9 (1) the medical care plan for the treatment of a child who is at imminent risk of death
35.10 or who has a chronic disease that, in a physician's judgment, will result in the child's death
35.11 in the near future including a physician's order not to resuscitate or intubate the child; and

35.12 (2) the child donating a part of the child's body to another person while the child is
35.13 living; the decision to donate a body part under this clause shall take into consideration
35.14 the child's wishes and the child's culture.

35.15 (b) In addition to the exclusive rights under paragraph (a), the commissioner has
35.16 a duty to:

35.17 (1) process any complete and accurate request for home study and placement
35.18 through the Interstate Compact on the Placement of Children under section 260.851;

35.19 (2) process any complete and accurate application for adoption assistance forwarded
35.20 by the responsible social services agency according to chapter 259A;

35.21 (3) complete the execution of an adoption placement agreement forwarded to the
35.22 commissioner by the responsible social services agency and return it to the agency in a
35.23 timely fashion; and

35.24 (4) maintain records as required in chapter 259.

35.25 Subd. 2. Duties not reserved. All duties, obligations, and consents not specifically
35.26 reserved to the commissioner in this section are delegated to the responsible social
35.27 services agency.

35.28 Sec. 34. [260C.617] SIBLING PLACEMENT.

35.29 (a) The responsible social services agency shall make every effort to place siblings
35.30 together for adoption.

35.31 (b) The court shall review any proposal by the responsible social services agency to
35.32 separate siblings for purposes of adoption.

35.33 (c) If there is venue in more than one county for matters regarding siblings who are
35.34 under the guardianship of the commissioner, the judges conducting reviews regarding

36.1 the siblings shall communicate with each other about the siblings' needs and, where
36.2 appropriate, shall conduct review hearings in a manner that ensures coordinated planning
36.3 by agencies involved in decision making for the siblings.

36.4 (d) After notice to the individuals and entities listed in section 260C.627, the foster
36.5 or prospective adoptive parent of the child, and any foster, adopting, or adoptive parents
36.6 of the child's siblings, or relatives with permanent legal and physical custody of the
36.7 child's sibling, and upon hearing, the court may determine that a child under the court's
36.8 jurisdiction may be separated from the child's sibling for adoption when:

36.9 (1) the responsible social services agency has made reasonable efforts to place the
36.10 siblings together, and after finding reasonable efforts have been made, the court finds
36.11 further efforts would significantly delay the adoption of one or more of the siblings and
36.12 are therefore not in the best interests of one or more of the siblings; or

36.13 (2) the court determines it is not in the best interests of one or more of the siblings to
36.14 be placed together after reasonable efforts by the responsible social services agency to
36.15 place the siblings together.

36.16 Sec. 35. **[260C.619] COMMUNICATION AND CONTACT AGREEMENTS.**

36.17 (a) An adopting parent and a relative or foster parent of the child may enter into an
36.18 agreement regarding communication with or contact between the adopted child, adopting
36.19 parent, and the relative or foster parent. An agreement may be entered between:

36.20 (1) an adopting parent and a birth parent;

36.21 (2) an adopting parent and any relative or foster parent with whom the child resided
36.22 before being adopted; and

36.23 (3) an adopting parent and the parent or legal custodian of a sibling of the child, if
36.24 the sibling is a minor, or any adult sibling of the child.

36.25 (b) An agreement regarding communication with or contact between the child,
36.26 adoptive parents, and a relative or foster parent, is enforceable when the terms of the
36.27 agreement are contained in a written court order. The order must be issued before or at the
36.28 time of the granting of the decree of adoption. The order granting the communication,
36.29 contact, or visitation shall be filed in the adoption file.

36.30 (c) The court shall mail a certified copy of the order to the parties to the agreement or
36.31 their representatives at the addresses provided by the parties to the agreement. Service shall
36.32 be completed in a manner that maintains the confidentiality of confidential information.

36.33 (d) The court shall not enter a proposed order unless the terms of the order have been
36.34 approved in writing by the prospective adoptive parents, the birth relative, the foster

37.1 parent, or the birth parent or legal custodian of the child's sibling who desires to be a party
37.2 to the agreement, and the responsible social services agency.

37.3 (e) An agreement under this section need not disclose the identity of the parties to be
37.4 legally enforceable and when the identity of the parties to the agreement is not disclosed,
37.5 data about the identities in the adoption file shall remain confidential.

37.6 (f) The court shall not enter a proposed order unless the court finds that the
37.7 communication or contact between the minor adoptee, the adoptive parents, and the
37.8 relative, foster parents, or siblings as agreed upon and contained in the proposed order,
37.9 would be in the child's best interests.

37.10 (g) Failure to comply with the terms of an order regarding communication or contact
37.11 that has been entered by the court under this section is not grounds for:

37.12 (1) setting aside an adoption decree; or

37.13 (2) revocation of a written consent to an adoption after that consent has become
37.14 irrevocable.

37.15 (h) An order regarding communication or contact entered under this section may be
37.16 enforced by filing a motion in the existing adoption file with the court that entered the
37.17 contact agreement. Any party to the communication or contact order or the child who is
37.18 the subject of the order has standing to file the motion to enforce the order. The prevailing
37.19 party may be awarded reasonable attorney fees and costs.

37.20 (i) The court shall not modify an order under this section unless it finds that the
37.21 modification is necessary to serve the best interests of the child, and:

37.22 (1) the modification is agreed to by the parties to the agreement; or

37.23 (2) exceptional circumstances have arisen since the order was entered that justified
37.24 modification of the order.

37.25 **Sec. 36. [260C.621] JURISDICTION AND VENUE.**

37.26 **Subdivision 1. Jurisdiction.** (a) The juvenile court has original jurisdiction for all
37.27 adoption proceedings involving the adoption of a child under the guardianship of the
37.28 commissioner, including when the commissioner approves the placement of the child
37.29 through the Interstate Compact on the Placement of Children under section 260.851 for
37.30 adoption outside the state of Minnesota and an adoption petition is filed in Minnesota.

37.31 (b) The receiving state also has jurisdiction to conduct an adoption proceeding for a
37.32 child under the guardianship of the commissioner when the adopting home was approved
37.33 by the receiving state through the interstate compact.

38.1 Subd. 2. Venue. (a) Venue for the adoption of a child committed to the guardianship
38.2 of the commissioner of human services shall be the court conducting reviews in the matter
38.3 according to section 260C.607.

38.4 (b) Upon request of the responsible social services agency, the court conducting
38.5 reviews under section 260C.607 may order that filing an adoption petition involving a
38.6 child under the guardianship of the commissioner be permitted in the county where the
38.7 adopting parent resides upon determining that:

38.8 (1) there is no motion for an order for adoptive placement of the child that has been
38.9 filed or is reasonably anticipated by the responsible social services agency to be filed; and

38.10 (2) filing the petition in the adopting parent's county of residence will expedite the
38.11 proceedings and serve the best interests of the child.

38.12 (c) When the court issues an order under paragraph (b), a copy of the court order
38.13 shall be filed together with the adoption petition in the court of the adopting parent's
38.14 county of residence.

38.15 (d) The court shall notify the court conducting reviews under section 260C.607 when
38.16 the adoption is finalized so that the court conducting reviews under section 260C.607 may
38.17 close its jurisdiction and the court record, including the court's electronic case record, in
38.18 the county conducting the reviews, shall reflect that adoption of the child was finalized.

38.19 **Sec. 37. [260C.623] ADOPTION PETITION.**

38.20 Subdivision 1. Who may petition. (a) The responsible social services agency may
38.21 petition for the adopting parent to adopt a child who is under the guardianship of the
38.22 commissioner. The petition shall contain or have attached a statement certified by the
38.23 adopting parent that the adopting parent desires that the relationship of parent and child
38.24 be established between the adopting parent and the child and that adoption is in the best
38.25 interests of the child.

38.26 (b) The adopting parent may petition the court for adoption of the child.

38.27 (c) An adopting parent must be at least 21 years of age at the time the adoption
38.28 petition is filed unless the adopting parent is an individual related to the child, as defined
38.29 by section 245A.02, subdivision 13.

38.30 (d) The petition may be filed in Minnesota by an adopting parent who resides within
38.31 or outside the state.

38.32 Subd. 2. Time for filing petition. (a) An adoption petition shall be filed not later
38.33 than nine months after the date of the fully executed adoption placement agreement unless
38.34 the court finds that:

39.1 (1) the time for filing a petition be extended because of the child's special needs
39.2 as defined under title IV-E of the federal Social Security Act, United States Code, title
39.3 42, section 672; or

39.4 (2) based on a written plan for completing filing of the petition, including a specific
39.5 timeline, to which the adopting parent has agreed, the time for filing a petition be extended
39.6 long enough to complete the plan because an extension is in the best interests of the child
39.7 and additional time is needed for the child to adjust to the adoptive home.

39.8 (b) If an adoption petition is not filed within nine months of the execution of the
39.9 adoption placement agreement as required under section 260C.613, subdivision 1, and
39.10 after giving the adopting parent written notice of its request together with the date and
39.11 time of the hearing set to consider its report, the responsible social services agency shall
39.12 file a report requesting an order for one of the following:

39.13 (1) that the time for filing a petition be extended because of the child's special needs
39.14 as defined under title IV-E of the federal Social Security Act, United States Code, title
39.15 42, section 673;

39.16 (2) that, based on a written plan for completing filing of the petition, including a
39.17 specific timeline, to which the adopting parent has agreed, the time for filing a petition can
39.18 be extended long enough to complete the plan because an extension is in the best interests
39.19 of the child and additional time is needed for the child to adjust to the adoptive home; or

39.20 (3) that the child can be removed from the adopting home.

39.21 (c) At the conclusion of the review, the court shall issue findings, appropriate orders
39.22 for the parties to take action or steps required to advance the case toward a finalized
39.23 adoption, and set the date and time for the next review hearing.

39.24 **Subd. 3. Requirements of petition.** (a) The petition shall be captioned in the legal
39.25 name of the child as that name is reflected on the child's birth record prior to adoption and
39.26 shall be entitled "Petition to Adopt Child under the Guardianship of the Commissioner
39.27 of Human Services." The actual name of the child shall be supplied to the court by the
39.28 responsible social services agency if unknown to the individual with whom the agency
39.29 has made the adoptive placement.

39.30 (b) The adoption petition shall be verified as required in section 260C.141,
39.31 subdivision 4, and, if filed by the responsible social services agency, signed and approved
39.32 by the county attorney.

39.33 (c) The petition shall state:

39.34 (1) the full name, age, and place of residence of the adopting parent;

39.35 (2) if the adopting parents are married, the date and place of marriage;

39.36 (3) the date the adopting parent acquired physical custody of the child;

40.1 (4) the date of the adoptive placement by the responsible social services agency;

40.2 (5) the date of the birth of the child, if known, and the county, state, and country
40.3 where born;

40.4 (6) the name to be given the child, if a change of name is desired;

40.5 (7) the description and value of any real or personal property owned by the child;

40.6 (8) the relationship of the adopting parent to the child prior to adoptive placement, if
40.7 any;

40.8 (9) whether the Indian Child Welfare Act does or does not apply; and

40.9 (10) the name and address of:

40.10 (i) the child's guardian ad litem;

40.11 (ii) the adoptee, if age ten or older;

40.12 (iii) the child's Indian tribe, if the child is an Indian child; and

40.13 (iv) the responsible social services agency.

40.14 (d) A petition may ask for the adoption of two or more children.

40.15 (e) If a petition is for adoption by a married person, both spouses must sign the
40.16 petition indicating willingness to adopt the child and the petition must ask for adoption by
40.17 both spouses unless the court approves adoption by only one spouse when spouses do not
40.18 reside together or for other good cause shown.

40.19 (f) If the petition is for adoption by a person residing outside the state, the adoptive
40.20 placement must have been approved by the state where the person is a resident through the
40.21 Interstate Compact on the Placement of Children, sections 260.851 to 260.92.

40.22 Subd. 4. **Attachments to the petition.** The following must be filed with the petition:

40.23 (1) the adoption study report required under section 259.41;

40.24 (2) the social and medical history required under sections 259.43 and 260C.609; and

40.25 (3) a document prepared by the petitioner that establishes who must be given notice
40.26 under section 260C.627, subdivision 1, that includes the names and mailing addresses of
40.27 those to be served by the court administrator.

40.28 **Sec. 38. [260C.625] DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.**

40.29 (a) The following shall be filed by the responsible social services agency prior to
40.30 finalization of the adoption:

40.31 (1) a certified copy of the child's birth record;

40.32 (2) a certified copy of the findings and order terminating parental rights or order
40.33 accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for
40.34 guardianship to the commissioner;

40.35 (3) a copy of any communication or contact agreement under section 260C.619;

41.1 (4) certification that the Minnesota Fathers' Adoption Registry has been searched
41.2 which requirement may be met according to the requirements of the Minnesota Rules of
41.3 Adoption Procedure, Rule 32.01, subdivision 2;

41.4 (5) the original of each consent to adoption required, if any, unless the original was
41.5 filed in the permanency proceeding conducted under section 260C.515, subdivision 3, and
41.6 the order filed under clause (2) has a copy of the consent attached; and

41.7 (6) the postplacement assessment report required under section 259.53, subdivision
41.8 2.

41.9 (b) The responsible social services agency shall provide any known aliases of the
41.10 child to the court.

41.11 Sec. 39. **[260C.627] NOTICE OF ADOPTION PROCEEDINGS.**

41.12 Subdivision 1. **To whom given.** (a) Notice of the adoption proceedings shall not
41.13 be given to any parent whose rights have been terminated or who has consented to the
41.14 adoption of the child under this chapter.

41.15 (b) Notice of the adoption proceedings shall be given to the following:

41.16 (1) the child's tribe if the child is an Indian child;

41.17 (2) the responsible social services agency;

41.18 (3) the child's guardian ad litem;

41.19 (4) the child, if the child is age ten or over;

41.20 (5) the child's attorney; and

41.21 (6) the adopting parent.

41.22 (c) Notice of a hearing regarding the adoption petition shall have a copy of the
41.23 petition attached unless service of the petition has already been accomplished.

41.24 Subd. 2. **Method of service.** Notice of adoption proceedings for a child under the
41.25 guardianship of the commissioner may be served by United States mail or any other
41.26 method approved by the Minnesota Rules of Adoption Procedure.

41.27 Sec. 40. **[260C.629] FINALIZATION HEARING.**

41.28 Subdivision 1. **Consent.** (a) A parent whose rights to the child have not been
41.29 terminated must consent to the adoption of the child. A parent may consent to the adoption
41.30 of the child under section 260C.515, subdivision 3, and that consent shall be irrevocable
41.31 upon acceptance by the court except as otherwise provided in section 260C.515,
41.32 subdivision 3, clause (2)(i). A parent of an Indian child may consent to the adoption of
41.33 the child according to United States Code, title 25, section 1913, and that consent may be
41.34 withdrawn for any reason at any time before the entry of a final decree of adoption.

42.1 (b) When the child to be adopted is age 14 years or older, the child's written consent
42.2 to adoption by the adopting parent is required.

42.3 (c) Consent by the responsible social services agency or the commissioner is not
42.4 required because the adoptive placement has been made by the responsible social services
42.5 agency.

42.6 Subd. 2. **Required documents.** In order to issue a decree for adoption and enter
42.7 judgment accordingly, the court must have the following documents in the record:

42.8 (1) original birth record of the child;

42.9 (2) adoption study report including a background study required under section
42.10 259.41;

42.11 (3) a certified copy of the findings and order terminating parental rights or order
42.12 accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for
42.13 guardianship to the commissioner;

42.14 (4) any consents required under subdivision 1;

42.15 (5) child's social and medical history under section 260C.609;

42.16 (6) postplacement assessment report required under section 259.53, subdivision 2,
42.17 unless waived by the court on the record at a hearing under section 260C.607; and

42.18 (7) report from the child's guardian ad litem.

42.19 Sec. 41. **[260C.631] JUDGMENT AND DECREE.**

42.20 (a) After taking testimony from the responsible social services agency, which may
42.21 be by telephone or affidavit if the court has transferred venue of the matter to a county
42.22 not conducting the posttermination of parental rights reviews under section 260C.607,
42.23 and the adopting parent, if the court finds that it is in the best interests of the child that
42.24 the petition be granted, a decree of adoption shall be issued ordering that the child to be
42.25 adopted shall be the child of the adopting parent. In the decree, the court may change the
42.26 name of the adopted child, if a name change is requested.

42.27 (b) After the decree is granted, the court administrator shall mail a copy of the decree
42.28 to the commissioner of human services.

42.29 Sec. 42. **[260C.633] ADOPTION DENIED.**

42.30 (a) If the court is not satisfied that the proposed adoption is in the best interests of
42.31 the child to be adopted, the court shall deny the petition, and order the responsible social
42.32 services agency to take appropriate action for the protection and safety of the child. If
42.33 venue has been transferred under section 260C.621, subdivision 2, the court denying

43.1 the petition shall notify the court originally conducting the guardianship reviews under
43.2 section 260C.607.

43.3 (b) The court responsible for conducting reviews under section 260C.607 shall set a
43.4 hearing within 30 days of receiving notice of denial of the petition.

43.5 (c) Any appeal of the denial of an adoption petition under this section shall be made
43.6 according to the requirements of the Minnesota Rules of Adoption Procedure.

43.7 Sec. 43. **[260C.635] EFFECT OF ADOPTION.**

43.8 Subdivision 1. **Legal effect.** (a) Upon adoption, the adopted child becomes the legal
43.9 child of the adopting parent and the adopting parent becomes the legal parent of the child
43.10 with all the rights and duties between them of a birth parent and child.

43.11 (b) The child shall inherit from the adoptive parent and the adoptive parent's
43.12 relatives the same as though the child were the birth child of the parent, and in case of the
43.13 child's death intestate, the adoptive parent and the adoptive parent's relatives shall inherit
43.14 the child's estate as if the child had been the adoptive parent's birth child.

43.15 (c) After a decree of adoption is entered, the birth parents or previous legal parents
43.16 of the child shall be relieved of all parental responsibilities for the child except child
43.17 support that has accrued to the date of the order for guardianship to the commissioner
43.18 which continues to be due and owing. The child's birth or previous legal parent shall not
43.19 exercise or have any rights over the adopted child or the adopted child's property, person,
43.20 privacy, or reputation.

43.21 (d) The adopted child shall not owe the birth parents or the birth parent's relatives
43.22 any legal duty nor shall the adopted child inherit from the birth parents or kindred unless
43.23 otherwise provided for in a will of the birth parent or kindred.

43.24 (e) Upon adoption, the court shall complete a certificate of adoption form and mail
43.25 the form to the Office of the State Registrar at the Minnesota Department of Health. Upon
43.26 receiving the certificate of adoption, the state registrar shall register a replacement vital
43.27 record in the new name of the adopted child as required under section 144.218.

43.28 Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions
43.29 of subdivision 1, the adoption of a child whose birth parent or parents are enrolled in an
43.30 American Indian tribe shall not change the child's enrollment in that tribe.

43.31 Subd. 3. **Communication or contact agreements.** This section does not prohibit
43.32 birth parents, relatives, birth or legal siblings, and adoptive parents from entering a
43.33 communication or contact agreement under section 260C.619.

44.1 Sec. 44. [260C.637] ACCESS TO ORIGINAL BIRTH RECORD
44.2 INFORMATION.

44.3 An adopted person may ask the commissioner of health to disclose the information
44.4 on the adopted person's original birth record according to section 259.89.

44.5 Sec. 45. Minnesota Statutes 2010, section 541.04, is amended to read:

44.6 **541.04 JUDGMENTS, TEN ~~OR 20~~ YEARS.**

44.7 No action shall be maintained upon a judgment or decree of a court of the United
44.8 States, or of any state or territory thereof, unless begun within ten years after the entry of
44.9 such judgment ~~or, in the case of a judgment for child support, including a judgment by~~
44.10 ~~operation of law, unless begun within 20 years after entry of the judgment.~~

44.11 **EFFECTIVE DATE.** The amendments to this section are effective retroactively
44.12 from April 15, 2010, the date the language stricken in this section was finally enacted.

44.13 Sec. 46. Minnesota Statutes 2010, section 548.09, subdivision 1, is amended to read:

44.14 Subdivision 1. **Entry and docketing; survival of judgment.** Except as provided
44.15 in section 548.091, every judgment requiring the payment of money shall be entered
44.16 by the court administrator when ordered by the court and will be docketed by the court
44.17 administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript
44.18 of the docket being filed with the court administrator in any other county, the court
44.19 administrator shall also docket it. From the time of docketing the judgment is a lien, in
44.20 the amount unpaid, upon all real property in the county then or thereafter owned by the
44.21 judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant
44.22 to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten
44.23 years after its entry ~~or, in the case of a judgment for child support, including a judgment~~
44.24 ~~by operation of law, for 20 years after its entry.~~ Child support judgments may be renewed
44.25 pursuant to section 548.091.

44.26 **EFFECTIVE DATE.** The amendments to this section are effective retroactively
44.27 from April 15, 2010, the date the language stricken in this section was finally enacted.

44.28 Sec. 47. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

44.29 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
44.30 given them unless the specific content indicates otherwise:

44.31 (a) "Family assessment" means a comprehensive assessment of child safety, risk
44.32 of subsequent child maltreatment, and family strengths and needs that is applied to a

45.1 child maltreatment report that does not allege substantial child endangerment. Family
45.2 assessment does not include a determination as to whether child maltreatment occurred
45.3 but does determine the need for services to address the safety of family members and the
45.4 risk of subsequent maltreatment.

45.5 (b) "Investigation" means fact gathering related to the current safety of a child
45.6 and the risk of subsequent maltreatment that determines whether child maltreatment
45.7 occurred and whether child protective services are needed. An investigation must be used
45.8 when reports involve substantial child endangerment, and for reports of maltreatment in
45.9 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
45.10 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
45.11 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
45.12 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

45.13 (c) "Substantial child endangerment" means a person responsible for a child's care,
45.14 and in the case of sexual abuse includes a person who has a significant relationship to the
45.15 child as defined in section 609.341, or a person in a position of authority as defined in
45.16 section 609.341, who by act or omission commits or attempts to commit an act against a
45.17 child under their care that constitutes any of the following:

45.18 (1) egregious harm as defined in section 260C.007, subdivision 14;

45.19 (2) sexual abuse as defined in paragraph (d);

45.20 (3) abandonment under section 260C.301, subdivision 2;

45.21 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
45.22 child's physical or mental health, including a growth delay, which may be referred to as
45.23 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

45.24 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
45.25 609.195;

45.26 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

45.27 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
45.28 609.223;

45.29 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

45.30 (9) criminal sexual conduct under sections 609.342 to 609.3451;

45.31 (10) solicitation of children to engage in sexual conduct under section 609.352;

45.32 (11) malicious punishment or neglect or endangerment of a child under section
45.33 609.377 or 609.378;

45.34 (12) use of a minor in sexual performance under section 617.246; or

46.1 (13) parental behavior, status, or condition which mandates that the county attorney
46.2 file a termination of parental rights petition under section 260C.301, subdivision 3,
46.3 paragraph (a).

46.4 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
46.5 child's care, by a person who has a significant relationship to the child, as defined in
46.6 section 609.341, or by a person in a position of authority, as defined in section 609.341,
46.7 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
46.8 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
46.9 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
46.10 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
46.11 abuse also includes any act which involves a minor which constitutes a violation of
46.12 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
46.13 threatened sexual abuse.

46.14 (e) "Person responsible for the child's care" means (1) an individual functioning
46.15 within the family unit and having responsibilities for the care of the child such as a
46.16 parent, guardian, or other person having similar care responsibilities, or (2) an individual
46.17 functioning outside the family unit and having responsibilities for the care of the child
46.18 such as a teacher, school administrator, other school employees or agents, or other lawful
46.19 custodian of a child having either full-time or short-term care responsibilities including,
46.20 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
46.21 and coaching.

46.22 (f) "Neglect" means the commission or omission of any of the acts specified under
46.23 clauses (1) to (9), other than by accidental means:

46.24 (1) failure by a person responsible for a child's care to supply a child with necessary
46.25 food, clothing, shelter, health, medical, or other care required for the child's physical or
46.26 mental health when reasonably able to do so;

46.27 (2) failure to protect a child from conditions or actions that seriously endanger the
46.28 child's physical or mental health when reasonably able to do so, including a growth delay,
46.29 which may be referred to as a failure to thrive, that has been diagnosed by a physician and
46.30 is due to parental neglect;

46.31 (3) failure to provide for necessary supervision or child care arrangements
46.32 appropriate for a child after considering factors as the child's age, mental ability, physical
46.33 condition, length of absence, or environment, when the child is unable to care for the
46.34 child's own basic needs or safety, or the basic needs or safety of another child in their care;

47.1 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
47.2 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
47.3 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

47.4 (5) nothing in this section shall be construed to mean that a child is neglected solely
47.5 because the child's parent, guardian, or other person responsible for the child's care in
47.6 good faith selects and depends upon spiritual means or prayer for treatment or care of
47.7 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,
47.8 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report
47.9 if a lack of medical care may cause serious danger to the child's health. This section does
47.10 not impose upon persons, not otherwise legally responsible for providing a child with
47.11 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

47.12 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,
47.13 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
47.14 symptoms in the child at birth, results of a toxicology test performed on the mother at
47.15 delivery or the child at birth, or medical effects or developmental delays during the child's
47.16 first year of life that medically indicate prenatal exposure to a controlled substance;

47.17 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

47.18 (8) chronic and severe use of alcohol or a controlled substance by a parent or
47.19 person responsible for the care of the child that adversely affects the child's basic needs
47.20 and safety; or

47.21 (9) emotional harm from a pattern of behavior which contributes to impaired
47.22 emotional functioning of the child which may be demonstrated by a substantial and
47.23 observable effect in the child's behavior, emotional response, or cognition that is not
47.24 within the normal range for the child's age and stage of development, with due regard to
47.25 the child's culture.

47.26 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,
47.27 inflicted by a person responsible for the child's care on a child other than by accidental
47.28 means, or any physical or mental injury that cannot reasonably be explained by the child's
47.29 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
47.30 that have not been authorized under section 121A.67 or 245.825.

47.31 Abuse does not include reasonable and moderate physical discipline of a child
47.32 administered by a parent or legal guardian which does not result in an injury. Abuse does
47.33 not include the use of reasonable force by a teacher, principal, or school employee as
47.34 allowed by section 121A.582. Actions which are not reasonable and moderate include,
47.35 but are not limited to, any of the following that are done in anger or without regard to the
47.36 safety of the child:

- 48.1 (1) throwing, kicking, burning, biting, or cutting a child;
- 48.2 (2) striking a child with a closed fist;
- 48.3 (3) shaking a child under age three;
- 48.4 (4) striking or other actions which result in any nonaccidental injury to a child
- 48.5 under 18 months of age;
- 48.6 (5) unreasonable interference with a child's breathing;
- 48.7 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- 48.8 (7) striking a child under age one on the face or head;
- 48.9 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
- 48.10 substances which were not prescribed for the child by a practitioner, in order to control or
- 48.11 punish the child; or other substances that substantially affect the child's behavior, motor
- 48.12 coordination, or judgment or that results in sickness or internal injury, or subjects the
- 48.13 child to medical procedures that would be unnecessary if the child were not exposed
- 48.14 to the substances;
- 48.15 (9) unreasonable physical confinement or restraint not permitted under section
- 48.16 609.379, including but not limited to tying, caging, or chaining; or
- 48.17 (10) in a school facility or school zone, an act by a person responsible for the child's
- 48.18 care that is a violation under section 121A.58.
- 48.19 (h) "Report" means any report received by the local welfare agency, police
- 48.20 department, county sheriff, or agency responsible for assessing or investigating
- 48.21 maltreatment pursuant to this section.
- 48.22 (i) "Facility" means:
- 48.23 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
- 48.24 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
- 48.25 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;
- 48.26 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
- 48.27 124D.10; or
- 48.28 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
- 48.29 subdivision 16, and 256B.0625, subdivision 19a.
- 48.30 (j) "Operator" means an operator or agency as defined in section 245A.02.
- 48.31 (k) "Commissioner" means the commissioner of human services.
- 48.32 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
- 48.33 not limited to employee assistance counseling and the provision of guardian ad litem and
- 48.34 parenting time expeditor services.
- 48.35 (m) "Mental injury" means an injury to the psychological capacity or emotional
- 48.36 stability of a child as evidenced by an observable or substantial impairment in the child's

49.1 ability to function within a normal range of performance and behavior with due regard to
49.2 the child's culture.

49.3 (n) "Threatened injury" means a statement, overt act, condition, or status that
49.4 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
49.5 injury includes, but is not limited to, exposing a child to a person responsible for the
49.6 child's care, as defined in paragraph (e), clause (1), who has:

49.7 (1) subjected a child to, or failed to protect a child from, an overt act or condition
49.8 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
49.9 similar law of another jurisdiction;

49.10 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause
49.11 (4), or a similar law of another jurisdiction;

49.12 (3) committed an act that has resulted in an involuntary termination of parental rights
49.13 under section 260C.301, or a similar law of another jurisdiction; or

49.14 (4) committed an act that has resulted in the involuntary transfer of permanent legal
49.15 and physical custody of a child to a relative under section 260C.201, subdivision 11,
49.16 paragraph (d), clause (1), or a similar law of another jurisdiction.

49.17 A child is the subject of a report of threatened injury when the responsible social
49.18 services agency receives birth match data under paragraph (o) from the Department of
49.19 Human Services.

49.20 (o) Upon receiving data under section 144.225, subdivision 2b, contained in a
49.21 birth record or recognition of parentage identifying a child who is subject to threatened
49.22 injury under paragraph (n), the Department of Human Services shall send the data to the
49.23 responsible social services agency. The data is known as "birth match" data. Unless the
49.24 responsible social services agency has already begun an investigation or assessment of the
49.25 report due to the birth of the child or execution of the recognition of parentage and the
49.26 parent's previous history with child protection, the agency shall accept the birth match
49.27 data as a report under this section. The agency may use either a family assessment or
49.28 investigation to determine whether the child is safe. All of the provisions of this section
49.29 apply. If the child is determined to be safe, the agency shall consult with the county
49.30 attorney to determine the appropriateness of filing a petition alleging the child is in need
49.31 of protection or services under section 260C.007, subdivision 6, clause (16), in order to
49.32 deliver needed services. If the child is determined not to be safe, the agency and the county
49.33 attorney shall take appropriate action as required under section 260C.301, subdivision 3.

49.34 ~~(p)~~ (p) Persons who conduct assessments or investigations under this section
49.35 shall take into account accepted child-rearing practices of the culture in which a child

50.1 participates and accepted teacher discipline practices, which are not injurious to the child's
50.2 health, welfare, and safety.

50.3 ~~(p)~~ (q) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
50.4 occurrence or event which:

50.5 (1) is not likely to occur and could not have been prevented by exercise of due
50.6 care; and

50.7 (2) if occurring while a child is receiving services from a facility, happens when the
50.8 facility and the employee or person providing services in the facility are in compliance
50.9 with the laws and rules relevant to the occurrence or event.

50.10 ~~(q)~~ (r) "Nonmaltreatment mistake" means:

50.11 (1) at the time of the incident, the individual was performing duties identified in the
50.12 center's child care program plan required under Minnesota Rules, part 9503.0045;

50.13 (2) the individual has not been determined responsible for a similar incident that
50.14 resulted in a finding of maltreatment for at least seven years;

50.15 (3) the individual has not been determined to have committed a similar
50.16 nonmaltreatment mistake under this paragraph for at least four years;

50.17 (4) any injury to a child resulting from the incident, if treated, is treated only with
50.18 remedies that are available over the counter, whether ordered by a medical professional or
50.19 not; and

50.20 (5) except for the period when the incident occurred, the facility and the individual
50.21 providing services were both in compliance with all licensing requirements relevant to the
50.22 incident.

50.23 This definition only applies to child care centers licensed under Minnesota
50.24 Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of
50.25 substantiated maltreatment by the individual, the commissioner of human services shall
50.26 determine that a nonmaltreatment mistake was made by the individual.

50.27 Sec. 48. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

50.28 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion
50.29 of a family assessment, the local welfare agency shall notify the parent or guardian
50.30 of the child of the need for services to address child safety concerns or significant risk
50.31 of subsequent child maltreatment. The local welfare agency and the family may also
50.32 jointly agree that family support and family preservation services are needed. Within ten
50.33 working days of the conclusion of an investigation, the local welfare agency or agency
50.34 responsible for assessing or investigating the report shall notify the parent or guardian
50.35 of the child, the person determined to be maltreating the child, and if applicable, the

51.1 director of the facility, of the determination and a summary of the specific reasons for
51.2 the determination. When the investigation involves a child foster care setting that is
51.3 monitored by a private licensing agency under section 245A.16, the local welfare agency
51.4 responsible for assessing or investigating the report shall notify the private licensing
51.5 agency of the determination and shall provide a summary of the specific reasons for
51.6 the determination. The notice to the private licensing agency must include identifying
51.7 private data, but not the identity of the reporter of maltreatment. The notice must also
51.8 include a certification that the information collection procedures under subdivision 10,
51.9 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
51.10 obtain access to other private data on the subject collected, created, or maintained under
51.11 this section. In addition, the notice shall include the length of time that the records will be
51.12 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
51.13 of the child who is the subject of the report, and any person or facility determined to
51.14 have maltreated a child, of their appeal or review rights under this section ~~or section~~
51.15 ~~256.022~~. The notice must also state that a finding of maltreatment may result in denial of a
51.16 license application or background study disqualification under chapter 245C related to
51.17 employment or services that are licensed by the Department of Human Services under
51.18 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
51.19 Corrections under section 241.021, and from providing services related to an unlicensed
51.20 personal care provider organization under chapter 256B.

51.21 Sec. 49. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

51.22 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative
51.23 reconsideration is not applicable in family assessments since no determination concerning
51.24 maltreatment is made. For investigations, except as provided under paragraph (e), an
51.25 individual or facility that the commissioner of human services, a local social service
51.26 agency, or the commissioner of education determines has maltreated a child, an interested
51.27 person acting on behalf of the child, regardless of the determination, who contests
51.28 the investigating agency's final determination regarding maltreatment, may request the
51.29 investigating agency to reconsider its final determination regarding maltreatment. The
51.30 request for reconsideration must be submitted in writing to the investigating agency within
51.31 15 calendar days after receipt of notice of the final determination regarding maltreatment
51.32 or, if the request is made by an interested person who is not entitled to notice, within
51.33 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the
51.34 request for reconsideration must be postmarked and sent to the investigating agency
51.35 within 15 calendar days of the individual's or facility's receipt of the final determination. If

52.1 the request for reconsideration is made by personal service, it must be received by the
52.2 investigating agency within 15 calendar days after the individual's or facility's receipt of the
52.3 final determination. Effective January 1, 2002, an individual who was determined to have
52.4 maltreated a child under this section and who was disqualified on the basis of serious or
52.5 recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration
52.6 of the maltreatment determination and the disqualification. The request for reconsideration
52.7 of the maltreatment determination and the disqualification must be submitted within 30
52.8 calendar days of the individual's receipt of the notice of disqualification under sections
52.9 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment
52.10 determination and the disqualification must be postmarked and sent to the investigating
52.11 agency within 30 calendar days of the individual's receipt of the maltreatment
52.12 determination and notice of disqualification. If the request for reconsideration is made by
52.13 personal service, it must be received by the investigating agency within 30 calendar days
52.14 after the individual's receipt of the notice of disqualification.

52.15 (b) Except as provided under paragraphs (e) and (f), if the investigating agency
52.16 denies the request or fails to act upon the request within 15 working days after receiving
52.17 the request for reconsideration, the person or facility entitled to a fair hearing under section
52.18 256.045 may submit to the commissioner of human services or the commissioner of
52.19 education a written request for a hearing under that section. Section 256.045 also governs
52.20 hearings requested to contest a final determination of the commissioner of education. ~~For~~
52.21 ~~reports involving maltreatment of a child in a facility, an interested person acting on behalf~~
52.22 ~~of the child may request a review by the Child Maltreatment Review Panel under section~~
52.23 ~~256.022 if the investigating agency denies the request or fails to act upon the request or~~
52.24 ~~if the interested person contests a reconsidered determination.~~ The investigating agency
52.25 shall notify persons who request reconsideration of their rights under this paragraph.
52.26 The request must be submitted in writing to the review panel and a copy sent to the
52.27 investigating agency within 30 calendar days of receipt of notice of a denial of a request
52.28 for reconsideration or of a reconsidered determination. The request must specifically
52.29 identify the aspects of the agency determination with which the person is dissatisfied.

52.30 (c) If, as a result of a reconsideration or review, the investigating agency changes
52.31 the final determination of maltreatment, that agency shall notify the parties specified in
52.32 subdivisions 10b, 10d, and 10f.

52.33 (d) Except as provided under paragraph (f), if an individual or facility contests the
52.34 investigating agency's final determination regarding maltreatment by requesting a fair
52.35 hearing under section 256.045, the commissioner of human services shall assure that the
52.36 hearing is conducted and a decision is reached within 90 days of receipt of the request for

53.1 a hearing. The time for action on the decision may be extended for as many days as the
53.2 hearing is postponed or the record is held open for the benefit of either party.

53.3 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on
53.4 the basis of a determination of maltreatment, which was serious or recurring, and
53.5 the individual has requested reconsideration of the maltreatment determination under
53.6 paragraph (a) and requested reconsideration of the disqualification under sections 245C.21
53.7 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the
53.8 disqualification shall be consolidated into a single reconsideration. If reconsideration
53.9 of the maltreatment determination is denied and the individual remains disqualified
53.10 following a reconsideration decision, the individual may request a fair hearing under
53.11 section 256.045. If an individual requests a fair hearing on the maltreatment determination
53.12 and the disqualification, the scope of the fair hearing shall include both the maltreatment
53.13 determination and the disqualification.

53.14 (f) If a maltreatment determination or a disqualification based on serious or recurring
53.15 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
53.16 sanction under section 245A.07, the license holder has the right to a contested case hearing
53.17 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
53.18 under section 245A.08, subdivision 2a, the scope of the contested case hearing shall
53.19 include the maltreatment determination, disqualification, and licensing sanction or denial
53.20 of a license. In such cases, a fair hearing regarding the maltreatment determination and
53.21 disqualification shall not be conducted under section 256.045. Except for family child
53.22 care and child foster care, reconsideration of a maltreatment determination as provided
53.23 under this subdivision, and reconsideration of a disqualification as provided under section
53.24 245C.22, shall also not be conducted when:

53.25 (1) a denial of a license under section 245A.05 or a licensing sanction under section
53.26 245A.07, is based on a determination that the license holder is responsible for maltreatment
53.27 or the disqualification of a license holder based on serious or recurring maltreatment;

53.28 (2) the denial of a license or licensing sanction is issued at the same time as the
53.29 maltreatment determination or disqualification; and

53.30 (3) the license holder appeals the maltreatment determination or disqualification, and
53.31 denial of a license or licensing sanction.

53.32 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
53.33 determination or disqualification, but does not appeal the denial of a license or a licensing
53.34 sanction, reconsideration of the maltreatment determination shall be conducted under
53.35 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
53.36 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing

54.1 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
54.2 626.557, subdivision 9d.

54.3 If the disqualified subject is an individual other than the license holder and upon
54.4 whom a background study must be conducted under chapter 245C, the hearings of all
54.5 parties may be consolidated into a single contested case hearing upon consent of all parties
54.6 and the administrative law judge.

54.7 (g) For purposes of this subdivision, "interested person acting on behalf of the
54.8 child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult
54.9 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been
54.10 determined to be the perpetrator of the maltreatment.

54.11 Sec. 50. Minnesota Statutes 2010, section 626.556, subdivision 11, is amended to read:

54.12 Subd. 11. **Records.** (a) Except as provided in paragraph (b) ~~or (d)~~ and subdivisions
54.13 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare
54.14 agency or agency responsible for assessing or investigating the report under this
54.15 section, including any written reports filed under subdivision 7, shall be private data on
54.16 individuals, except insofar as copies of reports are required by subdivision 7 to be sent to
54.17 the local police department or the county sheriff. All records concerning determinations
54.18 of maltreatment by a facility are nonpublic data as maintained by the Department of
54.19 Education, except insofar as copies of reports are required by subdivision 7 to be sent
54.20 to the local police department or the county sheriff. Reports maintained by any police
54.21 department or the county sheriff shall be private data on individuals except the reports
54.22 shall be made available to the investigating, petitioning, or prosecuting authority, including
54.23 county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14,
54.24 apply to law enforcement data other than the reports. The local social services agency or
54.25 agency responsible for assessing or investigating the report shall make available to the
54.26 investigating, petitioning, or prosecuting authority, including county medical examiners or
54.27 county coroners or their professional delegates, any records which contain information
54.28 relating to a specific incident of neglect or abuse which is under investigation, petition, or
54.29 prosecution and information relating to any prior incidents of neglect or abuse involving
54.30 any of the same persons. The records shall be collected and maintained in accordance with
54.31 the provisions of chapter 13. In conducting investigations and assessments pursuant to
54.32 this section, the notice required by section 13.04, subdivision 2, need not be provided to a
54.33 minor under the age of ten who is the alleged victim of abuse or neglect. An individual
54.34 subject of a record shall have access to the record in accordance with those sections,
54.35 except that the name of the reporter shall be confidential while the report is under

55.1 assessment or investigation except as otherwise permitted by this subdivision. Any person
55.2 conducting an investigation or assessment under this section who intentionally discloses
55.3 the identity of a reporter prior to the completion of the investigation or assessment is
55.4 guilty of a misdemeanor. After the assessment or investigation is completed, the name of
55.5 the reporter shall be confidential. The subject of the report may compel disclosure of the
55.6 name of the reporter only with the consent of the reporter or upon a written finding by
55.7 the court that the report was false and that there is evidence that the report was made in
55.8 bad faith. This subdivision does not alter disclosure responsibilities or obligations under
55.9 the Rules of Criminal Procedure.

55.10 (b) Upon request of the legislative auditor, data on individuals maintained under
55.11 this section must be released to the legislative auditor in order for the auditor to fulfill the
55.12 auditor's duties under section 3.971. The auditor shall maintain the data in accordance
55.13 with chapter 13.

55.14 (c) The commissioner of education must be provided with all requested data that are
55.15 relevant to a report of maltreatment and are in possession of a school facility as defined
55.16 in subdivision 2, paragraph (i), when the data is requested pursuant to an assessment or
55.17 investigation of a maltreatment report of a student in a school. If the commissioner of
55.18 education makes a determination of maltreatment involving an individual performing
55.19 work within a school facility who is licensed by a board or other agency, the commissioner
55.20 shall provide necessary and relevant information to the licensing entity to enable the
55.21 entity to fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data
55.22 received by a licensing entity under this paragraph are governed by section 13.41 or other
55.23 applicable law governing data of the receiving entity, except that this section applies to the
55.24 classification of and access to data on the reporter of the maltreatment.

55.25 ~~(d) The investigating agency shall exchange not public data with the Child~~
55.26 ~~Maltreatment Review Panel under section 256.022 if the data are pertinent and necessary~~
55.27 ~~for a review requested under section 256.022. Upon completion of the review, the not~~
55.28 ~~public data received by the review panel must be returned to the investigating agency.~~

55.29 Sec. 51. **REPEALER.**

55.30 Minnesota Statutes 2010, section 256.022, is repealed.

55.31 Sec. 52. **EFFECTIVE DATE.**

55.32 This article is effective August 2, 2012.

ARTICLE 2

SAFE PLACE FOR NEWBORNS

Section 1. Minnesota Statutes 2010, section 145.902, is amended to read:

**145.902 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS;
~~HOSPITAL~~ DUTIES; IMMUNITY.**

Subdivision 1. **General.** (a) For purposes of this section, a "safe place" means a hospital licensed under sections 144.50 to 144.56, a health care provider who provides 24-hour urgent care medical services, or an ambulance service licensed under chapter 144E dispatched in response to a 911 call from a mother or a person with the mother's permission to relinquish a newborn infant.

(b) ~~A hospital licensed under sections 144.50 to 144.56~~ safe place shall receive a newborn left with ~~a hospital~~ an employee on the hospital premises of the safe place during its hours of operation, provided that:

(1) the newborn was born within ~~72 hours~~ seven days of being left at the ~~hospital~~ safe place, as determined within a reasonable degree of medical certainty; and

(2) the newborn is left in an unharmed condition.

~~(b)~~ (c) The hospital safe place must not inquire as to the identity of the mother or the person leaving the newborn or call the police, provided the newborn is unharmed when presented to the hospital. The hospital safe place may ask the mother or the person leaving the newborn about the medical history of the mother or newborn but the mother or the person leaving the newborn is not required to provide any information. The hospital safe place may provide the mother or the person leaving the newborn with information about how to contact relevant social service agencies.

(d) A safe place that is a health care provider who provides 24-hour urgent care medical services shall dial 911, advise the dispatcher that the call is being made from a safe place for newborns, and ask the dispatcher to send an ambulance or take other appropriate action to transport the newborn to a hospital. An ambulance with whom a newborn is left shall transport the newborn to a hospital for care. Hospitals must receive a newborn left with a safe place and make the report as required in subdivision 2.

Subd. 2. **Reporting.** Within 24 hours of receiving a newborn under this section, the hospital must inform the local welfare agency responsible social service agency that a newborn has been left at the hospital, but must not do so before in the presence of the mother or the person leaving the newborn leaves the hospital. The hospital must provide necessary care to the newborn pending assumption of legal responsibility by the responsible social services agency pursuant to section 260C.217, subdivision 4.

57.1 Subd. 3. **Immunity.** (a) A ~~hospital~~ safe place with responsibility for performing
57.2 duties under this section, and any employee, doctor, ambulance personnel, or other
57.3 medical professional working at the ~~hospital~~ safe place, are immune from any criminal
57.4 liability that otherwise might result from their actions, if they are acting in good faith in
57.5 receiving a newborn, and are immune from any civil liability that otherwise might result
57.6 from merely receiving a newborn.

57.7 (b) A ~~hospital~~ safe place performing duties under this section, or an employee,
57.8 doctor, ambulance personnel, or other medical professional working at the ~~hospital~~ safe
57.9 place who is a mandated reporter under section 626.556, is immune from any criminal
57.10 or civil liability that otherwise might result from the failure to make a report under that
57.11 section if the person is acting in good faith in complying with this section.

57.12 Sec. 2. Minnesota Statutes 2010, section 260C.217, is amended to read:

57.13 **260C.217 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS.**

57.14 Subdivision 1. **Duty to attempt reunification, duty to search for relatives, and**
57.15 **preferences not applicable.** A ~~local~~ responsible social service agency ~~taking custody of~~
57.16 with responsibility for a child after discharge from a hospital that received a child under
57.17 section 145.902 pursuant to subdivision 4, is not required to attempt to reunify the child
57.18 with the child's parents. Additionally, the agency is not required to search for relatives
57.19 of the child as a placement or permanency option under section 260C.212, subdivision
57.20 5, or to implement other placement requirements that give a preference to relatives if
57.21 the agency does not have information as to the identity of the child, the child's mother,
57.22 or the child's father.

57.23 Subd. 1a. **Definitions.** For purposes of this section, "safe place" has the meaning
57.24 given in section 145.902.

57.25 Subd. 2. **Status of child.** For purposes of proceedings under this chapter and
57.26 adoption proceedings, a newborn left at a ~~hospital under~~ safe place, pursuant to subdivision
57.27 3 and section 145.902, is considered an abandoned child under section 626.556,
57.28 subdivision 2, paragraph (c), clause (3). The child is abandoned under sections 260C.007,
57.29 subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

57.30 Subd. 3. **Relinquishment of a newborn.** A mother or any person, with the mother's
57.31 permission, may bring a newborn infant to a safe place during its hours of operation and
57.32 leave the infant in the care of an employee of the safe place. The mother or a person
57.33 with the mother's permission may call 911 to request to have an ambulance dispatched
57.34 to an agreed-upon location to relinquish a newborn infant into the custody of ambulance
57.35 personnel.

58.1 Subd. 4. **Placement of the newborn.** The agency contacted by a safe place pursuant
 58.2 to section 145.902, subdivision 2, shall have legal responsibility for the placement of
 58.3 the newborn infant in foster care for 72 hours during which time the agency shall file a
 58.4 petition under section 260C.141 and ask the court to order continued placement of the
 58.5 child in foster care. The agency shall immediately begin planning for adoptive placement
 58.6 of the newborn.

58.7 Sec. 3. Minnesota Statutes 2010, section 609.3785, is amended to read:

58.8 **609.3785 UNHARMED NEWBORNS LEFT AT ~~HOSPITALS~~ A SAFE**
 58.9 **PLACE; AVOIDANCE OF PROSECUTION.**

58.10 A person may leave a newborn with ~~a hospital~~ an employee at a ~~hospital~~ safe place,
 58.11 as defined in section 145.902, in this state, pursuant to section 260C.217, subdivision 3,
 58.12 without being subjected to prosecution for that act, provided that:

58.13 (1) the newborn was born within ~~72 hours~~ seven days of being left at the ~~hospital~~
 58.14 safe place, as determined within a reasonable degree of medical certainty;

58.15 (2) the newborn is left in an unharmed condition; and

58.16 (3) in cases where the person leaving the newborn is not the newborn's mother, the
 58.17 person has the mother's approval to do so.

58.18 **ARTICLE 3**

58.19 **ADOPTION ASSISTANCE**

58.20 Section 1. **[259A.01] DEFINITIONS.**

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

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

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

58.32 Subd. 4. **AFDC.** "AFDC" means the aid to families with dependent children
 58.33 program under sections 256.741, 256.82, and 256.87.

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

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

59.10 Subd. 7. **Basic maintenance payment.** "Basic maintenance payment" means
59.11 the maintenance payment made on behalf of a child to support the costs an adoptive
59.12 parent incurs to meet a child's needs consistent with the care parents customarily provide,
59.13 including: food, clothing, shelter, daily supervision, school supplies, and a child's personal
59.14 incidentals. It also supports reasonable travel to participate in face-to-face visitation
59.15 between child and birth relatives, including siblings.

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

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

59.25 Subd. 10. **Child under guardianship of the commissioner of human services.**
59.26 "Child under guardianship of the commissioner of human services" means a child the
59.27 court has ordered under the guardianship of the commissioner of human services pursuant
59.28 to section 260C.325.

59.29 Subd. 11. **Commissioner.** "Commissioner" means the commissioner of human
59.30 services or any employee of the Department of Human Services to whom the commissioner
59.31 has delegated authority regarding children under the commissioner's guardianship.

59.32 Subd. 12. **Consent of parent to adoption under chapter 260C.** "Consent of
59.33 parent to adoption under chapter 260C" means the consent executed pursuant to section
59.34 260C.515, subdivision 3.

59.35 Subd. 13. **Department.** "Department" means the Minnesota Department of Human
59.36 Services.

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

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

60.9 Subd. 16. **Guardian.** "Guardian" means an adult who is appointed pursuant to
60.10 section 260C.325. For a child under guardianship of the commissioner, the child's
60.11 guardian is the commissioner of human services.

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

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

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

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

60.23 Subd. 21. **Parent.** "Parent" has the meaning given in section 257.52. Parent does
60.24 not mean a putative father of a child unless the putative father also meets the requirements
60.25 of section 257.55 or unless the putative father is entitled to notice under section 259.49,
60.26 subdivision 1. For matters governed by the Indian Child Welfare Act, parent includes any
60.27 Indian person who has adopted a child by tribal law or custom, as provided in section
60.28 260.755, subdivision 14, and does not include the unwed father where paternity has not
60.29 been acknowledged or established.

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

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

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

61.7 Subd. 25. **Relative.** "Relative" means a person related to the child by blood,
61.8 marriage, or adoption, or an individual who is an important friend with whom the child has
61.9 resided or had significant contact. For an Indian child, relative includes members of the
61.10 extended family as defined by law or custom of the Indian child's tribe, or, in the absence
61.11 of law or custom, shall be a person who has reached the age of 18 and who is the Indian
61.12 child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece
61.13 or nephew, first or second cousin, or stepparent, as provided in the Indian Child Welfare
61.14 Act of 1978, United States Code, title 25, section 1903.

61.15 Subd. 26. **Relative search.** "Relative search" means the search that is required
61.16 under section 260C.212, subdivision 5.

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

61.19 Subd. 28. **Social and medical history.** "Social and medical history" means the
61.20 document, on a form or forms prescribed by the commissioner, that contains a child's
61.21 genetic, medical, and family background as well as the history and current status of a
61.22 child's physical and mental health, behavior, demeanor, foster care placements, education,
61.23 and family relationships and has the same meaning as the history required under sections
61.24 259.43 and 260C.609.

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

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

62.1 Sec. 2. **[259A.05] PROGRAM ADMINISTRATION.**

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

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

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

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

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

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

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

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

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

62.30 Sec. 3. **[259A.10] ELIGIBILITY REQUIREMENTS.**

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

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

62.34 (2) meet the applicable citizenship and immigration requirements in subdivision
62.35 3; and

63.1 (3)(i) meet the criteria outlined in section 473 of the Social Security Act; or
63.2 (ii) have had foster care payments paid on the child's behalf while in out-of-home
63.3 placement through the county or tribal social service agency and be a child under the
63.4 guardianship of the commissioner or a ward of tribal court.

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

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

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

63.11 (1) court-ordered termination of parental rights;

63.12 (2) petition to terminate parental rights;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

64.18 (1) conduct a relative search as required by section 260C.212, subdivision 5, and give
64.19 consideration to placement with a relative as required by section 260C.212, subdivision 2;

64.20 (2) comply with the adoptive placement preferences required under the Indian Child
64.21 Welfare Act when the Indian Child Welfare Act, United States Code, title 25, section
64.22 1915(a), applies;

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

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

64.29 (g) Once the child-placing agency has determined that placement with an identified
64.30 parent is in the child's best interest and has made full written disclosure about the child's
64.31 social and medical history, the agency must ask the prospective adoptive parent if they are
64.32 willing to adopt the child without adoption assistance. If the identified parent is either
64.33 unwilling or unable to adopt the child without adoption assistance, the child-placing
64.34 agency must provide documentation as prescribed by the commissioner to fulfill the
64.35 requirement to make a reasonable effort to place the child without adoption assistance. If
64.36 the identified parent desires to adopt the child without adoption assistance, the parent must

65.1 provide a written statement to this effect to the child-placing agency and the statement must
65.2 be maintained in the permanent adoption record of the child-placing agency. For children
65.3 under guardianship of the commissioner, the child-placing agency shall submit a copy of
65.4 this statement to the commissioner to be maintained in the permanent adoption record.

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

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

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

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

65.18 (i) child abuse or neglect;

65.19 (ii) spousal abuse;

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

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

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

65.24 (i) physical assault;

65.25 (ii) battery; or

65.26 (iii) a drug-related offense.

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

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

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

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

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

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

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

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

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

66.12 (ii) the child is under guardianship of the commissioner of human services according
66.13 to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or
66.14 subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota tribal court after
66.15 termination of parental rights, suspension of parental rights, or a finding by the tribal court
66.16 that the child cannot safely return to the care of the parent;

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

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

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

66.23 Sec. 4. **[259A.15] ESTABLISHMENT OF ADOPTION ASSISTANCE**
66.24 **ELIGIBILITY.**

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

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

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

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

67.5 (b) In order to receive adoption assistance benefits, a written agreement on a form
67.6 prescribed by the commissioner must be signed by the parent, an approved representative
67.7 from the child-placing agency, and the commissioner prior to the effective date of the
67.8 adoption decree. No later than 30 days after the parent is approved for the adoptive
67.9 placement, the agreement must be negotiated with the parent as required in section
67.10 259A.25, subdivision 1. Adoption assistance must be approved or denied by the
67.11 commissioner no later than 15 business days after the receipt of a complete adoption
67.12 assistance application prescribed by the commissioner. A fully executed copy of the
67.13 signed agreement must be given to each party. Termination or disruption of the adoptive
67.14 placement preceding adoption finalization makes the agreement with that parent void.

67.15 (c) The agreement must specify the following:

67.16 (1) duration of the agreement;

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

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

67.20 (4) the terms of the payment;

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

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

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

67.26 (8) the effective date of the agreement.

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

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

67.33 **Sec. 5. [259A.20] BENEFITS AND PAYMENTS.**

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

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

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

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

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

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

68.16 <u>Birth through age five</u>	<u>up to \$247 per month</u>
68.17 <u>Age six through age 11</u>	<u>up to \$277 per month</u>
68.18 <u>Age 12 through age 14</u>	<u>up to \$307 per month</u>
68.19 <u>Age 15 and older</u>	<u>up to \$337 per month</u>

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

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

68.25 <u>Level I</u>	<u>up to \$150 per month</u>
68.26 <u>Level II</u>	<u>up to \$275 per month</u>
68.27 <u>Level III</u>	<u>up to \$400 per month</u>
68.28 <u>Level IV</u>	<u>up to \$500 per month</u>

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

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

68.35 (b) Reimbursements under this paragraph shall be made only after the adoptive
 68.36 parent documents that the requested service was denied by the local social service agency,
 68.37 community agencies, local school district, local public health department, the parent's

69.1 insurance provider, or the child's program. The denial must be for an eligible service or
69.2 qualified item under the program requirements of the applicable agency or organization.

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

69.5 (1) child care for a child age 12 and younger, or for a child age 13 or 14 who has
69.6 a documented disability that requires special instruction for and services by the child
69.7 care provider. Child care reimbursements may be made if all available adult caregivers
69.8 are employed or attending educational or vocational training programs. If a parent is
69.9 attending an educational or vocational training program, child care reimbursement is
69.10 limited to no more than the time necessary to complete the credit requirements for an
69.11 associate or baccalaureate degree as determined by the educational institution. Child
69.12 care reimbursement is not limited for an adoptive parent completing basic or remedial
69.13 education programs needed to prepare for postsecondary education or employment;

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

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

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

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

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

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

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

69.34 (d) The adoptive parent shall submit statements for expenses incurred between July
69.35 1 and June 30 of a given fiscal year to the state adoption assistance unit within 60 days
69.36 after the end of the fiscal year in order for reimbursement to occur.

70.1 Sec. 6. **[259A.25] DETERMINATION OF ADOPTION ASSISTANCE BENEFITS**
70.2 **AND PAYMENT.**

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

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

70.17 Subd. 2. **Renegotiation of adoption assistance agreement.** (a) An adoptive
70.18 parent of a child with an adoption assistance agreement may request renegotiation of the
70.19 agreement when there is a change in the needs of the child or in the family's circumstances.
70.20 When an adoptive parent requests renegotiation of the agreement, a reassessment of the
70.21 child must be completed by: (1) the responsible social services agency in the child's county
70.22 of residence; or (2) the child-placing agency that facilitated the adoption when the child's
70.23 residence is out of state. If the reassessment indicates that the child's needs have changed,
70.24 the child-placing agency, on behalf of the commissioner and the parent, shall renegotiate
70.25 the agreement to include a payment of the level determined appropriate through the
70.26 reassessment process using the assessment tool prescribed by the commissioner according
70.27 to section 259A.15, subdivision 3. The agreement must not be renegotiated unless the
70.28 commissioner and the parent mutually agree to the changes. The effective date of any
70.29 renegotiated agreement must be determined according to requirements and procedures
70.30 prescribed by the commissioner.

70.31 (b) An adoptive parent of a child with an adoption assistance agreement based on
70.32 the child being an at-risk child may request renegotiation of the agreement to include a
70.33 monthly payment. The parent must have written documentation from a qualified expert
70.34 that the potential disability upon which eligibility for adoption assistance was approved
70.35 has manifested. Documentation of the disability must be limited to evidence deemed
70.36 appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of

71.1 the child must be conducted using an assessment tool prescribed by the commissioner
71.2 according to section 259A.15, subdivision 3. The reassessment must be used to renegotiate
71.3 the agreement to include an appropriate monthly payment. The agreement must not be
71.4 renegotiated unless the commissioner and the adoptive parent mutually agree to the
71.5 changes. The effective date of any renegotiated agreement must be determined according
71.6 to requirements and procedures prescribed by the commissioner.

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

71.13 Sec. 7. **[259A.30] REPORTING RESPONSIBILITIES.**

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

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

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

71.22 (2) the family's address;

71.23 (3) the child's legal custody status;

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

71.25 (5) the end of an adoptive parent's legal responsibility to support the child based on:

71.26 termination of parental rights of the adoptive parent, transfer of guardianship to another
71.27 person, or transfer of permanent legal and physical custody to another person;

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

71.29 (7) the death of the child;

71.30 (8) the death of the adoptive parent;

71.31 (9) the child enlists in the military;

71.32 (10) the child gets married;

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

71.34 (12) the adoptive parents separate or divorce;

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

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

72.5 Subd. 2. **Correct and true information.** If the adoptive parent reports information
72.6 the adoptive parent knows is untrue, the adoptive parent fails to notify the commissioner
72.7 of changes that may affect eligibility, or the agency administering the program receives
72.8 information the adoptive parent did not report, the adoptive parent may be investigated for
72.9 theft and, if charged and convicted, shall be sentenced under section 609.52, subdivision
72.10 3, clauses (1) to (5).

72.11 **Sec. 8. [259A.35] TERMINATION OF AGREEMENT.**

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

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

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

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

72.20 (4) the death of the child; or

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

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

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

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

72.29 (3) death of adoptive parent;

72.30 (4) child enlists in the military;

72.31 (5) child gets married; or

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

72.33 Subd. 2. **Death of adoptive parent or adoption dissolution.** The adoption
72.34 assistance agreement ends upon death or termination of parental rights of both adoptive
72.35 parents in the case of a two-parent adoption, or the sole adoptive parent in the case of

73.1 a single-parent adoption. The child's adoption assistance eligibility may be continued
73.2 according to section 259A.40.

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

73.6 Sec. 9. **[259A.40] ASSIGNMENT OF ADOPTION ASSISTANCE AGREEMENT.**

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

73.10 (1) the child is determined to be a child with special needs as outlined in section
73.11 259A.10, subdivision 2; and

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

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

73.24 Subd. 2. **Assigning a child's adoption assistance to a court-appointed guardian.**

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

73.30 (b) Temporary assignment of adoption assistance may be approved by the
73.31 commissioner for a maximum of six consecutive months from the death of the parent
73.32 or parents and must adhere to the requirements and procedures prescribed by the
73.33 commissioner. If, within six months, the child has not been adopted by a person agreed
73.34 upon by the commissioner, or if a court has not appointed a legal guardian under either
73.35 section 260C.325 or 524.5-313, or similar law of another jurisdiction, the adoption

74.1 assistance shall terminate. Upon assignment of payments pursuant to this subdivision,
74.2 funding shall be from state funds only.

74.3 **Sec. 10. [259A.45] EXTENSION OF ADOPTION ASSISTANCE AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

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

74.34 **Subd. 3. Extension past age 18 for child adopted prior to 16th birthday.** A child
74.35 who has not attained the age of 16 prior to finalization of the child's adoption is eligible

75.1 for extension of the adoption assistance agreement up to the date the child attains the
75.2 age of 21 if the child is:

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

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

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

75.8 Sec. 11. **[259A.50] OVERPAYMENTS OF ADOPTION ASSISTANCE.**

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

75.16 Sec. 12. **[259A.55] APPEALS AND FAIR HEARINGS.**

75.17 Subdivision 1. **Appeals for denials, modifications, or terminations.** An adoptive
75.18 parent or a prospective adoptive parent has the right to appeal to the commissioner under
75.19 section 256.045, for reasons including, but not limited to: when eligibility for adoption
75.20 assistance is denied, when a specific payment or reimbursement is modified or denied,
75.21 and when the agreement for an eligible child is terminated. A prospective adoptive parent
75.22 who disagrees with a decision by the commissioner prior to finalization of the adoption
75.23 may request review of the decision by the commissioner, or may appeal the decision
75.24 under section 256.045.

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

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

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

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

76.5 Sec. 13. **[259A.65] INTERSTATE COMPACT ON ADOPTION AND MEDICAL**
76.6 **ASSISTANCE.**

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

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

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

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

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

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

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

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

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

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

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

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

76.33 (4) a requirement that each instance of adoption assistance to which the compact
76.34 applies be covered by an adoption assistance agreement in writing between the adoptive
76.35 parent and the state child welfare agency of the state that provides the adoption assistance,

77.1 and that the agreement be expressly for the benefit of the adopted child and enforceable by
77.2 the adoptive parent and the state agency providing the adoption assistance; and

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

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

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

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

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

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

77.16 (ii) is living in another state; and

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

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

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

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

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

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

77.31 **Sec. 14. [259A.70] REIMBURSEMENT OF NONRECURRING ADOPTION**
77.32 **EXPENSES.**

77.33 (a) The commissioner of human services shall provide reimbursement to an adoptive
77.34 parent for costs incurred in an adoption of a child with special needs according to section
77.35 259A.10, subdivision 2. Reimbursement shall be made for expenses that are reasonable

78.1 and necessary for the adoption to occur, subject to a maximum of \$2,000. The expenses
78.2 must directly relate to the legal adoption of the child, not be incurred in violation of state
78.3 or federal law, and must not have been reimbursed from other sources or funds.

78.4 (b) Children who have special needs but are not citizens or residents of the United
78.5 States and were either adopted in another country or brought to this country for the
78.6 purposes of adoption are categorically ineligible for this reimbursement program, except if
78.7 the child meets the eligibility criteria after the dissolution of the international adoption.

78.8 (c) An adoptive parent, in consultation with the responsible child-placing agency,
78.9 may request reimbursement of nonrecurring adoption expenses by submitting a complete
78.10 application, according to the requirements and procedures and on forms prescribed by
78.11 the commissioner.

78.12 (d) The commissioner shall determine the child's eligibility for adoption expense
78.13 reimbursement under title IV-E of the Social Security Act, United States Code, title 42,
78.14 sections 670 to 676. If determined eligible, the commissioner of human services shall
78.15 sign the agreement for nonrecurring adoption expense reimbursement, making this a
78.16 fully executed agreement. To be eligible, the agreement must be fully executed prior to
78.17 the child's adoption finalization.

78.18 (e) An adoptive parent who has an adoption assistance agreement under section
78.19 259A.15, subdivision 2, is not required to make a separate application for reimbursement
78.20 of nonrecurring adoption expenses for the child who is the subject of that agreement.

78.21 (f) If determined eligible, the adoptive parent shall submit reimbursement requests
78.22 within 21 months of the date of the child's adoption decree, and according to requirements
78.23 and procedures prescribed by the commissioner.

78.24 **Sec. 15. [259A.75] REIMBURSEMENT OF CERTAIN AGENCY COSTS;**
78.25 **PURCHASE OF SERVICE CONTRACTS.**

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

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

79.1 (c) The commissioner shall set aside an amount not to exceed five percent of the
79.2 total amount of the fiscal year appropriation from the state for the adoption assistance
79.3 program to reimburse placing agencies for child-specific adoption placement services.
79.4 When adoption assistance payments for children's needs exceed 95 percent of the total
79.5 amount of the fiscal year appropriation from the state for the adoption assistance program,
79.6 the amount of reimbursement available to placing agencies for adoption services is
79.7 reduced correspondingly.

79.8 Subd. 2. **Child eligibility criteria.** (a) A child who is the subject of a purchase
79.9 of service contract must:

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

79.12 (2) be under the guardianship of the commissioner of human services or be a ward of
79.13 tribal court pursuant to section 260.755, subdivision 20; and

79.14 (3) meet all of the special needs criteria according to section 259A.10, subdivision 2.

79.15 (b) A child under the guardianship of the commissioner must have an identified
79.16 adoptive parent and a fully executed adoption placement agreement according to section
79.17 260C.613, subdivision 1, paragraph (a).

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

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

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

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

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

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

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

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

80.12 Sec. 16. EFFECTIVE DATE.

80.13 This article is effective August 1, 2012.

80.14 ARTICLE 4

80.15 CHILD PROTECTION

80.16 Section 1. Minnesota Statutes 2010, section 260.012, is amended to read:

80.17 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
80.18 **REUNIFICATION; REASONABLE EFFORTS.**

80.19 (a) Once a child alleged to be in need of protection or services is under the court's
80.20 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
80.21 services, by the social services agency are made to prevent placement or to eliminate the
80.22 need for removal and to reunite the child with the child's family at the earliest possible
80.23 time, and the court must ensure that the responsible social services agency makes
80.24 reasonable efforts to finalize an alternative permanent plan for the child as provided in
80.25 paragraph (e). In determining reasonable efforts to be made with respect to a child and in
80.26 making those reasonable efforts, the child's best interests, health, and safety must be of
80.27 paramount concern. Reasonable efforts to prevent placement and for rehabilitation and
80.28 reunification are always required except upon a determination by the court that a petition
80.29 has been filed stating a prima facie case that:

80.30 (1) the parent has subjected a child to egregious harm as defined in section
80.31 260C.007, subdivision 14;

80.32 (2) the parental rights of the parent to another child have been terminated
80.33 involuntarily;

81.1 (3) the child is an abandoned infant under section 260C.301, subdivision 2,
81.2 paragraph (a), clause (2);

81.3 (4) the parent's custodial rights to another child have been involuntarily transferred
81.4 to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar
81.5 law of another jurisdiction; ~~or~~

81.6 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
81.7 2, against the child or another child of the parent;

81.8 (6) the parent has committed an offense that requires registration as a predatory
81.9 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

81.10 ~~(5)~~ (7) the provision of services or further services for the purpose of reunification is
81.11 futile and therefore unreasonable under the circumstances.

81.12 (b) When the court makes one of the prima facie determinations under paragraph (a),
81.13 either permanency pleadings under section 260C.201, subdivision 11, or a termination
81.14 of parental rights petition under sections 260C.141 and 260C.301 must be filed. A
81.15 permanency hearing under section 260C.201, subdivision 11, must be held within 30
81.16 days of this determination.

81.17 (c) In the case of an Indian child, in proceedings under sections 260B.178 or
81.18 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions
81.19 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section
81.20 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child
81.21 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social
81.22 services agency must provide active efforts as required under United States Code, title
81.23 25, section 1911(d).

81.24 (d) "Reasonable efforts to prevent placement" means:

81.25 (1) the agency has made reasonable efforts to prevent the placement of the child in
81.26 foster care by working with the family to develop and implement a safety plan; or

81.27 (2) given the particular circumstances of the child and family at the time of the
81.28 child's removal, there are no services or efforts available which could allow the child to
81.29 safely remain in the home.

81.30 (e) "Reasonable efforts to finalize a permanent plan for the child" means due
81.31 diligence by the responsible social services agency to:

81.32 (1) reunify the child with the parent or guardian from whom the child was removed;

81.33 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
81.34 where appropriate, provide services necessary to enable the noncustodial parent to safely
81.35 provide the care, as required by section 260C.212, subdivision 4;

82.1 (3) conduct a relative search to identify and provide notice to adult relatives as
82.2 required under section 260C.212, subdivision 5;

82.3 (4) place siblings removed from their home in the same home for foster care or
82.4 adoption, or transfer permanent legal and physical custody to a relative. Visitation
82.5 between siblings who are not in the same foster care, adoption, or custodial placement or
82.6 facility shall be consistent with section 260C.212, subdivision 2; and

82.7 (5) when the child cannot return to the parent or guardian from whom the child was
82.8 removed, to plan for and finalize a safe and legally permanent alternative home for the
82.9 child, and considers permanent alternative homes for the child inside or outside of the
82.10 state, preferably through adoption or transfer of permanent legal and physical custody of
82.11 the child.

82.12 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
82.13 social services agency to use culturally appropriate and available services to meet the
82.14 needs of the child and the child's family. Services may include those provided by the
82.15 responsible social services agency and other culturally appropriate services available in
82.16 the community. At each stage of the proceedings where the court is required to review
82.17 the appropriateness of the responsible social services agency's reasonable efforts as
82.18 described in paragraphs (a), (d), and (e), the social services agency has the burden of
82.19 demonstrating that:

82.20 (1) it has made reasonable efforts to prevent placement of the child in foster care;

82.21 (2) it has made reasonable efforts to eliminate the need for removal of the child from
82.22 the child's home and to reunify the child with the child's family at the earliest possible time;

82.23 (3) it has made reasonable efforts to finalize an alternative permanent home for
82.24 the child, and considers permanent alternative homes for the child inside or outside of
82.25 the state; or

82.26 (4) reasonable efforts to prevent placement and to reunify the child with the parent
82.27 or guardian are not required. The agency may meet this burden by stating facts in a sworn
82.28 petition filed under section 260C.141, by filing an affidavit summarizing the agency's
82.29 reasonable efforts or facts the agency believes demonstrate there is no need for reasonable
82.30 efforts to reunify the parent and child, or through testimony or a certified report required
82.31 under juvenile court rules.

82.32 (g) Once the court determines that reasonable efforts for reunification are not
82.33 required because the court has made one of the prima facie determinations under paragraph
82.34 (a), the court may only require reasonable efforts for reunification after a hearing according
82.35 to section 260C.163, where the court finds there is not clear and convincing evidence of
82.36 the facts upon which the court based its prima facie determination. In this case when there

83.1 is clear and convincing evidence that the child is in need of protection or services, the
83.2 court may find the child in need of protection or services and order any of the dispositions
83.3 available under section 260C.201, subdivision 1. Reunification of a ~~surviving~~ child with a
83.4 parent is not required if the parent has been convicted of:

83.5 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections
83.6 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the
83.7 parent;

83.8 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the
83.9 ~~surviving~~ child; ~~or~~

83.10 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
83.11 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

83.12 (4) committing sexual abuse as defined in section 626.556, subdivision 2, against
83.13 the child or another child of the parent; or

83.14 (5) an offense that requires registration as a predatory offender under section
83.15 243.166, subdivision 1b, paragraph (a) or (b).

83.16 (h) The juvenile court, in proceedings under sections 260B.178 or 260C.178,
83.17 260C.201, and 260C.301 shall make findings and conclusions as to the provision of
83.18 reasonable efforts. When determining whether reasonable efforts have been made, the
83.19 court shall consider whether services to the child and family were:

83.20 (1) relevant to the safety and protection of the child;

83.21 (2) adequate to meet the needs of the child and family;

83.22 (3) culturally appropriate;

83.23 (4) available and accessible;

83.24 (5) consistent and timely; and

83.25 (6) realistic under the circumstances.

83.26 In the alternative, the court may determine that provision of services or further
83.27 services for the purpose of rehabilitation is futile and therefore unreasonable under the
83.28 circumstances or that reasonable efforts are not required as provided in paragraph (a).

83.29 (i) This section does not prevent out-of-home placement for treatment of a child with
83.30 a mental disability when it is determined to be medically necessary as a result of the child's
83.31 diagnostic assessment or individual treatment plan indicates that appropriate and necessary
83.32 treatment cannot be effectively provided outside of a residential or inpatient treatment
83.33 program and the level or intensity of supervision and treatment cannot be effectively and
83.34 safely provided in the child's home or community and it is determined that a residential
83.35 treatment setting is the least restrictive setting that is appropriate to the needs of the child.

84.1 (j) If continuation of reasonable efforts to prevent placement or reunify the child
 84.2 with the parent or guardian from whom the child was removed is determined by the court
 84.3 to be inconsistent with the permanent plan for the child or upon the court making one of
 84.4 the prima facie determinations under paragraph (a), reasonable efforts must be made to
 84.5 place the child in a timely manner in a safe and permanent home and to complete whatever
 84.6 steps are necessary to legally finalize the permanent placement of the child.

84.7 (k) Reasonable efforts to place a child for adoption or in another permanent
 84.8 placement may be made concurrently with reasonable efforts to prevent placement or to
 84.9 reunify the child with the parent or guardian from whom the child was removed. When
 84.10 the responsible social services agency decides to concurrently make reasonable efforts for
 84.11 both reunification and permanent placement away from the parent under paragraph (a), the
 84.12 agency shall disclose its decision and both plans for concurrent reasonable efforts to all
 84.13 parties and the court. When the agency discloses its decision to proceed on both plans for
 84.14 reunification and permanent placement away from the parent, the court's review of the
 84.15 agency's reasonable efforts shall include the agency's efforts under both plans.

84.16 Sec. 2. Minnesota Statutes 2010, section 260C.001, is amended to read:

84.17 **260C.001 TITLE, INTENT, AND CONSTRUCTION.**

84.18 Subdivision 1. **Citation; scope.** (a) Sections 260C.001 to ~~260C.451~~ 260C.521 may
 84.19 be cited as the ~~child~~ juvenile protection provisions of the Juvenile Court Act.

84.20 (b) Juvenile protection proceedings include:

84.21 (1) a child in need of protection or services matters;

84.22 (2) permanency matters, including termination of parental rights;

84.23 (3) postpermanency reviews under sections 260C.317 and 260C.521; and

84.24 (4) adoption matters including posttermination of parental rights proceedings that
 84.25 review the responsible social services agency's reasonable efforts to finalize adoption.

84.26 Subd. 2. ~~Child in need of Juvenile protection services proceedings.~~ (a) The
 84.27 paramount consideration in all juvenile protection proceedings ~~concerning a child alleged~~
 84.28 ~~or found to be in need of protection or services~~ is the health, safety, and best interests
 84.29 of the child. In proceedings involving an American Indian child, as defined in section
 84.30 260.755, subdivision 8, the best interests of the child must be determined consistent with
 84.31 sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title
 84.32 25, sections 1901 to 1923.

84.33 (b) The purpose of the laws relating to juvenile ~~courts~~ protection proceedings is:

- 85.1 (1) to secure for each child ~~alleged or adjudicated in need of protection or services~~
85.2 ~~and~~ under the jurisdiction of the court, the care and guidance, preferably in the child's own
85.3 home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;
- 85.4 (2) to provide judicial procedures ~~which~~ that protect the welfare of the child;
- 85.5 (3) to preserve and strengthen the child's family ties whenever possible and in the
85.6 child's best interests, removing the child from the custody of parents only when the child's
85.7 welfare or safety cannot be adequately safeguarded without removal;
- 85.8 (4) to ensure that when removal from the child's own family is necessary and in the
85.9 child's best interests, the responsible social services agency has legal responsibility for
85.10 the child removal either:
- 85.11 (i) pursuant to a voluntary placement agreement between the child's parent or
85.12 guardian or the child, when the child is over age 18, and the responsible social services
85.13 agency; or
- 85.14 (ii) by court order pursuant to section 260C.151, subdivision 6; ~~206C.178; or~~
85.15 260C.178; 260C.201; 260C.325; or 260C.515;
- 85.16 (5) to ensure that, when placement is pursuant to court order, the court order
85.17 removing the child or continuing the child in foster care contains an individualized
85.18 determination that placement is in the best interests of the child that coincides with the
85.19 actual removal of the child; ~~and~~
- 85.20 (6) to ensure that when the child is removed, the child's care and discipline is, as
85.21 nearly as possible, equivalent to that which should have been given by the parents and is
85.22 either in:
- 85.23 (i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201,
85.24 subdivision 1, paragraph (a), clause (1);
- 85.25 (ii) the home of a relative pursuant to emergency placement by the responsible social
85.26 services agency under chapter 245A; or
- 85.27 (iii) ~~a foster home care~~ licensed under chapter 245A; ~~and~~
- 85.28 (7) to ensure appropriate permanency planning for children in foster care including:
- 85.29 (i) unless reunification is not required under section 260.012, developing a
85.30 permanency plan for the child that includes a primary plan for reunification with the
85.31 child's parent or guardian and a secondary plan for an alternative, legally permanent home
85.32 for the child in the event reunification cannot be achieved in a timely manner;
- 85.33 (ii) identifying, locating, and assessing both parents of the child as soon as possible
85.34 and offering reunification services to both parents of the child as required under section
85.35 260.012 and 260C.219;

86.1 (iii) identifying, locating, and notifying relatives of both parents of the child
86.2 according to section 260C.221;

86.3 (iv) making a placement with a family that will commit to being the legally
86.4 permanent home for the child in the event reunification cannot occur at the earliest
86.5 possible time while at the same time actively supporting the reunification plan; and

86.6 (v) returning the child home with supports and services, as soon as return is safe
86.7 for the child, or when safe return cannot be timely achieved, moving to finalize another
86.8 legally permanent home for the child.

86.9 Subd. 3. **Permanency ~~and~~ termination of parental rights, and adoption.** The
86.10 purpose of the laws relating to permanency ~~and~~ termination of parental rights, and children
86.11 who come under the guardianship of the commissioner of human services is to ensure that:

86.12 (1) when required and appropriate, reasonable efforts have been made by the social
86.13 services agency to reunite the child with the child's parents in a home that is safe and
86.14 permanent; and

86.15 (2) if placement with the parents is not reasonably foreseeable, to secure for the
86.16 child a safe and permanent placement according to the requirements of section 260C.212,
86.17 subdivision 2, preferably with adoptive parents or, if that is not possible or in the best
86.18 interests of the child, a fit and willing relative through transfer of permanent legal and
86.19 physical custody to that relative; and

86.20 (3) when a child is under the guardianship of the commissioner of human services,
86.21 reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

86.22 Nothing in this section requires reasonable efforts to prevent placement or to reunify
86.23 the child with the parent or guardian to be made in circumstances where the court has
86.24 determined that the child has been subjected to egregious harm, when the child is an
86.25 abandoned infant, the parent has involuntarily lost custody of another child through a
86.26 proceeding under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 4, or similar
86.27 law of another state, the parental rights of the parent to a sibling have been involuntarily
86.28 terminated, or the court has determined that reasonable efforts or further reasonable efforts
86.29 to reunify the child with the parent or guardian would be futile.

86.30 The paramount consideration in all proceedings for permanent placement of the
86.31 child under ~~section 260C.201, subdivision 11~~ sections 260C.503 to 260C.521, or the
86.32 termination of parental rights is the best interests of the child. In proceedings involving an
86.33 American Indian child, as defined in section 260.755, subdivision 8, the best interests of
86.34 the child must be determined consistent with the Indian Child Welfare Act of 1978, United
86.35 States Code, title 25, section 1901, et seq.

87.1 Subd. 4. **Construction.** The laws relating to the ~~child protection provisions of~~
87.2 ~~the juvenile courts~~ protection proceedings shall be liberally construed to carry out these
87.3 purposes.

87.4 Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 4, is amended to read:

87.5 Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of
87.6 this chapter and chapter 260D, child also includes individuals under age 21 who are in
87.7 foster care pursuant to section 260C.451.

87.8 Sec. 4. Minnesota Statutes 2010, section 260C.007, is amended by adding a
87.9 subdivision to read:

87.10 Subd. 26a. **Putative father.** "Putative father" has the meaning given in section
87.11 259.21, subdivision 12.

87.12 Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a
87.13 subdivision to read:

87.14 Subd. 27a. **Responsible social services agency.** "Responsible social services
87.15 agency" means the county social services agency that has responsibility for public child
87.16 welfare and child protection services and includes the provision of adoption services as an
87.17 agent of the commissioner of human services.

87.18 Sec. 6. Minnesota Statutes 2010, section 260C.007, is amended by adding a
87.19 subdivision to read:

87.20 Subd. 32. **Sibling.** "Sibling" means one of two or more individuals who have one
87.21 or both parents in common through blood, marriage, or adoption, including siblings as
87.22 defined by the child's tribal code or custom.

87.23 Sec. 7. Minnesota Statutes 2010, section 260C.101, subdivision 2, is amended to read:

87.24 Subd. 2. **Other matters relating to children.** ~~Except as provided in clause (4),~~ The
87.25 juvenile court has original and exclusive jurisdiction in proceedings concerning:

87.26 (1) the termination of parental rights to a child in accordance with the provisions of
87.27 sections 260C.301 to 260C.328;

87.28 (2) permanency matters under sections 260C.503 to 260C.521;

87.29 (3) the appointment and removal of a juvenile court guardian for a child, where
87.30 parental rights have been terminated under the provisions of sections 260C.301 to
87.31 260C.328;

- 88.1 ~~(3)~~ (4) judicial consent to the marriage of a child when required by law;
- 88.2 ~~(4) the juvenile court in those counties in which the judge of the probate-juvenile~~
88.3 ~~court has been admitted to the practice of law in this state shall proceed under the laws~~
88.4 ~~relating to adoptions in all adoption matters. In those counties in which the judge of the~~
88.5 ~~probate-juvenile court has not been admitted to the practice of law in this state the district~~
88.6 ~~court shall proceed under the laws relating to adoptions in~~
- 88.7 (5) all adoption matters and review of the efforts to finalize the adoption of the child
88.8 under section 260C.317;
- 88.9 ~~(5)~~ (6) the review of the placement of a child who is in foster care pursuant to a
88.10 voluntary placement agreement between the child's parent or parents and the responsible
88.11 social services agency under section ~~260C.212, subdivision 8~~ 260C.227; or between the
88.12 child, when the child is over age 18, and the agency under section 260C.229; and
- 88.13 ~~(6)~~ (7) the review of voluntary foster care placement of a child for treatment under
88.14 chapter 260D according to the review requirements of that chapter.

88.15 Sec. 8. Minnesota Statutes 2010, section 260C.157, subdivision 1, is amended to read:

88.16 Subdivision 1. **Investigation.** Upon request of the court the responsible social
88.17 services agency or probation officer shall investigate the personal and family history
88.18 and environment of any minor coming within the jurisdiction of the court under section
88.19 260C.101 and shall report its findings to the court. The court may order any minor coming
88.20 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or
88.21 psychologist appointed by the court.

88.22 Adoption investigations shall be conducted in accordance with the laws relating to
88.23 adoptions in chapter 259. ~~Any funds received under the provisions of this subdivision~~
88.24 ~~shall not cancel until the end of the fiscal year immediately following the fiscal year in~~
88.25 ~~which the funds were received. The funds are available for use by the commissioner of~~
88.26 ~~corrections during that period and are hereby appropriated annually to the commissioner of~~
88.27 ~~corrections as reimbursement of the costs of providing these services to the juvenile courts.~~

88.28 Sec. 9. Minnesota Statutes 2010, section 260C.163, subdivision 1, is amended to read:

88.29 Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425,
88.30 hearings on any matter shall be without a jury and may be conducted in an informal
88.31 manner. In all adjudicatory proceedings ~~involving a child alleged to be in need of~~
88.32 protection or services regarding juvenile protection matters under this chapter, the court
88.33 shall admit only evidence that would be admissible in a civil trial. To be proved at trial,

89.1 allegations of a petition alleging a child to be in need of protection or services must be
89.2 proved by clear and convincing evidence.

89.3 (b) Except for proceedings involving a child alleged to be in need of protection or
89.4 services and petitions for the termination of parental rights, hearings may be continued or
89.5 adjourned from time to time. In proceedings involving a child alleged to be in need of
89.6 protection or services and ~~petitions~~ for the termination of parental rights, hearings may not
89.7 be continued or adjourned for more than one week unless the court makes specific findings
89.8 that the continuance or adjournment is in the best interests of the child. If a hearing is held
89.9 on a petition involving physical or sexual abuse of a child who is alleged to be in need of
89.10 protection or services or neglected and in foster care, the court shall file the decision with
89.11 the court administrator as soon as possible but no later than 15 days after the matter is
89.12 submitted to the court. When a continuance or adjournment is ordered in any proceeding,
89.13 the court may make any interim orders as it deems in the best interests of the minor in
89.14 accordance with ~~the provisions of sections 260C.001 to 260C.421~~ this chapter.

89.15 (c) Absent exceptional circumstances, hearings under this chapter, except hearings
89.16 in adoption proceedings, are presumed to be accessible to the public, however the court
89.17 may close any hearing and the records related to any matter as provided in the Minnesota
89.18 Rules of Juvenile Protection Procedure.

89.19 (d) Adoption hearings ~~shall be conducted in accordance with the provisions of laws~~
89.20 ~~relating to adoptions~~ are closed to the public and all records related to an adoption are
89.21 inaccessible except as provided in the Minnesota Rules of Adoption Procedure.

89.22 (e) In any permanency hearing, including the transition of a child from foster care
89.23 to independent living, the court shall ensure that its consult with the child during the
89.24 hearing is in an age-appropriate manner.

89.25 Sec. 10. Minnesota Statutes 2010, section 260C.163, subdivision 4, is amended to read:

89.26 Subd. 4. **County attorney.** ~~Except in adoption proceedings, the county attorney~~
89.27 ~~shall present the evidence upon request of the court.~~ In representing the responsible social
89.28 services agency, the county attorney shall also have the responsibility for advancing the
89.29 public interest in the welfare of the child.

89.30 Sec. 11. Minnesota Statutes 2010, section 260C.178, subdivision 1, is amended to read:

89.31 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into
89.32 custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall
89.33 hold a hearing within 72 hours of the time the child was taken into custody, excluding

90.1 Saturdays, Sundays, and holidays, to determine whether the child should continue in
90.2 custody.

90.3 (b) Unless there is reason to believe that the child would endanger self or others or
90.4 not return for a court hearing, or that the child's health or welfare would be immediately
90.5 endangered, the child shall be released to the custody of a parent, guardian, custodian,
90.6 or other suitable person, subject to reasonable conditions of release including, but not
90.7 limited to, a requirement that the child undergo a chemical use assessment as provided in
90.8 section 260C.157, subdivision 1.

90.9 (c) If the court determines there is reason to believe that the child would endanger
90.10 self or others or not return for a court hearing, or that the child's health or welfare would
90.11 be immediately endangered if returned to the care of the parent or guardian who has
90.12 custody and from whom the child was removed, the court shall order the child into
90.13 foster care under the legal responsibility of the responsible social services agency or
90.14 responsible probation or corrections agency for the purposes of protective care as that term
90.15 is used in the juvenile court rules or into the home of a noncustodial parent and order the
90.16 noncustodial parent to comply with any conditions the court determines to be appropriate
90.17 to the safety and care of the child, including cooperating with paternity establishment
90.18 proceedings in the case of a man who has not been adjudicated the child's father. The
90.19 court shall not give the responsible social services legal custody and order a trial home
90.20 visit at any time prior to adjudication and disposition under section 260C.201, subdivision
90.21 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or
90.22 guardian who has custody and from whom the child was removed and order the parent or
90.23 guardian to comply with any conditions the court determines to be appropriate to meet
90.24 the safety, health, and welfare of the child.

90.25 (d) In determining whether the child's health or welfare would be immediately
90.26 endangered, the court shall consider whether the child would reside with a perpetrator
90.27 of domestic child abuse.

90.28 (e) The court, before determining whether a child should be placed in or continue
90.29 in foster care under the protective care of the responsible agency, shall also make a
90.30 determination, consistent with section 260.012 as to whether reasonable efforts were made
90.31 to prevent placement or whether reasonable efforts to prevent placement are not required.
90.32 In the case of an Indian child, the court shall determine whether active efforts, according
90.33 to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d),
90.34 were made to prevent placement. The court shall enter a finding that the responsible
90.35 social services agency has made reasonable efforts to prevent placement when the agency
90.36 establishes either:

91.1 (1) that it has actually provided services or made efforts in an attempt to prevent
91.2 the child's removal but that such services or efforts have not proven sufficient to permit
91.3 the child to safely remain in the home; or

91.4 (2) that there are no services or other efforts that could be made at the time of the
91.5 hearing that could safely permit the child to remain home or to return home. When
91.6 reasonable efforts to prevent placement are required and there are services or other efforts
91.7 that could be ordered which would permit the child to safely return home, the court shall
91.8 order the child returned to the care of the parent or guardian and the services or efforts put
91.9 in place to ensure the child's safety. When the court makes a prima facie determination
91.10 that one of the circumstances under paragraph (g) exists, the court shall determine that
91.11 reasonable efforts to prevent placement and to return the child to the care of the parent or
91.12 guardian are not required.

91.13 If the court finds the social services agency's preventive or reunification efforts
91.14 have not been reasonable but further preventive or reunification efforts could not permit
91.15 the child to safely remain at home, the court may nevertheless authorize or continue
91.16 the removal of the child.

91.17 (f) The court may not order or continue the foster care placement of the child unless
91.18 the court makes explicit, individualized findings that continued custody of the child by
91.19 the parent or guardian would be contrary to the welfare of the child and that placement is
91.20 in the best interest of the child.

91.21 (g) At the emergency removal hearing, or at any time during the course of the
91.22 proceeding, and upon notice and request of the county attorney, the court shall determine
91.23 whether a petition has been filed stating a prima facie case that:

91.24 (1) the parent has subjected a child to egregious harm as defined in section
91.25 260C.007, subdivision 14;

91.26 (2) the parental rights of the parent to another child have been involuntarily
91.27 terminated;

91.28 (3) the child is an abandoned infant under section 260C.301, subdivision 2,
91.29 paragraph (a), clause (2);

91.30 (4) the parents' custodial rights to another child have been involuntarily transferred
91.31 to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph
91.32 (e), clause (1); section 260C.515, subdivision 4, or a similar law of another jurisdiction; ~~or~~

91.33 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
91.34 2, against the child or another child of the parent;

91.35 (6) the parent has committed an offense that requires registration as a predatory
91.36 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

92.1 (7) the provision of services or further services for the purpose of reunification is
92.2 futile and therefore unreasonable.

92.3 (h) When a petition to terminate parental rights is required under section 260C.301,
92.4 subdivision 3 or 4, but the county attorney has determined not to proceed with a
92.5 termination of parental rights petition, and has instead filed a petition to transfer permanent
92.6 legal and physical custody to a relative under section ~~260C.201, subdivision 11~~ 260C.507,
92.7 the court shall schedule a permanency hearing within 30 days of the filing of the petition.

92.8 (i) If the county attorney has filed a petition under section 260C.307, the court shall
92.9 schedule a trial under section 260C.163 within 90 days of the filing of the petition except
92.10 when the county attorney determines that the criminal case shall proceed to trial first under
92.11 section ~~260C.201, subdivision 3~~ 260C.503, subdivision 2, paragraph (c).

92.12 (j) If the court determines the child should be ordered into foster care and the child's
92.13 parent refuses to give information to the responsible social services agency regarding the
92.14 child's father or relatives of the child, the court may order the parent to disclose the names,
92.15 addresses, telephone numbers, and other identifying information to the responsible social
92.16 services agency for the purpose of complying with ~~the requirements of~~ sections 260C.151,
92.17 260C.212, and 260C.215.

92.18 (k) If a child ordered into foster care has siblings, whether full, half, or step, who
92.19 are also ordered into foster care, the court shall inquire of the responsible social services
92.20 agency of the efforts to place the children together as required by section 260C.212,
92.21 subdivision 2, paragraph (d), if placement together is in each child's best interests, unless
92.22 a child is in placement for treatment or a child is placed with a previously noncustodial
92.23 parent who is not a parent to all siblings. If the children are not placed together at the time
92.24 of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable
92.25 efforts to place the siblings together, as required under section 260.012. If any sibling is
92.26 not placed with another sibling or siblings, the agency must develop a plan to facilitate
92.27 visitation or ongoing contact among the siblings as required under section 260C.212,
92.28 subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

92.29 (l) When the court has ordered the child into foster care or into the home of a
92.30 noncustodial parent, the court may order a chemical dependency evaluation, mental health
92.31 evaluation, medical examination, and parenting assessment for the parent as necessary
92.32 to support the development of a plan for reunification required under subdivision 7 and
92.33 section 260C.212, subdivision 1, or the child protective services plan under section
92.34 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

92.35 Sec. 12. Minnesota Statutes 2010, section 260C.178, subdivision 7, is amended to read:

93.1 Subd. 7. **Out-of-home placement plan.** (a) An out-of-home placement plan
93.2 required under section 260C.212 shall be filed with the court within 30 days of the filing
93.3 of a juvenile protection petition alleging the child to be in need of protection or services
93.4 under section 260C.141, subdivision 1, when the court orders emergency removal of the
93.5 child under this section, or filed with the petition if the petition is a review of a voluntary
93.6 placement under section 260C.141, subdivision 2.

93.7 (b) Upon the filing of the out-of-home placement plan which has been developed
93.8 jointly with the parent and in consultation with others as required under section 260C.212,
93.9 subdivision 1, the court may approve implementation of the plan by the responsible social
93.10 services agency based on the allegations contained in the petition and any evaluations,
93.11 examinations, or assessments conducted under subdivision 1, paragraph (l). The court
93.12 shall send written notice of the approval of the out-of-home placement plan to all parties
93.13 and the county attorney or may state such approval on the record at a hearing. A parent
93.14 may agree to comply with the terms of the plan filed with the court.

93.15 (c) The responsible social services agency shall make reasonable ~~attempts~~ efforts
93.16 to engage a parent both parents of the child in case planning. ~~If the parent refuses to~~
93.17 ~~cooperate in the development of the out-of-home placement plan or disagrees with the~~
93.18 ~~services recommended by~~ The responsible social service agency, ~~the agency shall not~~
93.19 ~~such refusal or disagreement for the court~~ report the results of its efforts to engage the
93.20 child's parents in the out-of-home placement plan filed with the court. The agency shall
93.21 notify the court of the services it will provide or efforts it will attempt under the plan
93.22 notwithstanding the parent's refusal to cooperate or disagreement with the services. The
93.23 parent may ask the court to modify the plan to require different or additional services
93.24 requested by the parent, but which the agency refused to provide. The court may approve
93.25 the plan as presented by the agency or may modify the plan to require services requested
93.26 by the parent. The court's approval shall be based on the content of the petition.

93.27 (d) Unless the parent agrees to comply with the terms of the out-of-home placement
93.28 plan, the court may not order a parent to comply with the provisions of the plan until the
93.29 court finds the child is in need of protection or services and orders disposition under
93.30 section 260C.201, subdivision 1. However, the court may find that the responsible social
93.31 services agency has made reasonable efforts for reunification if the agency makes efforts
93.32 to implement the terms of an out-of-home placement plan approved under this section.

93.33 Sec. 13. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

93.34 Subd. 3. **Best interest of the child in foster care or residential care.** (a) The
93.35 policy of the state is to ensure that the best interests of children in foster ~~or residential~~

94.1 care, who experience transfer of permanent legal and physical custody to a relative under
94.2 section 260C.515, subdivision 4, or adoption under chapter 259 are met by requiring
94.3 individualized determinations under section 260C.212, subdivision 2, paragraph (b), of
94.4 the needs of the child and of how the selected placement home will serve the needs of the
94.5 child ~~in foster care placements~~.

94.6 (b) No later than three months after a child is ordered removed from the care of a
94.7 parent in the hearing required under section 260C.202, the court shall review and enter
94.8 findings regarding whether the responsible social services agency made:

94.9 (1) diligent efforts to identify and search for relatives as required under section
94.10 ~~260C.212, subdivision 5, 260C.221;~~ and ~~made~~

94.11 (2) an individualized determination as required under section 260C.212, subdivision
94.12 2, to select a home that meets the needs of the child.

94.13 (c) If the court finds the agency has not made efforts as required under section
94.14 ~~260C.212, subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed
94.15 to provide family foster care under chapter 245A, the court may order the child placed
94.16 with the relative consistent with the child's best interests.

94.17 (d) If the agency's efforts under section 260C.221 are found to be sufficient, the
94.18 court shall order the agency to continue to appropriately engage relatives who responded
94.19 to the notice under section 260C.221 in placement and case planning decisions and to
94.20 appropriately engage relatives who subsequently come to the agency's attention.

94.21 ~~(e)~~ (e) If the child's birth parent or parents explicitly request that a relative or
94.22 important friend not be considered, the court shall honor that request if it is consistent with
94.23 the best interests of the child. If the child's birth parent or parents express a preference
94.24 for placing the child in a foster or adoptive home of the same or a similar religious
94.25 background to that of the birth parent or parents, the court shall order placement of the
94.26 child with an individual who meets the birth parent's religious preference.

94.27 ~~(d)~~ (f) Placement of a child cannot be delayed or denied based on race, color, or
94.28 national origin of the foster parent or the child.

94.29 ~~(e)~~ (g) Whenever possible, siblings should be placed together unless it is determined
94.30 not to be in the best interests of a sibling ~~siblings~~. If siblings are were not placed together
94.31 according to section 260C.212, subdivision 2, paragraph (d), the responsible social
94.32 services agency shall report to the court the efforts made to place the siblings together
94.33 and why the efforts were not successful. If the court is not satisfied with that the agency's
94.34 agency has made reasonable efforts to place siblings together, the court may must order
94.35 the agency to make further reasonable efforts. If siblings are not placed together the court
94.36 shall review order the responsible social services agency's agency to implement the plan

95.1 for visitation among siblings required as part of the out-of-home placement plan under
95.2 section 260C.212.

95.3 ~~(f)~~ (h) This subdivision does not affect the Indian Child Welfare Act, United States
95.4 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation
95.5 Act, sections 260.751 to 260.835.

95.6 Sec. 14. Minnesota Statutes 2010, section 260C.193, subdivision 6, is amended to read:

95.7 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**
95.8 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section
95.9 260C.451 ~~may~~ shall continue to age 21 for the purpose of conducting the reviews required
95.10 under section ~~260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or~~
95.11 260C.317, subdivision 3, 260C.203, or 260C.515, subdivision 5 or 6. Jurisdiction over a
95.12 child in foster care pursuant to section 260C.451 shall not be terminated without giving
95.13 the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity
95.14 to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to
95.15 section 260C.451 asks to leave foster care or actually leaves foster care, the court may
95.16 terminate its jurisdiction.

95.17 (b) ~~Except when a court order is necessary for a child to be in foster care or when~~
95.18 ~~continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201,~~
95.19 ~~subdivision 11, paragraph (d), and (2) section 260C.317, subdivision 3, is required for a~~
95.20 ~~child in foster care under section 260C.451,~~ The court may terminate jurisdiction on its
95.21 own motion or the motion of any interested party upon a determination that jurisdiction is
95.22 no longer necessary to protect the child's best interests except when:

95.23 (1) a court order is necessary for a child to be in foster care; or

95.24 (2) continued review under section 260C.203, 260C.515, subdivision 5 or 6, or
95.25 260C.317, subdivision 3, is required for a child in foster care under section 260C.451.

95.26 (c) Unless terminated by the court, and except as otherwise provided in this
95.27 subdivision, the jurisdiction of the court shall continue until the child becomes 18 years
95.28 of age. The court may continue jurisdiction over an individual and all other parties to
95.29 the proceeding to the individual's 19th birthday when continuing jurisdiction is in the
95.30 individual's best interest in order to:

95.31 (1) protect the safety or health of the individual;

95.32 (2) accomplish additional planning for independent living or for the transition out of
95.33 foster care; or

95.34 (3) support the individual's completion of high school or a high school equivalency
95.35 program.

96.1 Sec. 15. Minnesota Statutes 2010, section 260C.201, subdivision 2, is amended to read:

96.2 Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this
96.3 section shall contain written findings of fact to support the disposition and case plan
96.4 ordered and shall also set forth in writing the following information:

96.5 (1) why the best interests and safety of the child are served by the disposition and
96.6 case plan ordered;

96.7 (2) what alternative dispositions or services under the case plan were considered by
96.8 the court and why such dispositions or services were not appropriate in the instant case;

96.9 (3) when legal custody of the child is transferred, the appropriateness of the
96.10 particular placement made or to be made by the placing agency using the factors in section
96.11 260C.212, subdivision 2, paragraph (b);

96.12 (4) whether reasonable efforts to finalize the permanent plan for the child consistent
96.13 with section 260.012 were made including reasonable efforts:

96.14 (i) to prevent or eliminate the necessity of the child's removal placement and to
96.15 reunify the family after removal child with the parent or guardian from whom the child was
96.16 removed at the earliest time consistent with the child's safety. The court's findings must
96.17 include a brief description of what preventive and reunification efforts were made and
96.18 why further efforts could not have prevented or eliminated the necessity of removal or that
96.19 reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

96.20 (ii) to identify and locate any noncustodial or nonresident parent of the child and to
96.21 assess such parent's ability to provide day-to-day care of the child, and, where appropriate,
96.22 provide services necessary to enable the noncustodial or nonresident parent to safely
96.23 provide day-to-day care of the child as required under section 260C.219, unless such
96.24 services are not required under section 260.012 or 260C.178, subdivision 1;

96.25 (iii) to make the diligent search for relatives and provide the notices required under
96.26 section 260C.221; a finding made pursuant to a hearing under section 260C.202 that
96.27 the agency has made diligent efforts to conduct a relative search and has appropriately
96.28 engaged relatives who responded to the notice under section 260C.221 and other relatives,
96.29 who came to the attention of the agency after notice under section 260C.221 was sent, in
96.30 placement and case planning decisions fulfills the requirement of this item;

96.31 (iv) to identify and make a foster care placement in the home of an unlicensed
96.32 relative, according to the requirements of section 245A.035, a licensed relative, or other
96.33 licensed foster care provider who will commit to being the permanent legal parent or
96.34 custodian for the child in the event reunification cannot occur, but who will actively
96.35 support the reunification plan for the child; and

97.1 (v) to place siblings together in the same home or to ensure visitation is occurring
97.2 when siblings are separated in foster care placement and visitation is in the siblings' best
97.3 interests under section 260C.212, subdivision 2, paragraph (d); and

97.4 (5) if the child has been adjudicated as a child in need of protection or services
97.5 because the child is in need of special services or care to treat or ameliorate a mental
97.6 disability or emotional disturbance as defined in section 245.4871, subdivision 15, the
97.7 written findings shall also set forth:

97.8 (i) whether the child has mental health needs that must be addressed by the case plan;

97.9 (ii) what consideration was given to the diagnostic and functional assessments
97.10 performed by the child's mental health professional and to health and mental health care
97.11 professionals' treatment recommendations;

97.12 (iii) what consideration was given to the requests or preferences of the child's parent
97.13 or guardian with regard to the child's interventions, services, or treatment; and

97.14 (iv) what consideration was given to the cultural appropriateness of the child's
97.15 treatment or services.

97.16 (b) If the court finds that the social services agency's preventive or reunification
97.17 efforts have not been reasonable but that further preventive or reunification efforts could
97.18 not permit the child to safely remain at home, the court may nevertheless authorize or
97.19 continue the removal of the child.

97.20 (c) If the child has been identified by the responsible social services agency as the
97.21 subject of concurrent permanency planning, the court shall review the reasonable efforts
97.22 of the agency to ~~recruit, identify, and make a placement in a home where the foster parent~~
97.23 ~~or relative that has committed to being the legally permanent home for the child in the~~
97.24 ~~event reunification efforts are not successful~~ develop a permanency plan for the child that
97.25 includes a primary plan which is for reunification with the child's parent or guardian and a
97.26 secondary plan which is for an alternative, legally permanent home for the child in the
97.27 event reunification cannot be achieved in a timely manner.

97.28 Sec. 16. Minnesota Statutes 2010, section 260C.201, subdivision 10, is amended to
97.29 read:

97.30 Subd. 10. **Court review of foster care.** (a) If the court orders a child placed
97.31 in foster care, the court shall review the out-of-home placement plan and the child's
97.32 placement at least every 90 days as required in juvenile court rules to determine whether
97.33 continued out-of-home placement is necessary and appropriate or whether the child should
97.34 be returned home. This review is not required if the court has returned the child home,
97.35 ordered the child permanently placed away from the parent under subdivision 11, or

98.1 terminated rights under section 260C.301. Court review for a child permanently placed
98.2 away from a parent, including where the child is under guardianship ~~and legal custody~~ of
98.3 the commissioner, shall be governed by ~~subdivision 11 or section 260C.317, subdivision~~
98.4 ~~3, whichever is applicable~~ 260C.607.

98.5 (b) No later than ~~six~~ three months after the child's placement in foster care, the court
98.6 shall review agency efforts pursuant to section ~~260C.212, subdivision 2~~ 260C.221, and
98.7 order that the efforts continue if the agency has failed to perform the duties under that
98.8 section. The court must order the agency to continue to appropriately engage relatives
98.9 who responded to the notice under section 260C.221 in placement and case planning
98.10 decisions and to engage other relatives who came to the agency's attention after notice
98.11 under section 260C.221 was sent.

98.12 (c) The court shall review the out-of-home placement plan and may modify the plan
98.13 as provided under subdivisions 6 and 7.

98.14 (d) When the court orders transfer of custody to a responsible social services
98.15 agency resulting in foster care or protective supervision with a noncustodial parent under
98.16 subdivision 1, the court shall notify the parents of the provisions of ~~subdivisions 11 and~~
98.17 subdivision 11a and sections 260C.503 to 260C.521, as required under juvenile court rules.

98.18 (e) When a child remains in or returns to foster care pursuant to section 260C.451 and
98.19 the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the
98.20 court shall at least annually conduct the review required under ~~subdivision 11, paragraph~~
98.21 ~~(d), or sections 260C.212, subdivision 7, and 260C.317, subdivision 3~~ section 260C.203.

98.22 Sec. 17. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

98.23 Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise
98.24 due diligence to identify and notify adult relatives prior to placement or within 30 days
98.25 after the child's removal from the parent. The county agency shall consider placement with
98.26 a relative under subdivision 2 without delay and whenever the child must move from or be
98.27 returned to foster care. The relative search required by this section shall be ~~reasonable and~~
98.28 ~~comprehensive in scope and may last up to six months or until a fit and willing relative~~
98.29 ~~is identified.~~ After a finding that the agency has made reasonable efforts to conduct the
98.30 relative search under this paragraph, the agency has the continuing responsibility to
98.31 appropriately involve relatives, who have responded to the notice required under this
98.32 paragraph, in planning for the child and to continue to consider relatives according to
98.33 the requirements of section 260C.212, subdivision 2. At any time during the course of
98.34 juvenile protection proceedings, the court may order the agency to reopen its search for
98.35 relatives when it is in the child's best interest to do so. The relative search required by this

99.1 section shall include both maternal relatives ~~of the child~~ and paternal relatives of the child;
99.2 ~~if paternity is adjudicated.~~ The search shall also include getting information from the child
99.3 in an age-appropriate manner about who the child considers to be family members and
99.4 important friends with whom the child has resided or had significant contact. The relative
99.5 search required under this section must fulfill the agency's duties under the Indian Child
99.6 Welfare Act regarding active efforts to prevent the breakup of the Indian family under
99.7 United States Code, title 25, section 1912(d), and to meet placement preferences under
99.8 United States Code, title 25, section 1915. The relatives must be notified:

99.9 (1) of the need for a foster home for the child, the option to become a placement
99.10 resource for the child, and the possibility of the need for a permanent placement for the
99.11 child;

99.12 (2) of their responsibility to keep the responsible social services agency informed of
99.13 their current address in order to receive notice in the event that a permanent placement is
99.14 sought for the child. A relative who fails to provide a current address to the responsible
99.15 social services agency forfeits the right to notice of the possibility of permanent placement.
99.16 A decision by a relative not to be identified as a potential permanent placement resource
99.17 or participate in planning for the child at the beginning of the case shall not affect whether
99.18 the relative is considered for placement of the child with that relative later;

99.19 (3) that the relative may participate in the care and planning for the child, including
99.20 that the opportunity for such participation may be lost by failing to respond to the notice,
99.21 "Participate in the care and planning" includes, but is not limited to, participation in case
99.22 planning for the parent and child, identifying the strengths and needs of the parent and
99.23 child, supervising visits, providing respite and vacation visits for the child, providing
99.24 transportation to appointments, suggesting other relatives who might be able to help
99.25 support the case plan, and to the extent possible, helping to maintain the child's familiar
99.26 and regular activities and contact with friends and relatives; and

99.27 (4) of the family foster care licensing requirements, including how to complete an
99.28 application and how to request a variance from licensing standards that do not present a
99.29 safety or health risk to the child in the home under section 245A.04 and supports that are
99.30 available for relatives and children who reside in a family foster home; and

99.31 (5) of the relatives' right to ask to be notified of any court proceedings regarding
99.32 the child, to attend the hearings, and of a relative's right or opportunity to be heard by the
99.33 court as required under section 260C.152, subdivision 5.

99.34 (b) A responsible social services agency may disclose private ~~or confidential~~ data,
99.35 as defined in ~~section~~ sections 13.02 and 626.556, to relatives of the child for the purpose
99.36 of locating and assessing a suitable placement and may use any reasonable means of

100.1 identifying and locating relatives including the Internet or other electronic means of
100.2 conducting a search. The agency shall disclose ~~only~~ data that is necessary to facilitate
100.3 possible placement with relatives and to ensure that the relative is informed of the needs
100.4 of the child so the relative can participate in planning for the child and be supportive of
100.5 services to the child and family. If the child's parent refuses to give the responsible social
100.6 services agency information sufficient to identify the maternal and paternal relatives of the
100.7 child, the agency shall ask the juvenile court to order the parent to provide the necessary
100.8 information. If a parent makes an explicit request that relatives or a specific relative not be
100.9 contacted or considered for placement, the agency shall bring the parent's request to the
100.10 attention of the court to determine whether the parent's request is consistent with the best
100.11 interests of the child and the agency shall not contact relatives or a specific relative unless
100.12 authorized to do so by the juvenile court.

100.13 (c) At a regularly scheduled hearing not later than three months after the child's
100.14 placement in foster care and as required in section 260C.202, the agency shall report to
100.15 the court:

100.16 (1) its efforts to identify maternal and paternal relatives of the child, to engage the
100.17 relatives in providing support for the child and family, and document that the relatives
100.18 have been provided the notice required under paragraph (a); and

100.19 (2) its decision regarding placing the child with a relative as required under section
100.20 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in
100.21 order to support family connections for the child, when placement with a relative is not
100.22 possible or appropriate.

100.23 (d) Notwithstanding chapter 13, the agency shall disclose data about particular
100.24 relatives identified, searched for, and contacted for the purposes of the court's review of
100.25 the agency's due diligence.

100.26 (e) When the court is satisfied that the agency has exercised due diligence to
100.27 identify relatives and provide the notice required in paragraph (a), the court may find that
100.28 reasonable efforts have been made to conduct a relative search to identify and provide
100.29 notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the
100.30 court is not satisfied that the agency has exercised due diligence to identify relatives and
100.31 provide the notice required in paragraph (a), the court may order the agency to continue its
100.32 search and notice efforts and to report back to the court.

100.33 (f) When the placing agency determines that a permanent placement hearing is
100.34 proceedings are necessary because there is a likelihood that the child will not return to a
100.35 parent's care, the agency ~~may~~ must send the notice provided in paragraph (d) (g), may ask
100.36 the court to modify the ~~requirements~~ duty of the agency ~~under this paragraph~~ to send the

101.1 notice required in paragraph (g), or may ask the court to completely relieve the agency
101.2 of the requirements of ~~this paragraph (g)~~. The relative notification requirements of ~~this~~
101.3 paragraph (g) do not apply when the child is placed with an appropriate relative or a
101.4 foster home that has committed to ~~being the~~ adopting the child or taking permanent legal
101.5 placement for and physical custody of the child and the agency approves of that foster
101.6 home for permanent placement of the child. The actions ordered by the court under this
101.7 section must be consistent with the best interests, safety, permanency, and welfare of
101.8 the child.

101.9 ~~(d)~~ (g) Unless required under the Indian Child Welfare Act or relieved of this duty
101.10 by the court under paragraph ~~(e)~~ (e), when the agency determines that it is necessary to
101.11 prepare for ~~the~~ permanent placement determination hearing proceedings, or in anticipation
101.12 of filing a termination of parental rights petition, the agency shall send notice to the
101.13 relatives, any adult with whom the child is currently residing, any adult with whom the
101.14 child has resided for one year or longer in the past, and any adults who have maintained a
101.15 relationship or exercised visitation with the child as identified in the agency case plan. The
101.16 notice must state that a permanent home is sought for the child and that the individuals
101.17 receiving the notice may indicate to the agency their interest in providing a permanent
101.18 home. The notice must state that within 30 days of receipt of the notice an individual
101.19 receiving the notice must indicate to the agency the individual's interest in providing
101.20 a permanent home for the child or that the individual may lose the opportunity to be
101.21 considered for a permanent placement.

101.22 ~~(e) The Department of Human Services shall develop a best practices guide and~~
101.23 ~~specialized staff training to assist the responsible social services agency in performing and~~
101.24 ~~complying with the relative search requirements under this subdivision.~~

101.25 Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

101.26 Subd. 7. **Administrative or court review of placements.** (a) Unless the court is
101.27 conducting the reviews required under section 260C.202, there shall be an administrative
101.28 review of the out-of-home placement plan of each child placed in foster care no later than
101.29 180 days after the initial placement of the child in foster care and at least every six months
101.30 thereafter if the child is not returned to the home of the parent or parents within that time.
101.31 The out-of-home placement plan must be monitored and updated at each administrative
101.32 review. The administrative review shall be conducted by the responsible social services
101.33 agency using a panel of appropriate persons at least one of whom is not responsible for the
101.34 case management of, or the delivery of services to, either the child or the parents who are

102.1 the subject of the review. The administrative review shall be open to participation by the
 102.2 parent or guardian of the child and the child, as appropriate.

102.3 (b) As an alternative to the administrative review required in paragraph (a), the court
 102.4 may, as part of any hearing required under the Minnesota Rules of Juvenile Protection
 102.5 Procedure, conduct a hearing to monitor and update the out-of-home placement plan
 102.6 pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph
 102.7 (d). The party requesting review of the out-of-home placement plan shall give parties to
 102.8 the proceeding notice of the request to review and update the out-of-home placement
 102.9 plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193;
 102.10 260C.201, subdivision 1 or 11; 260C.141, subdivision 2; 260C.317 260C.202; 260C.204;
 102.11 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other
 102.12 requirements of this section are met.

102.13 (c) As appropriate to the stage of the proceedings and relevant court orders, the
 102.14 responsible social services agency or the court shall review:

- 102.15 (1) the safety, permanency needs, and well-being of the child;
- 102.16 (2) the continuing necessity for and appropriateness of the placement;
- 102.17 (3) the extent of compliance with the out-of-home placement plan;
- 102.18 (4) the extent of progress ~~which that~~ has been made toward alleviating or mitigating
 102.19 the causes necessitating placement in foster care;
- 102.20 (5) the projected date by which the child may be returned to and safely maintained in
 102.21 the home or placed permanently away from the care of the parent or parents or guardian;
 102.22 and
- 102.23 (6) the appropriateness of the services provided to the child.

102.24 (d) When a child is age 16 or older, in addition to any administrative review
 102.25 conducted by the agency, at the in-court review required under section ~~260C.201,~~
 102.26 ~~subdivision 11, or 260C.317, subdivision 3, clause (3), or 260C.515, subdivision 5 or~~
 102.27 6, the court shall review the independent living plan required under section 260C.201,
 102.28 subdivision 1, paragraph (c), clause (11), and the provision of services to the child related
 102.29 to the well-being of the child as the child prepares to leave foster care. The review shall
 102.30 include the actual plans related to each item in the plan necessary to the child's future
 102.31 safety and well-being when the child is no longer in foster care.

102.32 ~~(+)~~ (e) At the court review required under paragraph (d) for a child age 16 or older
 102.33 the following procedures apply:

- 102.34 (1) six months before the child is expected to be discharged from foster care, the
 102.35 responsible social services agency shall establish that it has given give the written
 102.36 notice required under section 260C.456 or Minnesota Rules, part 9560.0660 260C.451,

103.1 subdivision 1, regarding the right to continued access to services for certain children in
103.2 foster care past age 18 and of the right to appeal a denial of social services under section
103.3 256.045. ~~If The agency is unable to establish that~~ shall file a copy of the notice, including
103.4 the right to appeal a denial of social services, ~~has been given,~~ with the court. If the agency
103.5 does not file the notice by the time the child is age 17-1/2, the court shall require the
103.6 agency to give it;

103.7 (2) consistent with the requirements of the independent living plan, the court shall
103.8 review progress toward or accomplishment of the following goals:

103.9 (i) the child has obtained a high school diploma or its equivalent;

103.10 (ii) the child has completed a driver's education course or has demonstrated the
103.11 ability to use public transportation in the child's community;

103.12 (iii) the child is employed or enrolled in postsecondary education;

103.13 (iv) the child has applied for and obtained postsecondary education financial aid for
103.14 which the child is eligible;

103.15 (v) the child has health care coverage and health care providers to meet the child's
103.16 physical and mental health needs;

103.17 (vi) the child has applied for and obtained disability income assistance for which
103.18 the child is eligible;

103.19 (vii) the child has obtained affordable housing with necessary supports, which does
103.20 not include a homeless shelter;

103.21 (viii) the child has saved sufficient funds to pay for the first month's rent and a
103.22 damage deposit;

103.23 (ix) the child has an alternative affordable housing plan, which does not include a
103.24 homeless shelter, if the original housing plan is unworkable;

103.25 (x) the child, if male, has registered for the Selective Service; and

103.26 (xi) the child has a permanent connection to a caring adult; and

103.27 (3) the court shall ensure that the responsible agency in conjunction with the
103.28 placement provider assists the child in obtaining the following documents prior to the
103.29 child's leaving foster care: a Social Security card; the child's birth certificate; a state
103.30 identification card or driver's license, green card, or school visa; the child's school,
103.31 medical, and dental records; a contact list of the child's medical, dental, and mental health
103.32 providers; and contact information for the child's siblings, if the siblings are in foster care.

103.33 ~~(c) When a child is age 17 or older, during the 90-day period immediately prior to~~
103.34 ~~the date the child is expected to be discharged from foster care, the responsible social~~
103.35 ~~services agency is required to provide the child with assistance and support in developing~~
103.36 ~~a transition plan that is personalized at the direction of the child.~~ (f) For a child who

104.1 will be discharged from foster care at age 18 or older, the responsible social services
 104.2 agency is required to develop a personalized transition plan as directed by the youth. The
 104.3 transition plan must be developed during the 90-day period immediately prior to the
 104.4 expected date of discharge. The transition plan must be as detailed as the child may elect
 104.5 and include specific options on housing, health insurance, education, local opportunities
 104.6 for mentors and continuing support services, and work force supports and employment
 104.7 services. The plan must include information on the importance of designating another
 104.8 individual to make health care treatment decisions on behalf of the child if the child
 104.9 becomes unable to participate in these decisions and the child does not have, or does not
 104.10 want, a relative who would otherwise be authorized to make these decisions. The plan
 104.11 must provide the child with the option to execute a health care directive as provided
 104.12 under chapter 145C. The county shall also provide the individual with appropriate contact
 104.13 information if the individual needs more information or needs help dealing with a crisis
 104.14 situation through age 21.

104.15 Sec. 19. Minnesota Statutes 2010, section 260C.215, subdivision 4, is amended to read:

104.16 Subd. 4. ~~Consultation with representatives~~ **Duties of commissioner.**

104.17 The commissioner of human services, ~~after seeking and considering advice from~~
 104.18 ~~representatives reflecting diverse populations from the councils established under sections~~
 104.19 ~~3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations~~
 104.20 shall:

104.21 (1) ~~review and, where necessary, revise the Department of Human Services Social~~
 104.22 ~~Service Manual and Practice Guide~~ provide practice guidance to responsible social
 104.23 services agencies and child-placing agencies that reflect federal and state laws and policy
 104.24 direction on placement of children;

104.25 (2) develop criteria for determining whether a prospective adoptive or foster family
 104.26 has the ability to understand and validate the child's cultural background;

104.27 (3) ~~develop~~ provide a standardized training curriculum for adoption and foster care
 104.28 workers, ~~family-based providers,~~ and administrators who work with children. Training
 104.29 must address the following objectives:

104.30 ~~(a)~~ (i) developing and maintaining sensitivity to all cultures;

104.31 ~~(b)~~ (ii) assessing values and their cultural implications; ~~and~~

104.32 ~~(c)~~ (iii) making individualized placement decisions that advance the best interests of
 104.33 a particular child under section 260C.212, subdivision 2; and

104.34 (iv) issues related to cross-cultural placement;

105.1 (4) ~~develop~~ provide a training curriculum for ~~family and extended family members~~
 105.2 all prospective adoptive and foster families that prepares them to care for the needs of
 105.3 adoptive and foster children. The curriculum must address issues relating to cross-cultural
 105.4 placements as well as issues that arise after a foster or adoptive placement is made taking
 105.5 into consideration the needs of children outlined in section 260C.212, subdivision 2,
 105.6 paragraph (b); and

105.7 (5) develop and provide to agencies ~~an assessment tool to be used in combination~~
 105.8 ~~with group interviews and other preplacement activities~~ a home study format to evaluate
 105.9 assess the capacities and needs of prospective adoptive and foster families. The tool
 105.10 format must assess address problem-solving skills; identify parenting skills; and evaluate
 105.11 the degree to which the prospective family has the ability to understand and validate the
 105.12 child's cultural background, and other issues needed to provide sufficient information for
 105.13 agencies to make an individualized placement decision consistent with section 260C.212,
 105.14 subdivision 2. If a prospective adoptive parent has also been a foster parent, any update
 105.15 necessary to a home study for the purpose of adoption may be completed by the licensing
 105.16 authority responsible for the foster parent's license. If a prospective adoptive parent with an
 105.17 approved adoptive home study also applies for a foster care license, the license application
 105.18 may be made with the same agency which provided the adoptive home study; and

105.19 (6) shall consult with representatives reflecting diverse populations from the councils
 105.20 established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and
 105.21 community organizations.

105.22 Sec. 20. Minnesota Statutes 2010, section 260C.215, subdivision 6, is amended to read:

105.23 Subd. 6. **Duties of child-placing agencies.** (a) Each authorized child-placing
 105.24 agency must:

105.25 (1) develop and follow procedures for implementing the requirements of section
 105.26 ~~260C.193, subdivision 3~~ 260C.212, subdivision 2, and the Indian Child Welfare Act,
 105.27 United States Code, title 25, sections 1901 to 1923;

105.28 (2) have a written plan for recruiting adoptive and foster families that reflect the
 105.29 ethnic and racial diversity of children who are in need of foster and adoptive homes.

105.30 The plan must include:

105.31 (i) strategies for using existing resources in diverse communities;₂

105.32 (ii) use of diverse outreach staff wherever possible;₂

105.33 (iii) use of diverse foster homes for placements after birth and before adoption;₂ and

105.34 (iv) other techniques as appropriate;

105.35 (3) have a written plan for training adoptive and foster families;

106.1 (4) have a written plan for employing staff in adoption and foster care who have
106.2 the capacity to assess the foster and adoptive parents' ability to understand and validate a
106.3 child's cultural and meet the child's individual needs, and to advance the best interests of
106.4 the child, as required in section 260C.212, subdivision 2. The plan must include staffing
106.5 goals and objectives;

106.6 (5) ensure that adoption and foster care workers attend training offered or approved
106.7 by the Department of Human Services regarding cultural diversity and the needs of special
106.8 needs children; and

106.9 (6) develop and implement procedures for implementing the requirements of the
106.10 Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

106.11 (b) In determining the suitability of a proposed placement of an Indian child, the
106.12 standards to be applied must be the prevailing social and cultural standards of the Indian
106.13 child's community, and the agency shall defer to tribal judgment as to suitability of a
106.14 particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.

106.15 Sec. 21. **[260C.229] VOLUNTARY FOSTER CARE FOR CHILDREN OVER**
106.16 **AGE 18; REQUIRED COURT REVIEW.**

106.17 (a) When a child asks to continue or to reenter foster care after age 18 under section
106.18 260C.451, the child and the responsible social services agency may enter into a voluntary
106.19 agreement for the child to be in foster care under the terms of section 260C.451. The
106.20 voluntary agreement must be in writing and on a form prescribed by the commissioner.

106.21 (b) When the child is in foster care pursuant to a voluntary foster care agreement
106.22 between the agency and child and the child is not already under court jurisdiction pursuant
106.23 to section 260C.193, subdivision 6, the agency responsible for the child's placement
106.24 in foster care shall:

106.25 (1) file a motion to reopen the juvenile protection matter where the court previously
106.26 had jurisdiction over the child within 30 days of the child and the agency executing the
106.27 voluntary placement agreement under paragraph (a) and ask the court to review the child's
106.28 placement in foster care and find that the placement is in the best interests of the child; and

106.29 (2) file the out-of-home placement plan required under subdivision 1 with the
106.30 motion to reopen jurisdiction.

106.31 (c) The court shall conduct a hearing on the matter within 30 days of the agency's
106.32 motion to reopen the matter and, if the court finds that placement is in the best interest of
106.33 the child, shall conduct the review for the purpose and with the content required under
106.34 section 260C.203, at least every 12 months as long as the child continues in foster care.

107.1 Sec. 22. Minnesota Statutes 2010, section 260C.301, subdivision 8, is amended to read:

107.2 Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this
107.3 section, the court shall make specific findings:

107.4 (1) that reasonable efforts to ~~prevent the placement and~~ finalize the permanency
107.5 plan to reunify the child and the parent were made including individualized and explicit
107.6 findings regarding the nature and extent of efforts made by the social services agency to
107.7 rehabilitate the parent and reunite the family; or

107.8 (2) that reasonable efforts ~~at~~ for reunification are not required as provided under
107.9 section 260.012.

107.10 Sec. 23. Minnesota Statutes 2010, section 260C.328, is amended to read:

107.11 **260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

107.12 (a) Upon its own motion or upon petition of an interested party, the juvenile court
107.13 having jurisdiction of the child may, after notice to the parties and a hearing, remove
107.14 the guardian appointed by the juvenile court and appoint a new guardian in accordance
107.15 with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a
107.16 showing that the child is emancipated, the court may discharge the guardianship. Any
107.17 child 14 years of age or older who is not adopted but who is placed in a satisfactory foster
107.18 home, may, with the consent of the foster parents, join with the guardian appointed by the
107.19 juvenile court in a petition to the court having jurisdiction of the child to discharge the
107.20 existing guardian and appoint the foster parents as guardians of the child.

107.21 (b) The authority of a guardian appointed by the juvenile court terminates when the
107.22 individual under guardianship ~~is no longer a minor or when guardianship is otherwise~~
107.23 ~~discharged~~ becomes age 18. However, an individual who has been under the guardianship
107.24 of the commissioner and who has not been adopted may continue in foster care or reenter
107.25 foster care pursuant to section 260C.451 and the responsible social services agency has
107.26 continuing legal responsibility for the placement of the individual.

107.27 Sec. 24. Minnesota Statutes 2010, section 260C.451, is amended to read:

107.28 **260C.451 FOSTER CARE BENEFITS ~~TO AGE 21~~ PAST AGE 18.**

107.29 Subdivision 1. **Notification of benefits.** ~~Within the~~ Six months prior to the child's
107.30 18th birthday, the ~~local~~ responsible social services agency shall ~~advise~~ provide written
107.31 notice on a form prescribed by the commissioner of human services to any child in foster
107.32 care under this chapter who cannot reasonably be expected to return home or have another
107.33 legally permanent family by the age of 18, the child's parents or legal guardian, if any, and

108.1 the child's guardian ad litem, and the child's foster parents of the availability of benefits of
108.2 the foster care program up to age 21, when the child is eligible under subdivisions 3 and 3a.

108.3 Subd. 2. **Independent living plan.** Upon the request of any child receiving in foster
108.4 care ~~benefits~~ immediately prior to the child's 18th birthday and who is in foster care at
108.5 the time of the request, the ~~local~~ responsible social services agency shall, in conjunction
108.6 with the child and other appropriate parties, update the independent living plan required
108.7 under section 260C.212, subdivision 1, paragraph (c), clause (11), related to the child's
108.8 employment, vocational, educational, social, or maturational needs. The agency shall
108.9 provide continued services and foster care for the child including those services that are
108.10 necessary to implement the independent living plan.

108.11 Subd. 3. **Eligibility to continue in foster care.** A child ~~already~~ in foster care
108.12 immediately prior to the child's 18th birthday may continue in foster care past age 18
108.13 unless:

108.14 (1) the child can safely return home;

108.15 (2) the child is in placement pursuant to the agency's duties under section 256B.092
108.16 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child's needs due to
108.17 developmental disability or related condition, and the child will be served as an adult
108.18 under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or

108.19 (3) the child can be adopted or have permanent legal and physical custody
108.20 transferred to a relative prior to the child's 18th birthday.

108.21 Subd. 3a. **Eligibility criteria.** The child must meet at least one of the following
108.22 conditions to be considered eligible to continue in or return to foster care and remain there
108.23 to age 21. The child must be:

108.24 (1) completing secondary education or a program leading to an equivalent credential;

108.25 (2) enrolled in an institution ~~which~~ that provides postsecondary or vocational
108.26 education;

108.27 (3) participating in a program or activity designed to promote or remove barriers to
108.28 employment;

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

108.30 (5) incapable of doing any of the activities described in clauses (1) to (4) due to a
108.31 medical condition.

108.32 Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster
108.33 care benefits" means payment for those foster care settings defined in section 260C.007,
108.34 subdivision 18. Additionally, foster care benefits means payment for a supervised
108.35 setting, approved by the responsible social services agency, in which a child may live
108.36 independently.

109.1 Subd. 5. ~~Permanent decision~~ **Foster care setting.** The particular foster care
109.2 setting, including supervised settings, shall be selected by the agency and the child
109.3 based on the best interest of the child consistent with section 260C.212, subdivision 2.
109.4 Supervision in approved settings must be determined by an individual determination of
109.5 the child's needs by the responsible social services agency and consistent with section
109.6 260C.212, subdivision 4a.

109.7 Subd. 6. ~~Individual plan to age 21~~ **Reentering foster care and accessing services**
109.8 **after age 18.** (a) Upon request of an individual between the ages of 18 and 21 who;
109.9 ~~within six months of the individual's 18th birthday,~~ had been under the guardianship of the
109.10 commissioner and who has left foster care without being adopted, the responsible social
109.11 services agency which had been the commissioner's agent for purposes of the guardianship
109.12 shall develop with the individual a plan ~~related to the individual's vocational, educational,~~
109.13 ~~social, or maturational needs~~ to increase the individual's ability to live safely and
109.14 independently using the plan requirements of section 260C.212, subdivision 1, paragraph
109.15 (b), clause (11), and to assist the individual to meet one or more of the eligibility criteria in
109.16 subdivision 4 if the individual wants to reenter foster care. The agency shall provide foster
109.17 care ~~with maintenance and counseling benefits~~ as required to implement the plan. The
109.18 agency shall enter into a voluntary placement agreement under section 260C.229 with the
109.19 individual if the plan includes foster care.

109.20 (b) Individuals who had not been under the guardianship of the commissioner of
109.21 human services prior to age 18 and are between the ages of 18 and 21 may ask to reenter
109.22 foster care after age 18 and, to the extent funds are available, the responsible social
109.23 services agency that had responsibility for planning for the individual before discharge
109.24 from foster care may provide foster care or other services to the individual for the purpose
109.25 of increasing the individual's ability to live safely and independently and to meet the
109.26 eligibility criteria in subdivision 3a, if the individual:

109.27 (1) was in foster care for the six consecutive months prior to the person's 18th
109.28 birthday and was not discharged home, adopted, or received into a relative's home under a
109.29 transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

109.30 (2) was discharged from foster care while on runaway status after age 15.

109.31 (c) In conjunction with a qualifying and eligible individual under paragraph (b) and
109.32 other appropriate persons, the responsible social services agency shall develop a specific
109.33 plan related to that individual's vocational, educational, social, or maturational needs
109.34 and, to the extent funds are available, provide foster care as required to implement the
109.35 plan. The agency shall enter into a voluntary placement agreement with the individual
109.36 if the plan includes foster care.

110.1 (d) Youth who left foster care while under guardianship of the commissioner of
110.2 human services retain eligibility for foster care for placement at any time between the
110.3 ages of 18 and 21.

110.4 **Subd. 7. Jurisdiction.** ~~Notwithstanding that the court retains jurisdiction pursuant~~
110.5 ~~to this section,~~ Individuals in foster care pursuant to this section are adults for all purposes
110.6 except the continued provision of foster care. Any order establishing guardianship under
110.7 section 260C.325, any legal custody order under section 260C.201, subdivision 1, and
110.8 any order for legal custody associated with an order for ~~long-term foster care~~ permanent
110.9 custody under section 260C.201, subdivision 1 + 260C.515, subdivision 5, terminates on
110.10 the child's 18th birthday. The responsible social services agency has legal responsibility
110.11 for the individual's placement and care when the matter continues under court jurisdiction
110.12 pursuant to section 260C.193 or when the individual and the responsible agency execute a
110.13 voluntary placement agreement pursuant to section 260C.229.

110.14 **Subd. 8. Notice of termination of foster care.** When a child in foster care between
110.15 the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the
110.16 responsible social services agency shall give the child written notice that foster care will
110.17 terminate 30 days from the date the notice is sent. The child or the child's guardian ad
110.18 litem may file a motion asking the court to review the agency's determination within 15
110.19 days of receiving the notice. The child shall not be discharged from foster care until the
110.20 motion is heard. The agency shall work with the child to transition out of foster care as
110.21 required under section 260C.203, paragraph (e). The written notice of termination of
110.22 benefits shall be on a form prescribed by the commissioner and shall also give notice of
110.23 the right to have the agency's determination reviewed by the court in the proceeding where
110.24 the court conducts the reviews required under section 260C.203, 260C.317, or 260C.515,
110.25 subdivision 5 or 6. A copy of the termination notice shall be sent to the child and the
110.26 child's attorney, if any, the foster care provider, the child's guardian ad litem, and the
110.27 court. The agency is not responsible for paying foster care benefits for any period of time
110.28 after the child actually leaves foster care.

110.29 **Sec. 25. [260C.503] PERMANENCY PROCEEDINGS.**

110.30 **Subdivision 1. Required permanency proceedings.** Except for children in foster
110.31 care pursuant to chapter 260D, where the child is in foster care or in the care of a
110.32 noncustodial or nonresident parent, the court shall commence proceedings to determine
110.33 the permanent status of a child by holding the admit-deny hearing required under section
110.34 260C.507 not later than 12 months after the child is placed in foster care or in the care of a

111.1 noncustodial or nonresident parent. Permanency proceedings for children in foster care
111.2 pursuant to chapter 260D shall be according to section 260D.07.

111.3 Subd. 2. **Termination of parental rights.** (a) The responsible social services
111.4 agency must ask the county attorney to immediately file a termination of parental rights
111.5 petition when:

111.6 (1) the child has been subjected to egregious harm as defined in section 260C.007,
111.7 subdivision 14;

111.8 (2) the child is determined to be the sibling of a child who was subjected to
111.9 egregious harm;

111.10 (3) the child is an abandoned infant as defined in section 260C.301, subdivision 3,
111.11 paragraph (b), clause (2);

111.12 (4) the child's parent has lost parental rights to another child through an order
111.13 involuntarily terminating the parent's rights;

111.14 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
111.15 2, against the child or another child of the parent;

111.16 (6) the parent has committed an offense that requires registration as a predatory
111.17 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

111.18 (7) another child of the parent is the subject of an order involuntarily transferring
111.19 permanent legal and physical custody of the child to a relative under this chapter or a
111.20 similar law of another jurisdiction;

111.21 The county attorney shall file a termination of parental rights petition unless the conditions
111.22 of paragraph (d) are met.

111.23 (b) When the termination of parental rights petition is filed under this subdivision,
111.24 the responsible social services agency shall identify, recruit, and approve an adoptive
111.25 family for the child. If a termination of parental rights petition has been filed by another
111.26 party, the responsible social services agency shall be joined as a party to the petition.

111.27 (c) If criminal charges have been filed against a parent arising out of the conduct
111.28 alleged to constitute egregious harm, the county attorney shall determine which matter
111.29 should proceed to trial first, consistent with the best interests of the child and subject
111.30 to the defendant's right to a speedy trial.

111.31 (d) The requirement of paragraph (a) does not apply if the responsible social services
111.32 agency and the county attorney determine and file with the court:

111.33 (1) a petition for transfer of permanent legal and physical custody to a relative under
111.34 sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption
111.35 is not in the child's best interests and that transfer of permanent legal and physical custody
111.36 is in the child's best interests; or

112.1 (2) a petition under section 260C.141 alleging the child, and where appropriate,
112.2 the child's siblings, to be in need of protection or services accompanied by a case plan
112.3 prepared by the responsible social services agency documenting a compelling reason why
112.4 filing a termination of parental rights petition would not be in the best interests of the child.

112.5 Subd. 3. Calculating time to required permanency proceedings. (a) For
112.6 purposes of this section, the date of the child's placement in foster care is the earlier of
112.7 the first court-ordered placement or 60 days after the date on which the child has been
112.8 voluntarily placed in foster care by the child's parent or guardian. For purposes of this
112.9 section, time spent by a child in the home of the noncustodial parent pursuant to court
112.10 order under section 260C.178 or under the protective supervision of the responsible
112.11 social services agency in the home of the noncustodial parent pursuant to an order under
112.12 section 260C.201, subdivision 1, counts towards the requirement of a permanency hearing
112.13 under this section. Time spent on a trial home visit counts towards the requirement of a
112.14 permanency hearing under this section and the permanency progress review required
112.15 under section 260C.204.

112.16 (b) For the purposes of this section, 12 months is calculated as follows:

112.17 (1) during the pendency of a petition alleging that a child is in need of protection
112.18 or services, all time periods when a child is placed in foster care or in the home of a
112.19 noncustodial parent are cumulated;

112.20 (2) if a child has been placed in foster care within the previous five years under one
112.21 or more previous petitions, the lengths of all prior time periods when the child was placed
112.22 in foster care within the previous five years are cumulated. If a child under this clause
112.23 has been in foster care for 12 months or more, the court, if it is in the best interests of the
112.24 child and for compelling reasons, may extend the total time the child may continue out
112.25 of the home under the current petition up to an additional six months before making a
112.26 permanency determination.

112.27 (c) If the child is on a trial home visit 12 months after the child was placed in foster
112.28 care or in the care of a noncustodial parent, the responsible social services agency may file
112.29 a report with the court regarding the child's and parent's progress on the trial home visit and
112.30 the agency's reasonable efforts to finalize the child's safe and permanent return to the care
112.31 of the parent in lieu of filing the petition required under section 260C.505. The court shall
112.32 make findings regarding the reasonable efforts of the agency to finalize the child's return
112.33 home as the permanency disposition order in the best interests of the child. The court may
112.34 continue the trial home visit to a total time not to exceed six months as provided in section
112.35 260C.201, subdivision 1, paragraph (a), clause (3). If the court finds the agency has not
112.36 made reasonable efforts to finalize the child's return home as the permanency disposition

113.1 order in the child's best interests, the court may order other or additional efforts to support
113.2 the child remaining in the care of the parent. If a trial home visit ordered or continued at
113.3 permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall
113.4 commence or recommence permanency proceedings under this chapter no later than 30
113.5 days after the child is returned to foster care or to the care of a noncustodial parent.

113.6 Sec. 26. **[260C.505] PETITION.**

113.7 (a) A permanency or termination of parental rights petition must be filed at or
113.8 prior to the time the child has been in foster care or in the care of a noncustodial or
113.9 nonresident parent for 11 months or in the expedited manner required in section 260C.503,
113.10 subdivision 2, paragraph (a). The court administrator shall serve the petition as required
113.11 in the Minnesota Rules of Juvenile Protection Procedure and section 260C.152 for the
113.12 admit-deny hearing on the petition required in section 260C.507.

113.13 (b) A petition under this section is not required if the responsible social services
113.14 agency intends to recommend that the child return to the care of the parent from whom
113.15 the child was removed at or prior to the time the court is required to hold the admit-deny
113.16 hearing required under section 260C.507.

113.17 Sec. 27. **[260C.507] ADMIT-DENY HEARING.**

113.18 (a) An admit-deny hearing on the permanency or termination of parental rights
113.19 petition shall be held not later than 12 months from the child's placement in foster care or
113.20 an order for the child to be in the care of a noncustodial or nonresident parent.

113.21 (b) An admit-deny hearing on the termination of parental rights or transfer of
113.22 permanent legal and physical custody petition required to be immediately filed under
113.23 section 260C.503, subdivision 2, paragraph (a), shall be within ten days of the filing
113.24 of the petition.

113.25 (c) At the admit-deny hearing, the court shall determine whether there is a prima
113.26 facie basis for finding that the agency made reasonable efforts, or in the case of an Indian
113.27 child active efforts, for reunification as required or that reasonable efforts for reunification
113.28 are not required under section 260.012 and proceed according to the Minnesota Rules of
113.29 Juvenile Protection Procedure.

113.30 Sec. 28. **[260C.509] TRIAL.**

113.31 The permanency proceedings shall be conducted in a timely fashion including
113.32 that any trial required under section 260C.163 shall be commenced within 60 days of

114.1 the admit-deny hearing required under section 260C.507. At the conclusion of the
114.2 permanency proceedings, the court shall:

114.3 (1) order the child returned to the care of the parent or guardian from whom the
114.4 child was removed; or

114.5 (2) order a permanency disposition under section 260C.515 or termination of
114.6 parental rights under sections 260C.301 to 260C.328 if a permanency disposition order or
114.7 termination of parental rights is in the child's best interests.

114.8 Sec. 29. **[260C.511] BEST INTERESTS OF THE CHILD.**

114.9 (a) The "best interests of the child" means all relevant factors to be considered
114.10 and evaluated.

114.11 (b) In making a permanency disposition order or termination of parental rights,
114.12 the court must be governed by the best interests of the child, including a review of the
114.13 relationship between the child and relatives and the child and other important persons with
114.14 whom the child has resided or had significant contact.

114.15 Sec. 30. **[260C.513] PERMANENCY DISPOSITIONS WHEN CHILD CANNOT**
114.16 **RETURN HOME.**

114.17 (a) Termination of parental rights and adoption, or guardianship to the commissioner
114.18 of human services through a consent to adopt are preferred permanency options for a
114.19 child who cannot return home. If the court finds that termination of parental rights and
114.20 guardianship to the commissioner is not in the child's best interests, the court may transfer
114.21 permanent legal and physical custody of the child to a relative when that order is in the
114.22 child's best interests.

114.23 (b) When the court has determined that permanent placement of the child away from
114.24 the parent is necessary, the court shall consider permanent alternative homes that are
114.25 available both inside and outside the state.

114.26 Sec. 31. **[260C.515] PERMANENCY DISPOSITION ORDERS.**

114.27 Subdivision 1. **Court order required.** If the child is not returned to the home at or
114.28 before the conclusion of permanency proceedings under sections 260C.503 to 260C.521,
114.29 the court must order one of the permanency dispositions in this section.

114.30 Subd. 2. **Termination of parental rights.** The court may order:

114.31 (1) termination of parental rights when the requirements of sections 260C.301 to
114.32 260C.328 are met; or

115.1 (2) the responsible social services agency to file a petition for termination of
115.2 parental rights in which case all the requirements of sections 260C.301 to 260C.328
115.3 remain applicable.

115.4 Subd. 3. **Guardianship; commissioner.** The court may order guardianship to the
115.5 commissioner of human services under the following procedures and conditions:

115.6 (1) there is an identified prospective adoptive parent agreed to by the responsible
115.7 social services agency having legal custody of the child pursuant to court order under this
115.8 chapter and that prospective adoptive parent has agreed to adopt the child;

115.9 (2) the court accepts the parent's voluntary consent to adopt in writing on a form
115.10 prescribed by the commissioner, executed before two competent witnesses and confirmed
115.11 by the consenting parent before the court or executed before court. The consent shall
115.12 contain notice that consent given under this chapter:

115.13 (i) is irrevocable upon acceptance by the court unless fraud is established and an
115.14 order issues permitting revocation as stated in clause (9) unless the matter is governed by
115.15 the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

115.16 (ii) will result in an order that the child is under the guardianship of the commissioner
115.17 of human services;

115.18 (3) a consent executed and acknowledged outside of this state, either in accordance
115.19 with the law of this state or in accordance with the law of the place where executed, is
115.20 valid;

115.21 (4) the court must review the matter at least every 90 days under section 260C.317;

115.22 (5) a consent to adopt under this subdivision vests guardianship of the child with
115.23 the commissioner of human services and makes the child a ward of the commissioner of
115.24 human services under section 260C.325;

115.25 (6) the court must forward to the commissioner a copy of the consent to adopt,
115.26 together with a certified copy of the order transferring guardianship to the commissioner;

115.27 (7) if an adoption is not finalized by the identified prospective adoptive parent within
115.28 six months of the execution of the consent to adopt under this clause, the responsible
115.29 social services agency shall pursue adoptive placement in another home unless the court
115.30 finds in a hearing under section 260C.317 that the failure to finalize is not due to either an
115.31 action or a failure to act by the prospective adoptive parent;

115.32 (8) notwithstanding clause (7), the responsible social services agency must pursue
115.33 adoptive placement in another home as soon as the agency determines that finalization
115.34 of the adoption with the identified prospective adoptive parent is not possible, that the
115.35 identified prospective adoptive parent is not willing to adopt the child, or that the identified

116.1 prospective adoptive parent is not cooperative in completing the steps necessary to finalize
116.2 the adoption;

116.3 (9) unless otherwise required by the Indian Child Welfare Act, United States Code,
116.4 title 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable
116.5 upon acceptance by the court except upon order permitting revocation issued by the same
116.6 court after written findings that consent was obtained by fraud.

116.7 Subd. 4. **Custody to relative.** The court may order permanent legal and physical
116.8 custody to a relative in the best interests of the child according to the following conditions:

116.9 (1) an order for transfer of permanent legal and physical custody to a relative shall
116.10 only be made after the court has reviewed the suitability of the prospective legal and
116.11 physical custodian;

116.12 (2) in transferring permanent legal and physical custody to a relative, the juvenile
116.13 court shall follow the standards applicable under this chapter and chapter 260, and the
116.14 procedures in the Minnesota Rules of Juvenile Protection Procedure;

116.15 (3) a transfer of legal and physical custody includes responsibility for the protection,
116.16 education, care, and control of the child and decision making on behalf of the child;

116.17 (4) a permanent legal and physical custodian may not return a child to the permanent
116.18 care of a parent from whom the court removed custody without the court's approval and
116.19 without notice to the responsible social services agency;

116.20 (5) the social services agency may file a petition naming a fit and willing relative as
116.21 a proposed permanent legal and physical custodian;

116.22 (6) another party to the permanency proceeding regarding the child may file a
116.23 petition to transfer permanent legal and physical custody to a relative, but the petition must
116.24 be filed not later than the date for the required admit/deny hearing under section 260C.507;
116.25 or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must
116.26 be filed not later than 30 days prior to the trial required under section 260C.509; and

116.27 (7) the juvenile court may maintain jurisdiction over the responsible social services
116.28 agency, the parents or guardian of the child, the child, and the permanent legal and
116.29 physical custodian for purposes of ensuring appropriate services are delivered to the child
116.30 and permanent legal custodian for the purpose of ensuring conditions ordered by the court
116.31 related to the care and custody of the child are met.

116.32 Subd. 5. **Permanent custody to agency.** The court may order permanent custody to
116.33 the responsible social services agency for continued placement of the child in foster care
116.34 but only if it approves the responsible social services agency's compelling reasons that no
116.35 other permanency disposition order is in the child's best interests, and:

116.36 (1) the child has reached age 12;

117.1 (2) the child is a sibling of a child described in clause (1) and the siblings have a
117.2 significant positive relationship and are ordered into the same foster home;

117.3 (3) the responsible social services agency has made reasonable efforts to locate and
117.4 place the child with an adoptive family or a fit and willing relative who would either agree
117.5 to adopt the child or to a transfer of permanent legal and physical custody of the child, but
117.6 these efforts have not proven successful; and

117.7 (4) the parent will continue to have visitation or contact with the child and will
117.8 remain involved in planning for the child.

117.9 **Subd. 6. Temporary legal custody to agency.** The court may order temporary legal
117.10 custody to the responsible social services agency for continued placement of the child in
117.11 foster care for a specified period of time according to the following conditions:

117.12 (1) the sole basis for an adjudication that the child is in need of protection or services
117.13 is the child's behavior;

117.14 (2) the court finds that foster care for a specified period of time is in the best interests
117.15 of the child;

117.16 (3) the court approves the responsible social services agency's compelling reasons
117.17 that neither an award of permanent legal and physical custody to a relative, nor termination
117.18 of parental rights is in the child's best interests; and

117.19 (4) the order specifies that the child continue in foster care no longer than one year.

117.20 Sec. 32. **[260C.517] FINDINGS AND CONTENT OF ORDER FOR**
117.21 **PERMANENCY DISPOSITION.**

117.22 (a) Except for an order terminating parental rights, an order permanently placing
117.23 a child out of the home of the parent or guardian must include the following detailed
117.24 findings:

117.25 (1) how the child's best interests are served by the order;

117.26 (2) the nature and extent of the responsible social services agency's reasonable
117.27 efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent
117.28 or guardian where reasonable efforts are required;

117.29 (3) the parent's or parents' efforts and ability to use services to correct the conditions
117.30 which led to the out-of-home placement; and

117.31 (4) that the conditions which led to the out-of-home placement have not been
117.32 corrected so that the child can safely return home.

117.33 (b) The court shall issue an order required under section 260C.515 and this section
117.34 within 15 days of the close of the proceedings. The court may extend issuing the order

118.1 an additional 15 days when necessary in the interests of justice and the best interests of
118.2 the child.

118.3 **Sec. 33. [260C.519] FURTHER COURT HEARINGS.**

118.4 Once a permanency disposition order has been made, further court hearings are
118.5 necessary if:

118.6 (1) the child is ordered on a trial home visit or under the protective supervision
118.7 of the responsible social services agency;

118.8 (2) the child continues in foster care;

118.9 (3) the court orders further hearings in a transfer of permanent legal and physical
118.10 custody matter including if a party seeks to modify an order under section 260C.521,
118.11 subdivision 2;

118.12 (4) an adoption has not yet been finalized; or

118.13 (5) the child returns to foster care after the court has entered an order for a
118.14 permanency disposition under this section.

118.15 **Sec. 34. [260C.521] COURT REVIEWS AFTER PERMANENCY DISPOSITION**
118.16 **ORDER.**

118.17 **Subdivision 1. Child in permanent custody of responsible social services agency.**

118.18 (a) Court reviews of an order for permanent custody to the responsible social services
118.19 agency for placement of the child in foster care must be conducted at least yearly at an
118.20 in-court appearance hearing.

118.21 (b) The purpose of the review hearing is to ensure:

118.22 (1) the order for permanent custody to the responsible social services agency for
118.23 placement of the child in foster care continues to be in the best interests of the child and
118.24 that no other permanency disposition order is in the best interests of the child;

118.25 (2) that the agency is assisting the child to build connections to the child's family
118.26 and community; and

118.27 (3) that the agency is appropriately planning with the child for development of
118.28 independent living skills for the child, and as appropriate, for the orderly and successful
118.29 transition to independent living that may occur if the child continues in foster care without
118.30 another permanency disposition order.

118.31 (c) The court must review the child's out-of-home placement plan and the reasonable
118.32 efforts of the agency to finalize an alternative permanent plan for the child including the
118.33 agency's efforts to:

119.1 (1) ensure that permanent custody to the agency with placement of the child in
119.2 foster care continues to be the most appropriate legal arrangement for meeting the child's
119.3 need for permanency and stability or, if not, to identify and attempt to finalize another
119.4 permanency disposition order under this chapter that would better serve the child's needs
119.5 and best interests;

119.6 (2) identify a specific foster home for the child, if one has not already been identified;

119.7 (3) support continued placement of the child in the identified home, if one has been
119.8 identified;

119.9 (4) ensure appropriate services are provided to address the physical health, mental
119.10 health, and educational needs of the child during the period of foster care and also ensure
119.11 appropriate services or assistance to maintain relationships with appropriate family
119.12 members and the child's community; and

119.13 (5) plan for the child's independence upon the child's leaving foster care living as
119.14 required under section 260C.212, subdivision 1.

119.15 (d) The court may find that the agency has made reasonable efforts to finalize the
119.16 permanent plan for the child when:

119.17 (1) the agency has made reasonable efforts to identify a more legally permanent
119.18 home for the child than is provided by an order for permanent custody to the agency
119.19 for placement in foster care; and

119.20 (2) the agency's engagement of the child in planning for independent living is
119.21 reasonable and appropriate.

119.22 **Subd. 2. Modifying an order for permanent legal and physical custody to a**
119.23 **relative.** An order for a relative to have permanent legal and physical custody of a child
119.24 may be modified using standards under sections 518.18 and 518.185. The social services
119.25 agency is a party to the proceeding and must receive notice.

119.26 **Subd. 3. Modifying order for permanent custody to agency for placement in**
119.27 **foster care.** (a) A parent may seek modification of an order for permanent custody of the
119.28 child to the responsible social services agency for placement in foster care upon motion
119.29 and a showing by the parent of a substantial change in the parent's circumstances such
119.30 that the parent could provide appropriate care for the child and that removal of the child
119.31 from the permanent custody of the agency and the return to the parent's care would be
119.32 in the best interests of the child.

119.33 (b) The responsible social services agency may ask the court to vacate an order for
119.34 permanent custody to the agency upon a petition and hearing pursuant to section 260C.163
119.35 establishing the basis for the court to order another permanency disposition under this
119.36 chapter, including termination of parental rights based on abandonment if the parent

120.1 has not visited the child, maintained contact with the child, or participated in planning
120.2 for the child as required under section 260C.515, subdivision 5. The responsible social
120.3 services agency must establish that the proposed permanency disposition order is in the
120.4 child's best interests. Upon a hearing where the court determines the petition is proved,
120.5 the court may vacate the order for permanent custody and enter a different order for a
120.6 permanent disposition that is in the child's best interests. The court shall not require further
120.7 reasonable efforts to reunify the child with the parent or guardian as a basis for vacating
120.8 the order for permanent custody to the agency and ordering a different permanency
120.9 disposition in the child's best interests. The county attorney must file the petition and give
120.10 notice as required under the Minnesota Rules of Juvenile Protection Procedure in order to
120.11 modify an order for permanent custody under this subdivision.

120.12 Sec. 35. **EFFECTIVE DATE.**

120.13 This article is effective August 1, 2012.

120.14 **ARTICLE 5**

120.15 **CHILD SUPPORT**

120.16 Section 1. Minnesota Statutes 2011 Supplement, section 256.01, subdivision 14b,
120.17 is amended to read:

120.18 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of
120.19 human services may authorize projects to test tribal delivery of child welfare services to
120.20 American Indian children and their parents and custodians living on the reservation.
120.21 The commissioner has authority to solicit and determine which tribes may participate
120.22 in a project. Grants may be issued to Minnesota Indian tribes to support the projects.
120.23 The commissioner may waive existing state rules as needed to accomplish the projects.
120.24 Notwithstanding section 626.556, the commissioner may authorize projects to use
120.25 alternative methods of investigating and assessing reports of child maltreatment, provided
120.26 that the projects comply with the provisions of section 626.556 dealing with the rights
120.27 of individuals who are subjects of reports or investigations, including notice and appeal
120.28 rights and data practices requirements. The commissioner may seek any federal approvals
120.29 necessary to carry out the projects as well as seek and use any funds available to the
120.30 commissioner, including use of federal funds, foundation funds, existing grant funds,
120.31 and other funds. The commissioner is authorized to advance state funds as necessary to
120.32 operate the projects. Federal reimbursement applicable to the projects is appropriated
120.33 to the commissioner for the purposes of the projects. The projects must be required to
120.34 address responsibility for safety, permanency, and well-being of children.

121.1 (b) For the purposes of this section, "American Indian child" means a person under
121.2 ~~18 years of age~~ 21 years old and who is a tribal member or eligible for membership in
121.3 one of the tribes chosen for a project under this subdivision and who is residing on the
121.4 reservation of that tribe.

121.5 (c) In order to qualify for an American Indian child welfare project, a tribe must:

121.6 (1) be one of the existing tribes with reservation land in Minnesota;

121.7 (2) have a tribal court with jurisdiction over child custody proceedings;

121.8 (3) have a substantial number of children for whom determinations of maltreatment
121.9 have occurred;

121.10 (4) have capacity to respond to reports of abuse and neglect under section 626.556;

121.11 (5) provide a wide range of services to families in need of child welfare services; and

121.12 (6) have a tribal-state title IV-E agreement in effect.

121.13 (d) Grants awarded under this section may be used for the nonfederal costs of
121.14 providing child welfare services to American Indian children on the tribe's reservation,
121.15 including costs associated with:

121.16 (1) assessment and prevention of child abuse and neglect;

121.17 (2) family preservation;

121.18 (3) facilitative, supportive, and reunification services;

121.19 (4) out-of-home placement for children removed from the home for child protective
121.20 purposes; and

121.21 (5) other activities and services approved by the commissioner that further the goals
121.22 of providing safety, permanency, and well-being of American Indian children.

121.23 (e) When a tribe has initiated a project and has been approved by the commissioner
121.24 to assume child welfare responsibilities for American Indian children of that tribe under
121.25 this section, the affected county social service agency is relieved of responsibility for
121.26 responding to reports of abuse and neglect under section 626.556 for those children
121.27 during the time within which the tribal project is in effect and funded. The commissioner
121.28 shall work with tribes and affected counties to develop procedures for data collection,
121.29 evaluation, and clarification of ongoing role and financial responsibilities of the county
121.30 and tribe for child welfare services prior to initiation of the project. Children who have not
121.31 been identified by the tribe as participating in the project shall remain the responsibility
121.32 of the county. Nothing in this section shall alter responsibilities of the county for law
121.33 enforcement or court services.

121.34 (f) Participating tribes may conduct children's mental health screenings under section
121.35 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the
121.36 initiative and living on the reservation and who meet one of the following criteria:

122.1 (1) the child must be receiving child protective services;

122.2 (2) the child must be in foster care; or

122.3 (3) the child's parents must have had parental rights suspended or terminated.

122.4 Tribes may access reimbursement from available state funds for conducting the screenings.

122.5 Nothing in this section shall alter responsibilities of the county for providing services

122.6 under section 245.487.

122.7 (g) Participating tribes may establish a local child mortality review panel. In

122.8 establishing a local child mortality review panel, the tribe agrees to conduct local child

122.9 mortality reviews for child deaths or near-fatalities occurring on the reservation under

122.10 subdivision 12. Tribes with established child mortality review panels shall have access

122.11 to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c)

122.12 to (e). The tribe shall provide written notice to the commissioner and affected counties

122.13 when a local child mortality review panel has been established and shall provide data upon

122.14 request of the commissioner for purposes of sharing nonpublic data with members of the

122.15 state child mortality review panel in connection to an individual case.

122.16 (h) The commissioner shall collect information on outcomes relating to child safety,

122.17 permanency, and well-being of American Indian children who are served in the projects.

122.18 Participating tribes must provide information to the state in a format and completeness

122.19 deemed acceptable by the state to meet state and federal reporting requirements.

122.20 (i) In consultation with the White Earth Band, the commissioner shall develop

122.21 and submit to the chairs and ranking minority members of the legislative committees

122.22 with jurisdiction over health and human services a plan to transfer legal responsibility

122.23 for providing child protective services to White Earth Band member children residing in

122.24 Hennepin County to the White Earth Band. The plan shall include a financing proposal,

122.25 definitions of key terms, statutory amendments required, and other provisions required to

122.26 implement the plan. The commissioner shall submit the plan by January 15, 2012.

122.27 Sec. 2. Minnesota Statutes 2010, section 257.75, subdivision 7, is amended to read:

122.28 Subd. 7. **Hospital and Department of Health ~~distribution of educational~~**

122.29 **~~materials~~; recognition form.** Hospitals that provide obstetric services and the state

122.30 registrar of vital statistics shall distribute the educational materials and recognition

122.31 of parentage forms prepared by the commissioner of human services to new parents;

122.32 ~~and~~ shall assist parents in understanding the recognition of parentage form, including

122.33 following the provisions for notice under subdivision 5; shall aid new parents in properly

122.34 completing the recognition of parentage form, including providing notary services; and

122.35 shall timely file the completed recognition of parentage form with the Office of the State

123.1 Registrar of Vital Statistics. On and after January 1, 1994, hospitals may not distribute the
123.2 declaration of parentage forms.

123.3 Sec. 3. Minnesota Statutes 2010, section 518A.40, subdivision 4, is amended to read:

123.4 Subd. 4. **Change in child care.** (a) When a court order provides for child care
123.5 expenses, and child care support is not assigned under section 256.741, the public
123.6 authority, if the public authority provides child support enforcement services, ~~must~~ may
123.7 suspend collecting the amount allocated for child care expenses when:

123.8 ~~(1)~~ either party informs the public authority that no child care costs are being
123.9 incurred; and:

123.10 ~~(2)~~ (1) the public authority verifies the accuracy of the information with the obligee;
123.11 or

123.12 (2) the obligee fails to respond within 30 days of the date of a written request
123.13 from the public authority for information regarding child care costs. A written or oral
123.14 response from the obligee that child care costs are being incurred is sufficient for the
123.15 public authority to continue collecting child care expenses.

123.16 The suspension is effective as of the first day of the month following the date that the
123.17 public authority ~~received the verification~~ either verified the information with the obligee
123.18 or the obligee failed to respond. The public authority will resume collecting child care
123.19 expenses when either party provides information that child care costs ~~have resumed~~ are
123.20 incurred, or when a child care support assignment takes effect under section 256.741,
123.21 subdivision 4. The resumption is effective as of the first day of the month after the date
123.22 that the public authority received the information.

123.23 (b) If the parties provide conflicting information to the public authority regarding
123.24 whether child care expenses are being incurred, ~~or if the public authority is unable to~~
123.25 ~~verify with the obligee that no child care costs are being incurred,~~ the public authority will
123.26 continue or resume collecting child care expenses. Either party, by motion to the court,
123.27 may challenge the suspension, continuation, or resumption of the collection of child care
123.28 expenses under this subdivision. If the public authority suspends collection activities
123.29 for the amount allocated for child care expenses, all other provisions of the court order
123.30 remain in effect.

123.31 (c) In cases where there is a substantial increase or decrease in child care expenses,
123.32 the parties may modify the order under section 518A.39.

123.33 Sec. 4. Minnesota Statutes 2010, section 518C.205, is amended to read:

123.34 **518C.205 CONTINUING, EXCLUSIVE JURISDICTION.**

124.1 (a) A tribunal of this state issuing a support order consistent with the law of this state
124.2 has continuing, exclusive jurisdiction over a child support order unless:

124.3 (1) ~~as long as~~ this state ~~remains~~ is no longer the residence of the obligor, the
124.4 individual obligee, ~~or~~ and the child for whose benefit the support order is issued; or

124.5 (2) ~~until~~ all of the parties who are individuals have filed written consents with
124.6 the tribunal of this state for a tribunal of another state to modify the order and assume
124.7 continuing, exclusive jurisdiction.

124.8 (b) A tribunal of this state issuing a child support order consistent with the law of
124.9 this state may not exercise its continuing jurisdiction to modify the order if the order has
124.10 been modified by a tribunal of another state pursuant to this chapter or a law substantially
124.11 similar to this chapter.

124.12 (c) If a child support order of this state is modified by a tribunal of another state
124.13 pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state
124.14 loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the
124.15 order issued in this state, and may only:

124.16 (1) enforce the order that was modified as to amounts accruing before the
124.17 modification;

124.18 (2) enforce nonmodifiable aspects of that order; and

124.19 (3) provide other appropriate relief for violations of that order which occurred before
124.20 the effective date of the modification.

124.21 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a
124.22 tribunal of another state which has issued a child support order pursuant to this chapter or
124.23 a law substantially similar to this chapter.

124.24 (e) A temporary support order issued ex parte or pending resolution of a jurisdictional
124.25 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

124.26 (f) A tribunal of this state issuing a support order consistent with the law of this
124.27 state has continuing, exclusive jurisdiction over a spousal support order throughout the
124.28 existence of the support obligation. A tribunal of this state may not modify a spousal
124.29 support order issued by a tribunal of another state having continuing, exclusive jurisdiction
124.30 over that order under the law of that state.

124.31 **Sec. 5. RECIPROCAL AGREEMENT; CHILD SUPPORT ENFORCEMENT.**

124.32 The commissioner of human services shall initiate procedures no later than October
124.33 1, 2012, to enter into a reciprocal agreement with Bermuda for the establishment and
124.34 enforcement of child support obligations pursuant to United States Code, title 42, section
124.35 659a(d).

125.1 **EFFECTIVE DATE.** This section is effective upon Bermuda's written acceptance
125.2 and agreement to enforce Minnesota child support orders. If Bermuda does not accept and
125.3 declines to enforce Minnesota orders, this section expires October 1, 2013.

125.4 Sec. 6. **EFFECTIVE DATE.**

125.5 This article is effective August 1, 2012.

125.6 **ARTICLE 6**

125.7 **TECHNICAL AND CONFORMING AMENDMENTS**

125.8 Section 1. Minnesota Statutes 2010, section 257.01, is amended to read:

125.9 **257.01 RECORDS REQUIRED.**

125.10 Each person or authorized child-placing agency permitted by law to receive children,
125.11 secure homes for children, or care for children, shall keep a record containing the name,
125.12 age, former residence, legal status, health records, sex, race, and accumulated length of
125.13 time in foster care, if applicable, of each child received; the name, former residence,
125.14 occupation, health history, and character, of each birth parent; the date of reception,
125.15 placing out, and adoption of each child, and the name, race, occupation, and residence of
125.16 the person with whom a child is placed; the date of the removal of any child to another
125.17 home and the reason for removal; the date of termination of the guardianship; the history
125.18 of each child until the child reaches the age of ~~18~~ 21 years, is legally adopted, or is
125.19 discharged according to law; and further demographic and other information as is required
125.20 by the commissioner of human services.

125.21 Sec. 2. Minnesota Statutes 2010, section 259.69, is amended to read:

125.22 **259.69 TRANSFER OF FUNDS.**

125.23 The commissioner of human services may transfer funds into the ~~subsidized~~ adoption
125.24 assistance account when a deficit in the ~~subsidized~~ adoption assistance program occurs.

125.25 Sec. 3. Minnesota Statutes 2010, section 259.73, is amended to read:

125.26 **259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

125.27 ~~The commissioner of human services shall provide reimbursement of up to \$2,000~~
125.28 ~~to the adoptive parent or parents for costs incurred in adopting a child with special~~
125.29 ~~needs. The commissioner shall determine the child's eligibility for adoption expense~~
125.30 ~~reimbursement under title IV-E of the Social Security Act, United States Code, title 42,~~
125.31 ~~sections 670 to 676. To be reimbursed, costs must be reasonable, necessary, and directly~~

126.1 ~~related to the legal adoption of the child.~~ An individual may apply for reimbursement for
126.2 costs incurred in an adoption of a child with special needs under section 259A.70.

126.3 Sec. 4. Minnesota Statutes 2010, section 260C.301, subdivision 1, is amended to read:

126.4 Subdivision 1. **Voluntary and involuntary.** The juvenile court may upon petition,
126.5 terminate all rights of a parent to a child:

126.6 (a) with the written consent of a parent who for good cause desires to terminate
126.7 parental rights; or

126.8 (b) if it finds that one or more of the following conditions exist:

126.9 (1) that the parent has abandoned the child;

126.10 (2) that the parent has substantially, continuously, or repeatedly refused or neglected
126.11 to comply with the duties imposed upon that parent by the parent and child relationship,
126.12 including but not limited to providing the child with necessary food, clothing, shelter,
126.13 education, and other care and control necessary for the child's physical, mental, or
126.14 emotional health and development, if the parent is physically and financially able, and
126.15 either reasonable efforts by the social services agency have failed to correct the conditions
126.16 that formed the basis of the petition or reasonable efforts would be futile and therefore
126.17 unreasonable;

126.18 (3) that a parent has been ordered to contribute to the support of the child or
126.19 financially aid in the child's birth and has continuously failed to do so without good cause.
126.20 This clause shall not be construed to state a grounds for termination of parental rights of a
126.21 noncustodial parent if that parent has not been ordered to or cannot financially contribute
126.22 to the support of the child or aid in the child's birth;

126.23 (4) that a parent is palpably unfit to be a party to the parent and child relationship
126.24 because of a consistent pattern of specific conduct before the child or of specific conditions
126.25 directly relating to the parent and child relationship either of which are determined by
126.26 the court to be of a duration or nature that renders the parent unable, for the reasonably
126.27 foreseeable future, to care appropriately for the ongoing physical, mental, or emotional
126.28 needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent
126.29 and child relationship upon a showing that the parent's parental rights to one or more other
126.30 children were involuntarily terminated or that the parent's custodial rights to another child
126.31 have been involuntarily transferred to a relative under section 260C.201, subdivision 11,
126.32 paragraph (e), clause (1), or a similar law of another jurisdiction;

126.33 (5) that following the child's placement out of the home, reasonable efforts, under the
126.34 direction of the court, have failed to correct the conditions leading to the child's placement.
126.35 It is presumed that reasonable efforts under this clause have failed upon a showing that:

127.1 (i) a child has resided out of the parental home under court order for a cumulative
127.2 period of 12 months within the preceding 22 months. In the case of a child under age eight
127.3 at the time the petition was filed alleging the child to be in need of protection or services,
127.4 the presumption arises when the child has resided out of the parental home under court
127.5 order for six months unless the parent has maintained regular contact with the child and
127.6 the parent is complying with the out-of-home placement plan;

127.7 (ii) the court has approved the out-of-home placement plan required under section
127.8 260C.212 and filed with the court under section 260C.178;

127.9 (iii) conditions leading to the out-of-home placement have not been corrected. It
127.10 is presumed that conditions leading to a child's out-of-home placement have not been
127.11 corrected upon a showing that the parent or parents have not substantially complied with
127.12 the court's orders and a reasonable case plan; and

127.13 (iv) reasonable efforts have been made by the social services agency to rehabilitate
127.14 the parent and reunite the family.

127.15 This clause does not prohibit the termination of parental rights prior to one year, or
127.16 in the case of a child under age eight, prior to six months after a child has been placed
127.17 out of the home.

127.18 It is also presumed that reasonable efforts have failed under this clause upon a
127.19 showing that:

127.20 (A) the parent has been diagnosed as chemically dependent by a professional
127.21 certified to make the diagnosis;

127.22 (B) the parent has been required by a case plan to participate in a chemical
127.23 dependency treatment program;

127.24 (C) the treatment programs offered to the parent were culturally, linguistically,
127.25 and clinically appropriate;

127.26 (D) the parent has either failed two or more times to successfully complete a
127.27 treatment program or has refused at two or more separate meetings with a caseworker
127.28 to participate in a treatment program; and

127.29 (E) the parent continues to abuse chemicals.

127.30 (6) that a child has experienced egregious harm in the parent's care which is of a
127.31 nature, duration, or chronicity that indicates a lack of regard for the child's well-being,
127.32 such that a reasonable person would believe it contrary to the best interest of the child
127.33 or of any child to be in the parent's care;

127.34 (7) that in the case of a child born to a mother who was not married to the child's
127.35 father when the child was conceived nor when the child was born the person is not entitled

128.1 to notice of an adoption hearing under section 259.49 and the person has not registered
128.2 with the fathers' adoption registry under section 259.52;

128.3 (8) that the child is neglected and in foster care; or

128.4 (9) that the parent has been convicted of a crime listed in section 260.012, paragraph
128.5 (g), clauses (1) to ~~(3)~~ (5).

128.6 In an action involving an American Indian child, sections 260.751 to 260.835 and
128.7 the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control
128.8 to the extent that the provisions of this section are inconsistent with those laws.

128.9 Sec. 5. Minnesota Statutes 2010, section 260D.08, is amended to read:

128.10 **260D.08 ANNUAL REVIEW.**

128.11 (a) After the court conducts a permanency review hearing under section 260D.07,
128.12 the matter must be returned to the court for further review of the responsible social
128.13 services reasonable efforts to finalize the permanent plan for the child and the child's foster
128.14 care placement at least every 12 months while the child is in foster care. The court shall
128.15 give notice to the parent and child, age 12 or older, and the foster parents of the continued
128.16 review requirements under this section at the permanency review hearing.

128.17 (b) Every 12 months, the court shall determine whether the agency made reasonable
128.18 efforts to finalize the permanency plan for the child, which means the exercise of due
128.19 diligence by the agency to:

128.20 (1) ensure that the agreement for voluntary foster care is the most appropriate legal
128.21 arrangement to meet the child's safety, health, and best interests and to conduct a genuine
128.22 examination of whether there is another permanency disposition order under chapter
128.23 260C, including returning the child home, that would better serve the child's need for a
128.24 stable and permanent home;

128.25 (2) engage and support the parent in continued involvement in planning and decision
128.26 making for the needs of the child;

128.27 (3) strengthen the child's ties to the parent, relatives, and community;

128.28 (4) implement the out-of-home placement plan required under section 260C.212,
128.29 subdivision 1, and ensure that the plan requires the provision of appropriate services to
128.30 address the physical health, mental health, and educational needs of the child; and

128.31 (5) ensure appropriate planning for the child's safe, permanent, and independent
128.32 living arrangement after the child's 18th birthday.

128.33 Sec. 6. **[611.012] DISPOSITION OF CHILD OF PARENT ARRESTED.**

129.1 A peace officer who arrests a person accompanied by a child of the person may
129.2 release the child to any person designated by the parent unless it is necessary to remove
129.3 the child under section 260C.175 because the child is found in surroundings or conditions
129.4 which endanger the child's health or welfare or which the peace officer reasonably believes
129.5 will endanger the child's health or welfare. An officer releasing a child under this section
129.6 to a person designated by the parent has no civil or criminal liability for the child's release.

129.7 Sec. 7. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

129.8 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
129.9 given them unless the specific content indicates otherwise:

129.10 (a) "Family assessment" means a comprehensive assessment of child safety, risk
129.11 of subsequent child maltreatment, and family strengths and needs that is applied to a
129.12 child maltreatment report that does not allege substantial child endangerment. Family
129.13 assessment does not include a determination as to whether child maltreatment occurred
129.14 but does determine the need for services to address the safety of family members and the
129.15 risk of subsequent maltreatment.

129.16 (b) "Investigation" means fact gathering related to the current safety of a child
129.17 and the risk of subsequent maltreatment that determines whether child maltreatment
129.18 occurred and whether child protective services are needed. An investigation must be used
129.19 when reports involve substantial child endangerment, and for reports of maltreatment in
129.20 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
129.21 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
129.22 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
129.23 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

129.24 (c) "Substantial child endangerment" means a person responsible for a child's care,
129.25 and in the case of sexual abuse includes a person who has a significant relationship to the
129.26 child as defined in section 609.341, or a person in a position of authority as defined in
129.27 section 609.341, who by act or omission commits or attempts to commit an act against a
129.28 child under their care that constitutes any of the following:

129.29 (1) egregious harm as defined in section 260C.007, subdivision 14;

129.30 (2) sexual abuse as defined in paragraph (d);

129.31 (3) abandonment under section 260C.301, subdivision 2;

129.32 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
129.33 child's physical or mental health, including a growth delay, which may be referred to as
129.34 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

130.1 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
130.2 609.195;

130.3 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

130.4 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
130.5 609.223;

130.6 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

130.7 (9) criminal sexual conduct under sections 609.342 to 609.3451;

130.8 (10) solicitation of children to engage in sexual conduct under section 609.352;

130.9 (11) malicious punishment or neglect or endangerment of a child under section
130.10 609.377 or 609.378;

130.11 (12) use of a minor in sexual performance under section 617.246; or

130.12 (13) parental behavior, status, or condition which mandates that the county attorney
130.13 file a termination of parental rights petition under section 260C.301, subdivision 3,
130.14 paragraph (a).

130.15 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
130.16 child's care, by a person who has a significant relationship to the child, as defined in
130.17 section 609.341, or by a person in a position of authority, as defined in section 609.341,
130.18 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
130.19 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
130.20 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
130.21 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
130.22 abuse also includes any act which involves a minor which constitutes a violation of
130.23 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
130.24 threatened sexual abuse which includes the status of a parent or household member
130.25 who has committed a violation which requires registration as an offender under section
130.26 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section
130.27 243.166, subdivision 1b, paragraph (a) or (b).

130.28 (e) "Person responsible for the child's care" means (1) an individual functioning
130.29 within the family unit and having responsibilities for the care of the child such as a
130.30 parent, guardian, or other person having similar care responsibilities, or (2) an individual
130.31 functioning outside the family unit and having responsibilities for the care of the child
130.32 such as a teacher, school administrator, other school employees or agents, or other lawful
130.33 custodian of a child having either full-time or short-term care responsibilities including,
130.34 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
130.35 and coaching.

131.1 (f) "Neglect" means the commission or omission of any of the acts specified under
131.2 clauses (1) to (9), other than by accidental means:

131.3 (1) failure by a person responsible for a child's care to supply a child with necessary
131.4 food, clothing, shelter, health, medical, or other care required for the child's physical or
131.5 mental health when reasonably able to do so;

131.6 (2) failure to protect a child from conditions or actions that seriously endanger the
131.7 child's physical or mental health when reasonably able to do so, including a growth delay,
131.8 which may be referred to as a failure to thrive, that has been diagnosed by a physician and
131.9 is due to parental neglect;

131.10 (3) failure to provide for necessary supervision or child care arrangements
131.11 appropriate for a child after considering factors as the child's age, mental ability, physical
131.12 condition, length of absence, or environment, when the child is unable to care for the
131.13 child's own basic needs or safety, or the basic needs or safety of another child in their care;

131.14 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
131.15 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
131.16 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

131.17 (5) nothing in this section shall be construed to mean that a child is neglected solely
131.18 because the child's parent, guardian, or other person responsible for the child's care in
131.19 good faith selects and depends upon spiritual means or prayer for treatment or care of
131.20 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,
131.21 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report
131.22 if a lack of medical care may cause serious danger to the child's health. This section does
131.23 not impose upon persons, not otherwise legally responsible for providing a child with
131.24 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

131.25 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,
131.26 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
131.27 symptoms in the child at birth, results of a toxicology test performed on the mother at
131.28 delivery or the child at birth, ~~or~~ medical effects or developmental delays during the child's
131.29 first year of life that medically indicate prenatal exposure to a controlled substance, or the
131.30 presence of a fetal alcohol spectrum disorder;

131.31 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

131.32 (8) chronic and severe use of alcohol or a controlled substance by a parent or
131.33 person responsible for the care of the child that adversely affects the child's basic needs
131.34 and safety; or

131.35 (9) emotional harm from a pattern of behavior which contributes to impaired
131.36 emotional functioning of the child which may be demonstrated by a substantial and

132.1 observable effect in the child's behavior, emotional response, or cognition that is not
132.2 within the normal range for the child's age and stage of development, with due regard to
132.3 the child's culture.

132.4 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,
132.5 inflicted by a person responsible for the child's care on a child other than by accidental
132.6 means, or any physical or mental injury that cannot reasonably be explained by the child's
132.7 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
132.8 that have not been authorized under section 121A.67 or 245.825.

132.9 Abuse does not include reasonable and moderate physical discipline of a child
132.10 administered by a parent or legal guardian which does not result in an injury. Abuse does
132.11 not include the use of reasonable force by a teacher, principal, or school employee as
132.12 allowed by section 121A.582. Actions which are not reasonable and moderate include,
132.13 but are not limited to, any of the following that are done in anger or without regard to the
132.14 safety of the child:

132.15 (1) throwing, kicking, burning, biting, or cutting a child;

132.16 (2) striking a child with a closed fist;

132.17 (3) shaking a child under age three;

132.18 (4) striking or other actions which result in any nonaccidental injury to a child
132.19 under 18 months of age;

132.20 (5) unreasonable interference with a child's breathing;

132.21 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

132.22 (7) striking a child under age one on the face or head;

132.23 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
132.24 substances which were not prescribed for the child by a practitioner, in order to control or
132.25 punish the child; or other substances that substantially affect the child's behavior, motor
132.26 coordination, or judgment or that results in sickness or internal injury, or subjects the
132.27 child to medical procedures that would be unnecessary if the child were not exposed
132.28 to the substances;

132.29 (9) unreasonable physical confinement or restraint not permitted under section
132.30 609.379, including but not limited to tying, caging, or chaining; or

132.31 (10) in a school facility or school zone, an act by a person responsible for the child's
132.32 care that is a violation under section 121A.58.

132.33 (h) "Report" means any report received by the local welfare agency, police
132.34 department, county sheriff, or agency responsible for assessing or investigating
132.35 maltreatment pursuant to this section.

132.36 (i) "Facility" means:

133.1 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
133.2 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
133.3 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

133.4 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
133.5 124D.10; or

133.6 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
133.7 subdivision 16, and 256B.0625, subdivision 19a.

133.8 (j) "Operator" means an operator or agency as defined in section 245A.02.

133.9 (k) "Commissioner" means the commissioner of human services.

133.10 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
133.11 not limited to employee assistance counseling and the provision of guardian ad litem and
133.12 parenting time expeditor services.

133.13 (m) "Mental injury" means an injury to the psychological capacity or emotional
133.14 stability of a child as evidenced by an observable or substantial impairment in the child's
133.15 ability to function within a normal range of performance and behavior with due regard to
133.16 the child's culture.

133.17 (n) "Threatened injury" means a statement, overt act, condition, or status that
133.18 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
133.19 injury includes, but is not limited to, exposing a child to a person responsible for the
133.20 child's care, as defined in paragraph (e), clause (1), who has:

133.21 (1) subjected a child to, or failed to protect a child from, an overt act or condition
133.22 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
133.23 similar law of another jurisdiction;

133.24 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause
133.25 (4), or a similar law of another jurisdiction;

133.26 (3) committed an act that has resulted in an involuntary termination of parental rights
133.27 under section 260C.301, or a similar law of another jurisdiction; or

133.28 (4) committed an act that has resulted in the involuntary transfer of permanent legal
133.29 and physical custody of a child to a relative under section 260C.201, subdivision 11,
133.30 paragraph (d), clause (1), or a similar law of another jurisdiction.

133.31 (o) Persons who conduct assessments or investigations under this section shall take
133.32 into account accepted child-rearing practices of the culture in which a child participates
133.33 and accepted teacher discipline practices, which are not injurious to the child's health,
133.34 welfare, and safety.

133.35 (p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
133.36 occurrence or event which:

134.1 (1) is not likely to occur and could not have been prevented by exercise of due
134.2 care; and

134.3 (2) if occurring while a child is receiving services from a facility, happens when the
134.4 facility and the employee or person providing services in the facility are in compliance
134.5 with the laws and rules relevant to the occurrence or event.

134.6 (q) "Nonmaltreatment mistake" means:

134.7 (1) at the time of the incident, the individual was performing duties identified in the
134.8 center's child care program plan required under Minnesota Rules, part 9503.0045;

134.9 (2) the individual has not been determined responsible for a similar incident that
134.10 resulted in a finding of maltreatment for at least seven years;

134.11 (3) the individual has not been determined to have committed a similar
134.12 nonmaltreatment mistake under this paragraph for at least four years;

134.13 (4) any injury to a child resulting from the incident, if treated, is treated only with
134.14 remedies that are available over the counter, whether ordered by a medical professional or
134.15 not; and

134.16 (5) except for the period when the incident occurred, the facility and the individual
134.17 providing services were both in compliance with all licensing requirements relevant to the
134.18 incident.

134.19 This definition only applies to child care centers licensed under Minnesota
134.20 Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of
134.21 substantiated maltreatment by the individual, the commissioner of human services shall
134.22 determine that a nonmaltreatment mistake was made by the individual.

134.23 Sec. 8. Minnesota Statutes 2010, section 626.556, subdivision 10, is amended to read:

134.24 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
134.25 **receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine
134.26 whether to conduct a family assessment or an investigation as appropriate to prevent or
134.27 provide a remedy for child maltreatment. The local welfare agency:

134.28 (1) shall conduct an investigation on reports involving substantial child
134.29 endangerment;

134.30 (2) shall begin an immediate investigation if, at any time when it is using a family
134.31 assessment response, it determines that there is reason to believe that substantial child
134.32 endangerment or a serious threat to the child's safety exists;

134.33 (3) may conduct a family assessment for reports that do not allege substantial child
134.34 endangerment. In determining that a family assessment is appropriate, the local welfare

135.1 agency may consider issues of child safety, parental cooperation, and the need for an
135.2 immediate response; and

135.3 (4) may conduct a family assessment on a report that was initially screened and
135.4 assigned for an investigation. In determining that a complete investigation is not required,
135.5 the local welfare agency must document the reason for terminating the investigation and
135.6 notify the local law enforcement agency if the local law enforcement agency is conducting
135.7 a joint investigation.

135.8 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,
135.9 or individual functioning within the family unit as a person responsible for the child's
135.10 care, or sexual abuse by a person with a significant relationship to the child when that
135.11 person resides in the child's household or by a sibling, the local welfare agency shall
135.12 immediately conduct a family assessment or investigation as identified in clauses (1) to
135.13 (4). In conducting a family assessment or investigation, the local welfare agency shall
135.14 gather information on the existence of substance abuse and domestic violence and offer
135.15 services for purposes of preventing future child maltreatment, safeguarding and enhancing
135.16 the welfare of the abused or neglected minor, and supporting and preserving family
135.17 life whenever possible. If the report alleges a violation of a criminal statute involving
135.18 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the
135.19 local law enforcement agency and local welfare agency shall coordinate the planning and
135.20 execution of their respective investigation and assessment efforts to avoid a duplication of
135.21 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of
135.22 the results of its investigation. In cases of alleged child maltreatment resulting in death,
135.23 the local agency may rely on the fact-finding efforts of a law enforcement investigation
135.24 to make a determination of whether or not maltreatment occurred. When necessary the
135.25 local welfare agency shall seek authority to remove the child from the custody of a parent,
135.26 guardian, or adult with whom the child is living. In performing any of these duties, the
135.27 local welfare agency shall maintain appropriate records.

135.28 If the family assessment or investigation indicates there is a potential for abuse of
135.29 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
135.30 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota
135.31 Rules, part 9530.6615.

135.32 (b) When a local agency receives a report or otherwise has information indicating
135.33 that a child who is a client, as defined in section 245.91, has been the subject of physical
135.34 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
135.35 245.91, it shall, in addition to its other duties under this section, immediately inform the
135.36 ombudsman established under sections 245.91 to 245.97. The commissioner of education

136.1 shall inform the ombudsman established under sections 245.91 to 245.97 of reports
136.2 regarding a child defined as a client in section 245.91 that maltreatment occurred at a
136.3 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

136.4 (c) Authority of the local welfare agency responsible for assessing or investigating
136.5 the child abuse or neglect report, the agency responsible for assessing or investigating
136.6 the report, and of the local law enforcement agency for investigating the alleged abuse or
136.7 neglect includes, but is not limited to, authority to interview, without parental consent,
136.8 the alleged victim and any other minors who currently reside with or who have resided
136.9 with the alleged offender. The interview may take place at school or at any facility or
136.10 other place where the alleged victim or other minors might be found or the child may be
136.11 transported to, and the interview conducted at, a place appropriate for the interview of a
136.12 child designated by the local welfare agency or law enforcement agency. The interview
136.13 may take place outside the presence of the alleged offender or parent, legal custodian,
136.14 guardian, or school official. For family assessments, it is the preferred practice to request
136.15 a parent or guardian's permission to interview the child prior to conducting the child
136.16 interview, unless doing so would compromise the safety assessment. Except as provided in
136.17 this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible
136.18 local welfare or law enforcement agency no later than the conclusion of the investigation
136.19 or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota
136.20 Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte
136.21 motion by the local welfare agency, order that, where reasonable cause exists, the agency
136.22 withhold notification of this interview from the parent, legal custodian, or guardian. If the
136.23 interview took place or is to take place on school property, the order shall specify that
136.24 school officials may not disclose to the parent, legal custodian, or guardian the contents
136.25 of the notification of intent to interview the child on school property, as provided under
136.26 this paragraph, and any other related information regarding the interview that may be a
136.27 part of the child's school record. A copy of the order shall be sent by the local welfare or
136.28 law enforcement agency to the appropriate school official.

136.29 (d) When the local welfare, local law enforcement agency, or the agency responsible
136.30 for assessing or investigating a report of maltreatment determines that an interview should
136.31 take place on school property, written notification of intent to interview the child on school
136.32 property must be received by school officials prior to the interview. The notification
136.33 shall include the name of the child to be interviewed, the purpose of the interview, and
136.34 a reference to the statutory authority to conduct an interview on school property. For
136.35 interviews conducted by the local welfare agency, the notification shall be signed by the
136.36 chair of the local social services agency or the chair's designee. The notification shall be

137.1 private data on individuals subject to the provisions of this paragraph. School officials
137.2 may not disclose to the parent, legal custodian, or guardian the contents of the notification
137.3 or any other related information regarding the interview until notified in writing by the
137.4 local welfare or law enforcement agency that the investigation or assessment has been
137.5 concluded, unless a school employee or agent is alleged to have maltreated the child.
137.6 Until that time, the local welfare or law enforcement agency or the agency responsible
137.7 for assessing or investigating a report of maltreatment shall be solely responsible for any
137.8 disclosures regarding the nature of the assessment or investigation.

137.9 Except where the alleged offender is believed to be a school official or employee,
137.10 the time and place, and manner of the interview on school premises shall be within the
137.11 discretion of school officials, but the local welfare or law enforcement agency shall have
137.12 the exclusive authority to determine who may attend the interview. The conditions as to
137.13 time, place, and manner of the interview set by the school officials shall be reasonable and
137.14 the interview shall be conducted not more than 24 hours after the receipt of the notification
137.15 unless another time is considered necessary by agreement between the school officials and
137.16 the local welfare or law enforcement agency. Where the school fails to comply with the
137.17 provisions of this paragraph, the juvenile court may order the school to comply. Every
137.18 effort must be made to reduce the disruption of the educational program of the child, other
137.19 students, or school staff when an interview is conducted on school premises.

137.20 (e) Where the alleged offender or a person responsible for the care of the alleged
137.21 victim or other minor prevents access to the victim or other minor by the local welfare
137.22 agency, the juvenile court may order the parents, legal custodian, or guardian to produce
137.23 the alleged victim or other minor for questioning by the local welfare agency or the local
137.24 law enforcement agency outside the presence of the alleged offender or any person
137.25 responsible for the child's care at reasonable places and times as specified by court order.

137.26 (f) Before making an order under paragraph (e), the court shall issue an order to
137.27 show cause, either upon its own motion or upon a verified petition, specifying the basis for
137.28 the requested interviews and fixing the time and place of the hearing. The order to show
137.29 cause shall be served personally and shall be heard in the same manner as provided in
137.30 other cases in the juvenile court. The court shall consider the need for appointment of a
137.31 guardian ad litem to protect the best interests of the child. If appointed, the guardian ad
137.32 litem shall be present at the hearing on the order to show cause.

137.33 (g) The commissioner of human services, the ombudsman for mental health and
137.34 developmental disabilities, the local welfare agencies responsible for investigating reports,
137.35 the commissioner of education, and the local law enforcement agencies have the right to
137.36 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,

138.1 including medical records, as part of the investigation. Notwithstanding the provisions of
138.2 chapter 13, they also have the right to inform the facility under investigation that they are
138.3 conducting an investigation, to disclose to the facility the names of the individuals under
138.4 investigation for abusing or neglecting a child, and to provide the facility with a copy of
138.5 the report and the investigative findings.

138.6 (h) The local welfare agency responsible for conducting a family assessment or
138.7 investigation shall collect available and relevant information to determine child safety,
138.8 risk of subsequent child maltreatment, and family strengths and needs and share not public
138.9 information with an Indian's tribal social services agency without violating any law of the
138.10 state that may otherwise impose duties of confidentiality on the local welfare agency in
138.11 order to implement the tribal state agreement. The local welfare agency or the agency
138.12 responsible for investigating the report shall collect available and relevant information
138.13 to ascertain whether maltreatment occurred and whether protective services are needed.
138.14 Information collected includes, when relevant, information with regard to the person
138.15 reporting the alleged maltreatment, including the nature of the reporter's relationship to the
138.16 child and to the alleged offender, and the basis of the reporter's knowledge for the report;
138.17 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other
138.18 collateral sources having relevant information related to the alleged maltreatment. The
138.19 local welfare agency or the agency responsible for ~~assessing or~~ investigating the report
138.20 may make a determination of no maltreatment early in an ~~assessment~~ investigation, and
138.21 close the case and retain immunity, if the collected information shows no basis for a
138.22 full ~~assessment or~~ investigation.

138.23 Information relevant to the assessment or investigation must be asked for, and
138.24 may include:

138.25 (1) the child's sex and age, prior reports of maltreatment, information relating
138.26 to developmental functioning, credibility of the child's statement, and whether the
138.27 information provided under this clause is consistent with other information collected
138.28 during the course of the assessment or investigation;

138.29 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
138.30 criminal charges and convictions. The local welfare agency or the agency responsible for
138.31 assessing or investigating the report must provide the alleged offender with an opportunity
138.32 to make a statement. The alleged offender may submit supporting documentation relevant
138.33 to the assessment or investigation;

138.34 (3) collateral source information regarding the alleged maltreatment and care of the
138.35 child. Collateral information includes, when relevant: (i) a medical examination of the
138.36 child; (ii) prior medical records relating to the alleged maltreatment or the care of the

139.1 child maintained by any facility, clinic, or health care professional and an interview with
139.2 the treating professionals; and (iii) interviews with the child's caretakers, including the
139.3 child's parent, guardian, foster parent, child care provider, teachers, counselors, family
139.4 members, relatives, and other persons who may have knowledge regarding the alleged
139.5 maltreatment and the care of the child; and

139.6 (4) information on the existence of domestic abuse and violence in the home of
139.7 the child, and substance abuse.

139.8 Nothing in this paragraph precludes the local welfare agency, the local law
139.9 enforcement agency, or the agency responsible for assessing or investigating the report
139.10 from collecting other relevant information necessary to conduct the assessment or
139.11 investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare
139.12 agency has access to medical data and records for purposes of clause (3). Notwithstanding
139.13 the data's classification in the possession of any other agency, data acquired by the
139.14 local welfare agency or the agency responsible for assessing or investigating the report
139.15 during the course of the assessment or investigation are private data on individuals and
139.16 must be maintained in accordance with subdivision 11. Data of the commissioner of
139.17 education collected or maintained during and for the purpose of an investigation of
139.18 alleged maltreatment in a school are governed by this section, notwithstanding the data's
139.19 classification as educational, licensing, or personnel data under chapter 13.

139.20 In conducting an assessment or investigation involving a school facility as defined
139.21 in subdivision 2, paragraph (i), the commissioner of education shall collect investigative
139.22 reports and data that are relevant to a report of maltreatment and are from local law
139.23 enforcement and the school facility.

139.24 (i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face
139.25 contact with the child reported to be maltreated and with the child's primary caregiver
139.26 sufficient to complete a safety assessment and ensure the immediate safety of the child.
139.27 The face-to-face contact with the child and primary caregiver shall occur immediately
139.28 if substantial child endangerment is alleged and within five calendar days for all other
139.29 reports. If the alleged offender was not already interviewed as the primary caregiver, the
139.30 local welfare agency shall also conduct a face-to-face interview with the alleged offender
139.31 in the early stages of the assessment or investigation. At the initial contact, the local child
139.32 welfare agency or the agency responsible for assessing or investigating the report must
139.33 inform the alleged offender of the complaints or allegations made against the individual in
139.34 a manner consistent with laws protecting the rights of the person who made the report.
139.35 The interview with the alleged offender may be postponed if it would jeopardize an active
139.36 law enforcement investigation.

140.1 (j) When conducting an investigation, the local welfare agency shall use a question
140.2 and answer interviewing format with questioning as nondirective as possible to elicit
140.3 spontaneous responses. For investigations only, the following interviewing methods and
140.4 procedures must be used whenever possible when collecting information:

140.5 (1) audio recordings of all interviews with witnesses and collateral sources; and

140.6 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with
140.7 the alleged victim and child witnesses.

140.8 (k) In conducting an assessment or investigation involving a school facility as
140.9 defined in subdivision 2, paragraph (i), the commissioner of education shall collect
140.10 available and relevant information and use the procedures in paragraphs (i), (k), and
140.11 subdivision 3d, except that the requirement for face-to-face observation of the child
140.12 and face-to-face interview of the alleged offender is to occur in the initial stages of the
140.13 assessment or investigation provided that the commissioner may also base the assessment
140.14 or investigation on investigative reports and data received from the school facility and
140.15 local law enforcement, to the extent those investigations satisfy the requirements of
140.16 paragraphs (i) and (k), and subdivision 3d.

140.17 Sec. 9. Minnesota Statutes 2010, section 626.556, subdivision 10e, is amended to read:

140.18 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
140.19 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
140.20 the assessment or investigation may be extended to permit the completion of a criminal
140.21 investigation or the receipt of expert information requested within 45 days of the receipt
140.22 of the report.

140.23 (b) After conducting a family assessment, the local welfare agency shall determine
140.24 whether services are needed to address the safety of the child and other family members
140.25 and the risk of subsequent maltreatment.

140.26 (c) After conducting an investigation, the local welfare agency shall make two
140.27 determinations: first, whether maltreatment has occurred; and, second, whether child
140.28 protective services are needed. No determination of maltreatment shall be made when the
140.29 alleged perpetrator is a child under the age of ten.

140.30 (d) If the commissioner of education conducts an assessment or investigation,
140.31 the commissioner shall determine whether maltreatment occurred and what corrective
140.32 or protective action was taken by the school facility. If a determination is made that
140.33 maltreatment has occurred, the commissioner shall report to the employer, the school
140.34 board, and any appropriate licensing entity the determination that maltreatment occurred
140.35 and what corrective or protective action was taken by the school facility. In all other cases,

141.1 the commissioner shall inform the school board or employer that a report was received,
141.2 the subject of the report, the date of the initial report, the category of maltreatment alleged
141.3 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary
141.4 of the specific reasons for the determination.

141.5 (e) When maltreatment is determined in an investigation involving a facility,
141.6 the investigating agency shall also determine whether the facility or individual was
141.7 responsible, or whether both the facility and the individual were responsible for the
141.8 maltreatment using the mitigating factors in paragraph (i). Determinations under this
141.9 subdivision must be made based on a preponderance of the evidence and are private data
141.10 on individuals or nonpublic data as maintained by the commissioner of education.

141.11 (f) For the purposes of this subdivision, "maltreatment" means any of the following
141.12 acts or omissions:

- 141.13 (1) physical abuse as defined in subdivision 2, paragraph (g);
- 141.14 (2) neglect as defined in subdivision 2, paragraph (f);
- 141.15 (3) sexual abuse as defined in subdivision 2, paragraph (d);
- 141.16 (4) mental injury as defined in subdivision 2, paragraph (m); or
- 141.17 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

141.18 (g) For the purposes of this subdivision, a determination that child protective
141.19 services are needed means that the local welfare agency has documented conditions
141.20 during the assessment or investigation sufficient to cause a child protection worker, as
141.21 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of
141.22 maltreatment if protective intervention is not provided and that the individuals responsible
141.23 for the child's care have not taken or are not likely to take actions to protect the child
141.24 from maltreatment or risk of maltreatment.

141.25 (h) This subdivision does not mean that maltreatment has occurred solely because
141.26 the child's parent, guardian, or other person responsible for the child's care in good faith
141.27 selects and depends upon spiritual means or prayer for treatment or care of disease
141.28 or remedial care of the child, in lieu of medical care. However, if lack of medical care
141.29 may result in serious danger to the child's health, the local welfare agency may ensure
141.30 that necessary medical services are provided to the child.

141.31 (i) When determining whether the facility or individual is the responsible party, or
141.32 whether both the facility and the individual are responsible for determined maltreatment in
141.33 a facility, the investigating agency shall consider at least the following mitigating factors:

- 141.34 (1) whether the actions of the facility or the individual caregivers were according to,
141.35 and followed the terms of, an erroneous physician order, prescription, individual care plan,
141.36 or directive; however, this is not a mitigating factor when the facility or caregiver was

142.1 responsible for the issuance of the erroneous order, prescription, individual care plan, or
142.2 directive or knew or should have known of the errors and took no reasonable measures to
142.3 correct the defect before administering care;

142.4 (2) comparative responsibility between the facility, other caregivers, and
142.5 requirements placed upon an employee, including the facility's compliance with related
142.6 regulatory standards and the adequacy of facility policies and procedures, facility training,
142.7 an individual's participation in the training, the caregiver's supervision, and facility staffing
142.8 levels and the scope of the individual employee's authority and discretion; and

142.9 (3) whether the facility or individual followed professional standards in exercising
142.10 professional judgment.

142.11 The evaluation of the facility's responsibility under clause (2) must not be based on the
142.12 completeness of the risk assessment or risk reduction plan required under section 245A.66,
142.13 but must be based on the facility's compliance with the regulatory standards for policies
142.14 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota
142.15 Rules.

142.16 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
142.17 committed by an individual who is also the facility license holder, both the individual and
142.18 the facility must be determined responsible for the maltreatment, and both the background
142.19 study disqualification standards under section 245C.15, subdivision 4, and the licensing
142.20 actions under sections 245A.06 or 245A.07 apply.

142.21 (k) Individual counties may implement more detailed definitions or criteria that
142.22 indicate which allegations to investigate, as long as a county's policies are consistent
142.23 with the definitions in the statutes and rules and are approved by the county board. Each
142.24 local welfare agency shall periodically inform mandated reporters under subdivision 3
142.25 who work in the county of the definitions of maltreatment in the statutes and rules and any
142.26 additional definitions or criteria that have been approved by the county board.

142.27 Sec. 10. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

142.28 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion
142.29 of a family assessment, the local welfare agency shall notify the parent or guardian
142.30 of the child of the need for services to address child safety concerns or significant risk
142.31 of subsequent child maltreatment. The local welfare agency and the family may also
142.32 jointly agree that family support and family preservation services are needed. Within ten
142.33 working days of the conclusion of an investigation, the local welfare agency or agency
142.34 responsible for ~~assessing or~~ investigating the report shall notify the parent or guardian
142.35 of the child, the person determined to be maltreating the child, and if applicable, the

143.1 director of the facility, of the determination and a summary of the specific reasons for
143.2 the determination. When the investigation involves a child foster care setting that is
143.3 monitored by a private licensing agency under section 245A.16, the local welfare agency
143.4 responsible for ~~assessing or~~ investigating the report shall notify the private licensing
143.5 agency of the determination and shall provide a summary of the specific reasons for
143.6 the determination. The notice to the private licensing agency must include identifying
143.7 private data, but not the identity of the reporter of maltreatment. The notice must also
143.8 include a certification that the information collection procedures under subdivision 10,
143.9 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
143.10 obtain access to other private data on the subject collected, created, or maintained under
143.11 this section. In addition, the notice shall include the length of time that the records will be
143.12 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
143.13 of the child who is the subject of the report, and any person or facility determined to
143.14 have maltreated a child, of their appeal or review rights under this section or section
143.15 256.022. The notice must also state that a finding of maltreatment may result in denial of a
143.16 license application or background study disqualification under chapter 245C related to
143.17 employment or services that are licensed by the Department of Human Services under
143.18 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
143.19 Corrections under section 241.021, and from providing services related to an unlicensed
143.20 personal care provider organization under chapter 256B.

143.21 Sec. 11. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

143.22 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative
143.23 reconsideration is not applicable in family assessments since no determination concerning
143.24 maltreatment is made. For investigations, except as provided under paragraph (e), an
143.25 individual or facility that the commissioner of human services, a local social service
143.26 agency, or the commissioner of education determines has maltreated a child, an interested
143.27 person acting on behalf of the child, regardless of the determination, who contests
143.28 the investigating agency's final determination regarding maltreatment, may request the
143.29 investigating agency to reconsider its final determination regarding maltreatment. The
143.30 request for reconsideration must be submitted in writing to the investigating agency within
143.31 15 calendar days after receipt of notice of the final determination regarding maltreatment
143.32 or, if the request is made by an interested person who is not entitled to notice, within
143.33 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the
143.34 request for reconsideration must be postmarked and sent to the investigating agency
143.35 within 15 calendar days of the individual's or facility's receipt of the final determination. If

144.1 the request for reconsideration is made by personal service, it must be received by the
144.2 investigating agency within 15 calendar days after the individual's or facility's receipt of the
144.3 final determination. Effective January 1, 2002, an individual who was determined to have
144.4 maltreated a child under this section and who was disqualified on the basis of serious or
144.5 recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration
144.6 of the maltreatment determination and the disqualification. The request for reconsideration
144.7 of the maltreatment determination and the disqualification must be submitted within 30
144.8 calendar days of the individual's receipt of the notice of disqualification under sections
144.9 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment
144.10 determination and the disqualification must be postmarked and sent to the investigating
144.11 agency within 30 calendar days of the individual's receipt of the maltreatment
144.12 determination and notice of disqualification. If the request for reconsideration is made by
144.13 personal service, it must be received by the investigating agency within 30 calendar days
144.14 after the individual's receipt of the notice of disqualification.

144.15 (b) Except as provided under paragraphs (e) and (f), if the investigating agency
144.16 denies the request or fails to act upon the request within 15 working days after receiving
144.17 the request for reconsideration, the person or facility entitled to a fair hearing under
144.18 section 256.045 may submit to the commissioner of human services or the commissioner
144.19 of education a written request for a hearing under that section. Section 256.045 also
144.20 governs hearings requested to contest a final determination of the commissioner of
144.21 education. ~~For reports involving maltreatment of a child in a facility, an interested person~~
144.22 ~~acting on behalf of the child may request a review by the Child Maltreatment Review~~
144.23 ~~Panel under section 256.022 if the investigating agency denies the request or fails to act~~
144.24 ~~upon the request or if the interested person contests a reconsidered determination. The~~
144.25 ~~investigating agency shall notify persons who request reconsideration of their rights under~~
144.26 ~~this paragraph. The request must be submitted in writing to the review panel and a copy~~
144.27 ~~sent to the investigating agency within 30 calendar days of receipt of notice of a denial~~
144.28 ~~of a request for reconsideration or of a reconsidered determination. The request must~~
144.29 ~~specifically identify the aspects of the agency determination with which the person is~~
144.30 ~~dissatisfied. The hearings specified under this section are the only administrative appeal of~~
144.31 ~~a decision issued under paragraph (a). Determinations under this section are not subject to~~
144.32 ~~accuracy and completeness challenges under section 13.04.~~

144.33 (c) If, as a result of a reconsideration or review, the investigating agency changes
144.34 the final determination of maltreatment, that agency shall notify the parties specified in
144.35 subdivisions 10b, 10d, and 10f.

145.1 (d) Except as provided under paragraph (f), if an individual or facility contests the
145.2 investigating agency's final determination regarding maltreatment by requesting a fair
145.3 hearing under section 256.045, the commissioner of human services shall assure that the
145.4 hearing is conducted and a decision is reached within 90 days of receipt of the request for
145.5 a hearing. The time for action on the decision may be extended for as many days as the
145.6 hearing is postponed or the record is held open for the benefit of either party.

145.7 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on
145.8 the basis of a determination of maltreatment, which was serious or recurring, and
145.9 the individual has requested reconsideration of the maltreatment determination under
145.10 paragraph (a) and requested reconsideration of the disqualification under sections 245C.21
145.11 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the
145.12 disqualification shall be consolidated into a single reconsideration. If reconsideration
145.13 of the maltreatment determination is denied and the individual remains disqualified
145.14 following a reconsideration decision, the individual may request a fair hearing under
145.15 section 256.045. If an individual requests a fair hearing on the maltreatment determination
145.16 and the disqualification, the scope of the fair hearing shall include both the maltreatment
145.17 determination and the disqualification.

145.18 (f) If a maltreatment determination or a disqualification based on serious or recurring
145.19 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
145.20 sanction under section 245A.07, the license holder has the right to a contested case hearing
145.21 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
145.22 under section 245A.08, subdivision 2a, the scope of the contested case hearing shall
145.23 include the maltreatment determination, disqualification, and licensing sanction or denial
145.24 of a license. In such cases, a fair hearing regarding the maltreatment determination and
145.25 disqualification shall not be conducted under section 256.045. Except for family child
145.26 care and child foster care, reconsideration of a maltreatment determination as provided
145.27 under this subdivision, and reconsideration of a disqualification as provided under section
145.28 245C.22, shall also not be conducted when:

145.29 (1) a denial of a license under section 245A.05 or a licensing sanction under section
145.30 245A.07, is based on a determination that the license holder is responsible for maltreatment
145.31 or the disqualification of a license holder based on serious or recurring maltreatment;

145.32 (2) the denial of a license or licensing sanction is issued at the same time as the
145.33 maltreatment determination or disqualification; and

145.34 (3) the license holder appeals the maltreatment determination or disqualification, and
145.35 denial of a license or licensing sanction.

146.1 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
 146.2 determination or disqualification, but does not appeal the denial of a license or a licensing
 146.3 sanction, reconsideration of the maltreatment determination shall be conducted under
 146.4 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
 146.5 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing
 146.6 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
 146.7 626.557, subdivision 9d.

146.8 If the disqualified subject is an individual other than the license holder and upon
 146.9 whom a background study must be conducted under chapter 245C, the hearings of all
 146.10 parties may be consolidated into a single contested case hearing upon consent of all parties
 146.11 and the administrative law judge.

146.12 (g) For purposes of this subdivision, "interested person acting on behalf of the
 146.13 child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult
 146.14 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been
 146.15 determined to be the perpetrator of the maltreatment.

146.16 Sec. 12. Minnesota Statutes 2010, section 626.556, subdivision 10k, is amended to
 146.17 read:

146.18 Subd. 10k. **Release of certain assessment or investigative records to other**
 146.19 **counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with
 146.20 another local welfare agency that requests the information because it is conducting an
 146.21 assessment or investigation under this section of the subject of the records.

146.22 Sec. 13. **REVISOR'S INSTRUCTION.**

146.23 (a) The revisor of statutes shall renumber each section of Minnesota Statutes listed
 146.24 in column A with the number listed in column B.

	<u>Column A</u>	<u>Column B</u>
146.25	<u>259.69</u>	<u>259A.05, subd. 5</u>
146.26	<u>260C.217</u>	<u>260C.139</u>
146.27	<u>260C.501</u>	<u>260C.177</u>
146.28	<u>260C.201, subd. 10</u>	<u>260C.202</u>
146.29	<u>260C.212, subd. 7</u>	<u>260C.203</u>
146.30	<u>260C.201, subd. 11a</u>	<u>260C.204</u>
146.31	<u>260C.212, subd. 4</u>	<u>260C.219</u>
146.32	<u>260C.212, subd. 5</u>	<u>260C.221</u>
146.33	<u>260C.213</u>	<u>260C.223</u>
146.34	<u>260C.206</u>	<u>260C.225</u>
146.35	<u>260C.212, subd. 8</u>	<u>260C.227</u>

147.1 260C.212, subd. 6 260C.521, subd. 4
147.2 260C.205 260D.11

147.3 (b) The revisor of statutes shall make necessary cross-reference changes in
147.4 Minnesota Statutes and Minnesota Rules consistent with the numbering in articles 1 and
147.5 2 and the renumbering in paragraph (a).

147.6 Sec. 14. **REPEALER.**

147.7 (a) Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201,
147.8 subdivision 11; 260C.215, subdivision 2; and 260C.456, are repealed.

147.9 (b) Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091;
147.10 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102, are repealed.

147.11 Sec. 15. **EFFECTIVE DATE.**

147.12 This article is effective August 1, 2012.

147.13 **ARTICLE 7**

147.14 **CHILD CARE**

147.15 Section 1. Minnesota Statutes 2010, section 119B.09, subdivision 7, is amended to read:

147.16 Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care
147.17 assistance under this chapter is the later of the date the application was ~~signed~~ received by
147.18 the county; the beginning date of employment, education, or training; the date the infant is
147.19 born for applicants to the at-home infant care program; or the date a determination has
147.20 been made that the applicant is a participant in employment and training services under
147.21 Minnesota Rules, part 3400.0080, or chapter 256J.

147.22 (b) Payment ceases for a family under the at-home infant child care program when a
147.23 family has used a total of 12 months of assistance as specified under section 119B.035.
147.24 Payment of child care assistance for employed persons on MFIP is effective the date of
147.25 employment or the date of MFIP eligibility, whichever is later. Payment of child care
147.26 assistance for MFIP or DWP participants in employment and training services is effective
147.27 the date of commencement of the services or the date of MFIP or DWP eligibility,
147.28 whichever is later. Payment of child care assistance for transition year child care must be
147.29 made retroactive to the date of eligibility for transition year child care.

147.30 (c) Notwithstanding paragraph (b), payment of child care assistance for participants
147.31 eligible under section 119B.05 may only be made retroactive for a maximum of six
147.32 months from the date of application for child care assistance.

148.1 Sec. 2. Minnesota Statutes 2010, section 119B.12, subdivision 1, is amended to read:

148.2 Subdivision 1. **Fee schedule.** All changes to parent fees must be implemented on
148.3 the first Monday of the service period following the effective date of the change.

148.4 PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted
148.5 in subdivision 2:

148.6	Income Range (as a percent of the state	Co-payment (as a percentage of adjusted
148.7	median income, except at the start of the	gross income)
148.8	first tier)	
148.9	0-74.99% of federal poverty guidelines	\$0/month <u>biweekly</u>
148.10	75.00-99.99% of federal poverty guidelines	\$5/month <u>\$2/biweekly</u>
148.11	100.00% of federal poverty	
148.12	guidelines-27.72%	2.61%
148.13	27.73-29.04%	2.61%
148.14	29.05-30.36%	2.61%
148.15	30.37-31.68%	2.61%
148.16	31.69-33.00%	2.91%
148.17	33.01-34.32%	2.91%
148.18	34.33-35.65%	2.91%
148.19	35.66-36.96%	2.91%
148.20	36.97-38.29%	3.21%
148.21	38.30-39.61%	3.21%
148.22	39.62-40.93%	3.21%
148.23	40.94-42.25%	3.84%
148.24	42.26-43.57%	3.84%
148.25	43.58-44.89%	4.46%
148.26	44.90-46.21%	4.76%
148.27	46.22-47.53%	5.05%
148.28	47.54-48.85%	5.65%
148.29	48.86-50.17%	5.95%
148.30	50.18-51.49%	6.24%
148.31	51.50-52.81%	6.84%
148.32	52.82-54.13%	7.58%
148.33	54.14-55.45%	8.33%
148.34	55.46-56.77%	9.20%
148.35	56.78-58.09%	10.07%
148.36	58.10-59.41%	10.94%
148.37	59.42-60.73%	11.55%
148.38	60.74-62.06%	12.16%
148.39	62.07-63.38%	12.77%
148.40	63.39-64.70%	13.38%
148.41	64.71-66.99 <u>67.00%</u>	14.00%
148.42	<u>Greater than</u> 67.00%	ineligible

149.1 A family's ~~monthly~~ biweekly co-payment fee is the fixed percentage established for
149.2 the income range multiplied by the highest possible income within that income range.

149.3 Sec. 3. Minnesota Statutes 2010, section 119B.12, subdivision 2, is amended to read:

149.4 Subd. 2. **Parent fee.** A family must be assessed a parent fee for each service period.
149.5 A family's parent fee must be a fixed percentage of its annual gross income. Parent fees
149.6 must apply to families eligible for child care assistance under sections 119B.03 and
149.7 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed
149.8 percent is based on the relationship of the family's annual gross income to 100 percent
149.9 of the annual state median income. Parent fees must begin at 75 percent of the poverty
149.10 level. The minimum parent fees for families between 75 percent and 100 percent of
149.11 poverty level must be ~~\$5 per month~~ \$2 per biweekly period. Parent fees must provide
149.12 for graduated movement to full payment. Payment of part or all of a family's parent
149.13 fee directly to the family's child care provider on behalf of the family by a source other
149.14 than the family shall not affect the family's eligibility for child care assistance, and the
149.15 amount paid shall be excluded from the family's income. Child care providers who accept
149.16 third-party payments must maintain family specific documentation of payment source,
149.17 amount, and time period covered by the payment.

149.18 Sec. 4. Minnesota Statutes 2010, section 119B.125, subdivision 1a, is amended to read:

149.19 Subd. 1a. **Background study required.** This subdivision only applies to legal,
149.20 nonlicensed family child care providers. Prior to authorization, and as part of each
149.21 reauthorization required in subdivision 1, the county shall perform a background study on
149.22 every member of the provider's household who is age 13 and older. ~~The background study~~
149.23 ~~shall be conducted according to the procedures under subdivision 2.~~ The county shall also
149.24 perform a background study on an individual who has reached age ten but is not yet age
149.25 13 and is living in the household where the nonlicensed child care will be provided when
149.26 the county has reasonable cause as defined under section 245C.02, subdivision 15.

149.27 Sec. 5. Minnesota Statutes 2010, section 119B.125, subdivision 2, is amended to read:

149.28 Subd. 2. **Persons who cannot be authorized.** (a) ~~When any member of the~~
149.29 ~~legal, nonlicensed family child care provider's household meets any of the conditions~~
149.30 ~~under paragraphs (b) to (n), the provider must not be authorized as a legal nonlicensed~~
149.31 ~~family child care provider. To determine whether any of the listed conditions exist, the~~
149.32 ~~county must request information about the provider and other household members for~~
149.33 ~~whom a background study is required under subdivision 1a from the Bureau of Criminal~~

150.1 ~~Apprehension, the juvenile courts, and social service agencies. When one of the listed~~
150.2 ~~entities does not maintain information on a statewide basis, the county must contact~~
150.3 ~~the entity in the county where the provider resides and any other county in which the~~
150.4 ~~provider or any household member previously resided in the past year. For purposes of~~
150.5 ~~this subdivision, a finding that a delinquency petition is proven in juvenile court must be~~
150.6 ~~considered a conviction in state district court. The provider seeking authorization under~~
150.7 ~~this section shall collect the information required under section 245C.05, subdivision 1,~~
150.8 ~~and forward the information to the county agency. The background study must include~~
150.9 ~~a review of the information required under section 245C.08, subdivisions 2, 3, and 4,~~
150.10 ~~paragraph (b). A nonlicensed family child care provider is not authorized under this~~
150.11 ~~section if any household member who is the subject of a background study is determined~~
150.12 ~~to have a disqualifying characteristic under paragraphs (b) to (e) or under section 245C.14~~
150.13 ~~or 245C.15. If a county has determined that a provider is able to be authorized in that~~
150.14 ~~county, and a family in another county later selects that provider, the provider is able to~~
150.15 ~~be authorized in the second county without undergoing a new background investigation~~
150.16 ~~unless one of the following conditions exists:~~

- 150.17 (1) two years have passed since the first authorization;
- 150.18 (2) another person age 13 or older has joined the provider's household since the
- 150.19 last authorization;
- 150.20 (3) a current household member has turned 13 since the last authorization; or
- 150.21 (4) there is reason to believe that a household member has a factor that prevents
- 150.22 authorization.

150.23 ~~(b) The person has been convicted of one of the following offenses or has admitted to~~
150.24 ~~committing or a preponderance of the evidence indicates that the person has committed an~~
150.25 ~~act that meets the definition of one of the following offenses: sections 609.185 to 609.195,~~
150.26 ~~murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn~~
150.27 ~~child in the first, second, or third degree; 609.322, solicitation, inducement, promotion~~
150.28 ~~of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual~~
150.29 ~~conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to~~
150.30 ~~engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a~~
150.31 ~~child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial~~
150.32 ~~representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense~~
150.33 ~~of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime~~
150.34 ~~against children; or an attempt or conspiracy to commit any of these offenses as defined in~~
150.35 ~~Minnesota Statutes; or an offense in any other state or country where the elements are~~
150.36 ~~substantially similar to any of the offenses listed in this paragraph.~~

151.1 ~~(e) Less than 15 years have passed since the discharge of the sentence imposed for~~
151.2 ~~the offense and the person has received a felony conviction for one of the following~~
151.3 ~~offenses, or the person has admitted to committing or a preponderance of the evidence~~
151.4 ~~indicates that the person has committed an act that meets the definition of a felony~~
151.5 ~~conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter~~
151.6 ~~in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding~~
151.7 ~~suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second,~~
151.8 ~~third, or fourth degree; 609.224, repeat offenses of fifth-degree assault; 609.228, great~~
151.9 ~~bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable~~
151.10 ~~adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to~~
151.11 ~~injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene~~
151.12 ~~materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255,~~
151.13 ~~false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or~~
151.14 ~~second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third~~
151.15 ~~degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27,~~
151.16 ~~coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor~~
151.17 ~~engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth~~
151.18 ~~degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of~~
151.19 ~~shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582,~~
151.20 ~~burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63,~~
151.21 ~~forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature~~
151.22 ~~by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67,~~
151.23 ~~unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71,~~
151.24 ~~riot; 609.713, terrorist threats; 609.749, stalking; 260C.301, termination of parental rights;~~
151.25 ~~152.021 to 152.022 and 152.0262, controlled substance crime in the first or second degree;~~
151.26 ~~152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled~~
151.27 ~~substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled~~
151.28 ~~substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt~~
151.29 ~~or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an~~
151.30 ~~offense in any other state or country where the elements are substantially similar to any of~~
151.31 ~~the offenses listed in this paragraph.~~

151.32 ~~(d) Less than ten years have passed since the discharge of the sentence imposed for~~
151.33 ~~the offense and the person has received a gross misdemeanor conviction for one of the~~
151.34 ~~following offenses or the person has admitted to committing or a preponderance of the~~
151.35 ~~evidence indicates that the person has committed an act that meets the definition of a gross~~
151.36 ~~misdemeanor conviction for one of the following offenses: sections 609.224, fifth-degree~~

152.1 ~~assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of~~
152.2 ~~an order for protection; 609.3451, fifth-degree criminal sexual conduct; 609.746, repeat~~
152.3 ~~offenses of interference with privacy; 617.23, repeat offenses of indecent exposure;~~
152.4 ~~617.241, obscene materials and performances; 617.243, indecent literature, distribution;~~
152.5 ~~617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66,~~
152.6 ~~dangerous weapons; 609.749, stalking; 609.224, subdivision 2, paragraph (c), fifth-degree~~
152.7 ~~assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons~~
152.8 ~~confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a~~
152.9 ~~vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal~~
152.10 ~~neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult;~~
152.11 ~~609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction;~~
152.12 ~~609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child;~~
152.13 ~~609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33,~~
152.14 ~~disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth~~
152.15 ~~degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an~~
152.16 ~~attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or~~
152.17 ~~an offense in any other state or country where the elements are substantially similar to~~
152.18 ~~any of the offenses listed in this paragraph.~~

152.19 ~~(e) Less than seven years have passed since the discharge of the sentence imposed~~
152.20 ~~for the offense and the person has received a misdemeanor conviction for one of the~~
152.21 ~~following offenses or the person has admitted to committing or a preponderance of the~~
152.22 ~~evidence indicates that the person has committed an act that meets the definition of a~~
152.23 ~~misdemeanor conviction for one of the following offenses: sections 609.224, fifth-degree~~
152.24 ~~assault; 609.2242, domestic assault; 518B.01, violation of an order for protection;~~
152.25 ~~609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79,~~
152.26 ~~obscene or harassing telephone calls; 609.795, letter, telegram, or package opening,~~
152.27 ~~harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree;~~
152.28 ~~617.293, dissemination and display of harmful materials to minors; 609.66, dangerous~~
152.29 ~~weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses~~
152.30 ~~as defined in Minnesota Statutes; or an offense in any other state or country where the~~
152.31 ~~elements are substantially similar to any of the offenses listed in this paragraph.~~

152.32 ~~(f) The person has been identified by the child protection agency in the county where~~
152.33 ~~the provider resides or a county where the provider has resided or by the statewide child~~
152.34 ~~protection database as a person found by a preponderance of evidence under section~~
152.35 ~~626.556 to be responsible for physical or sexual abuse of a child within the last seven years.~~

153.1 ~~(g) The person has been identified by the adult protection agency in the county~~
153.2 ~~where the provider resides or a county where the provider has resided or by the statewide~~
153.3 ~~adult protection database as the person responsible for abuse or neglect of a vulnerable~~
153.4 ~~adult within the last seven years.~~

153.5 ~~(h)~~ (b) The person has refused to give written consent for disclosure of criminal
153.6 history records.

153.7 ~~(i)~~ (c) The person has been denied a family child care license or has received a fine
153.8 or a sanction as a licensed child care provider that has not been reversed on appeal.

153.9 ~~(j)~~ (d) The person has a family child care licensing disqualification that has not
153.10 been set aside.

153.11 ~~(k)~~ (e) The person has admitted or a county has found that there is a preponderance
153.12 of evidence that fraudulent information was given to the county for child care assistance
153.13 application purposes or was used in submitting child care assistance bills for payment.

153.14 ~~(l) The person has been convicted of the crime of theft by wrongfully obtaining~~
153.15 ~~public assistance or has been found guilty of wrongfully obtaining public assistance by a~~
153.16 ~~federal court, state court, or an administrative hearing determination or waiver, through a~~
153.17 ~~disqualification consent agreement, as part of an approved diversion plan under section~~
153.18 ~~401.065, or a court-ordered stay with probationary or other conditions.~~

153.19 ~~(m) The person has a household member age 13 or older who has access to children~~
153.20 ~~during the hours that care is provided and who meets one of the conditions listed in~~
153.21 ~~paragraphs (b) to (l).~~

153.22 ~~(n) The person has a household member ages ten to 12 who has access to children~~
153.23 ~~during the hours that care is provided; information or circumstances exist which provide~~
153.24 ~~the county with articulable suspicion that further pertinent information may exist showing~~
153.25 ~~the household member meets one of the conditions listed in paragraphs (b) to (l); and the~~
153.26 ~~household member actually meets one of the conditions listed in paragraphs (b) to (l).~~

153.27 Sec. 6. Minnesota Statutes 2010, section 119B.125, subdivision 6, is amended to read:

153.28 Subd. 6. **Record-keeping requirement.** All providers receiving child care
153.29 assistance payments must keep daily attendance records for children receiving child care
153.30 assistance and must make those records available immediately to the county upon request.
153.31 The attendance records must be completed daily and include the date, the first and last
153.32 name of each child in attendance, and the times when each child is dropped off and picked
153.33 up. To the extent possible, the times that the child was dropped off to and picked up from
153.34 the child care provider must be entered by the person dropping off or picking up the child.
153.35 The daily attendance records must be retained for six years after the date of service.

154.1 A county may deny authorization as a child care provider to any applicant or rescind
154.2 authorization of any provider when the county knows or has reason to believe that the
154.3 provider has not complied with the record-keeping requirement in this subdivision.

154.4 Sec. 7. Minnesota Statutes 2011 Supplement, section 119B.13, subdivision 1, is
154.5 amended to read:

154.6 Subdivision 1. **Subsidy restrictions.** (a) Beginning October 31, 2011, the maximum
154.7 rate paid for child care assistance in any county or multicounty region under the child care
154.8 fund shall be the rate for like-care arrangements in the county effective July 1, 2006,
154.9 decreased by 2.5 percent.

154.10 (b) ~~Every year~~ Biennially beginning in 2012, the commissioner shall survey rates
154.11 charged by child care providers in Minnesota to determine the 75th percentile for
154.12 like-care arrangements in counties. When the commissioner determines that, using the
154.13 commissioner's established protocol, the number of providers responding to the survey is
154.14 too small to determine the 75th percentile rate for like-care arrangements in a county or
154.15 multicounty region, the commissioner may establish the 75th percentile maximum rate
154.16 based on like-care arrangements in a county, region, or category that the commissioner
154.17 deems to be similar.

154.18 (c) A rate which includes a special needs rate paid under subdivision 3 or under a
154.19 school readiness service agreement paid under section 119B.231, may be in excess of the
154.20 maximum rate allowed under this subdivision.

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

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

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

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

155.1 Sec. 8. Minnesota Statutes 2010, section 119B.13, subdivision 6, is amended to read:

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

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

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

155.19 (d) A county may refuse to issue a child care authorization to a licensed or legal
155.20 nonlicensed provider, revoke an existing child care authorization to a licensed or legal
155.21 nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or
155.22 ~~may~~ refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

155.23 (1) the provider admits to intentionally giving the county materially false information
155.24 on the provider's billing forms; ~~or~~

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

155.27 (3) the provider is in violation of licensing or child care assistance program rules and
155.28 the provider has not corrected the violation;

155.29 (4) the provider submits false attendance reports or refuses to provide documentation
155.30 of the child's attendance upon request; or

155.31 (5) the provider gives false child care price information.

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

156.1 Sec. 9. **CHILD CARE ASSISTANCE PROGRAM RULE CHANGE.**

156.2 The commissioner shall amend Minnesota Rules, part 3400.0035, subpart 2, to
156.3 remove the requirement that applications must be submitted by mail or delivered to the
156.4 agency within 15 calendar days after the date of signature. The commissioner shall
156.5 comply with Minnesota Statutes, section 14.389, in adopting the amendment.

156.6 **ARTICLE 8**

156.7 **SIMPLIFICATION OF MFIP AND DWP**

156.8 Section 1. Minnesota Statutes 2010, section 256J.08, subdivision 11, is amended to
156.9 read:

156.10 Subd. 11. **Caregiver.** "Caregiver" means a minor child's ~~natural~~ birth or adoptive
156.11 parent or parents and stepparent who live in the home with the minor child. For purposes
156.12 of determining eligibility for this program, caregiver also means any of the following
156.13 individuals, if adults, who live with and provide care and support to a minor child when
156.14 the minor child's ~~natural~~ birth or adoptive parent or parents or stepparents do not reside
156.15 in the same home: legal custodian or guardian, grandfather, grandmother, brother, sister,
156.16 half brother, half sister, stepbrother, stepsister, uncle, aunt, first cousin or first cousin once
156.17 removed, nephew, niece, person of preceding generation as denoted by prefixes of "great,"
156.18 "great-great," or "great-great-great," or a spouse of any person named in the above groups
156.19 even after the marriage ends by death or divorce.

156.20 Sec. 2. Minnesota Statutes 2010, section 256J.24, subdivision 2, is amended to read:

156.21 Subd. 2. **Mandatory assistance unit composition.** Except for minor caregivers
156.22 and their children who must be in a separate assistance unit from the other persons in
156.23 the household, when the following individuals live together, they must be included in
156.24 the assistance unit:

- 156.25 (1) a minor child, including a pregnant minor;
156.26 (2) the minor child's minor siblings, minor half siblings, and minor stepsiblings;
156.27 (3) the minor child's ~~natural~~ birth parents, adoptive parents, and stepparents; and
156.28 (4) the spouse of a pregnant woman.

156.29 A minor child must have a caregiver for the child to be included in the assistance unit.

156.30 Sec. 3. Minnesota Statutes 2010, section 256J.32, subdivision 6, is amended to read:

156.31 Subd. 6. **Recertification.** (a) The county agency shall recertify eligibility in an
156.32 annual face-to-face interview with the participant ~~and~~ and. The county agency may waive the

157.1 face-to-face interview and conduct a phone interview for participants who qualify under
 157.2 paragraph (b). During the interview the county agency shall verify the following:

- 157.3 (1) presence of the minor child in the home, if questionable;
- 157.4 (2) income, unless excluded, including self-employment expenses used as a
 157.5 deduction or deposits or withdrawals from business accounts;
- 157.6 (3) assets when the value is within \$200 of the asset limit;
- 157.7 (4) information to establish an exception under section 256J.24, subdivision 9, if
 157.8 questionable;
- 157.9 (5) inconsistent information, if related to eligibility; and
- 157.10 (6) whether a single caregiver household meets requirements in section 256J.575,
 157.11 subdivision 3.

157.12 (b) A participant who is employed any number of hours must be given the option of
 157.13 conducting a face-to-face or phone interview to recertify eligibility. The participant must
 157.14 be employed at the time the interview is scheduled. If the participant loses the participant's
 157.15 job between the time the interview is scheduled and when it is to be conducted, the phone
 157.16 interview may still be conducted.

157.17 **EFFECTIVE DATE.** This section is effective October 1, 2012.

157.18 Sec. 4. Minnesota Statutes 2010, section 256J.575, subdivision 1, is amended to read:

157.19 Subdivision 1. **Purpose.** ~~(a) The~~ Family stabilization services serve families who
 157.20 are not making significant progress within the regular employment and training services
 157.21 track of the Minnesota family investment program (MFIP) due to a variety of barriers to
 157.22 employment.

157.23 ~~(b) The goal of the services is to stabilize and improve the lives of families at risk~~
 157.24 ~~of long-term welfare dependency or family instability due to employment barriers such~~
 157.25 ~~as physical disability, mental disability, age, or providing care for a disabled household~~
 157.26 ~~member. These services promote and support families to achieve the greatest possible~~
 157.27 ~~degree of self-sufficiency.~~

157.28 Sec. 5. Minnesota Statutes 2010, section 256J.575, subdivision 2, is amended to read:

157.29 Subd. 2. **Definitions.** The terms used in this section have the meanings given them
 157.30 in paragraphs (a) ~~to (d)~~ and (b).

157.31 (a) ~~"Case manager" means the county-designated staff person or employment~~
 157.32 ~~services counselor.~~

157.33 (b) ~~"Case management"~~ "Family stabilization services" means ~~the services~~
 157.34 programs, activities, and services provided by or through the county agency or through the

158.1 employment services agency to participating families, ~~including~~. Services include, but
 158.2 ~~are not limited to~~, assessment as defined in section 256J.521, subdivision 1, ~~information~~,
 158.3 referrals, and assistance in the preparation and implementation of a family stabilization
 158.4 plan under subdivision 5.

158.5 ~~(e)~~ (b) "Family stabilization plan" means a plan developed ~~by a case manager~~
 158.6 ~~and with~~ the participant, which identifies the participant's most appropriate path to
 158.7 unsubsidized employment, family stability, and barrier reduction, taking into account the
 158.8 family's circumstances.

158.9 ~~(d) "Family stabilization services" means programs, activities, and services in this~~
 158.10 ~~section that provide participants and their family members with assistance regarding,~~
 158.11 ~~but not limited to:~~

158.12 ~~(1) obtaining and retaining unsubsidized employment;~~

158.13 ~~(2) family stability;~~

158.14 ~~(3) economic stability; and~~

158.15 ~~(4) barrier reduction.~~

158.16 ~~The goal of the services is to achieve the greatest degree of economic self-sufficiency~~
 158.17 ~~and family well-being possible for the family under the circumstances.~~

158.18 Sec. 6. Minnesota Statutes 2010, section 256J.575, subdivision 5, is amended to read:

158.19 Subd. 5. **~~Case management; Family stabilization plans; coordinated services.~~**

158.20 (a) The county agency or employment services provider shall provide ~~family stabilization~~
 158.21 ~~services to families through a case management model. A case manager shall be assigned~~
 158.22 ~~to each participating family within 30 days after the family is determined to be eligible~~
 158.23 ~~for family stabilization services. The case manager, with the full involvement of the~~
 158.24 ~~participant, shall recommend, and the county agency shall establish and modify as~~
 158.25 ~~necessary, a family stabilization plan for each participating family. Once a participant~~
 158.26 ~~has been determined eligible for family stabilization services, the county agency or~~
 158.27 ~~employment services provider must attempt to meet with the participant to develop a~~
 158.28 ~~plan within 30 days.~~

158.29 (b) If a participant is already assigned to a county case manager or a
 158.30 county-designated case manager in social services, disability services, or housing services
 158.31 that case manager already assigned may be the case manager for purposes of these services.

158.32 ~~(b) The family stabilization plan must include:~~

158.33 ~~(1) each participant's plan for long-term self-sufficiency, including an employment~~
 158.34 ~~goal where applicable;~~

159.1 ~~(2) an assessment of each participant's strengths and barriers, and any special~~
159.2 ~~circumstances of the participant's family that impact, or are likely to impact, the~~
159.3 ~~participant's progress towards the goals in the plan; and~~

159.4 ~~(3) an identification of the services, supports, education, training, and~~
159.5 ~~accommodations needed to reduce or overcome any barriers to enable the family to~~
159.6 ~~achieve self-sufficiency and to fulfill each caregiver's personal and family responsibilities.~~

159.7 ~~(c) The case manager and the participant shall meet within 30 days of the family's~~
159.8 ~~referral to the case manager. The initial family stabilization plan must be completed within~~
159.9 ~~30 days of the first meeting with the case manager. The case manager shall establish a~~
159.10 ~~schedule for periodic review of the family stabilization plan that includes personal contact~~
159.11 ~~with the participant at least once per month. In addition, the case manager shall review~~
159.12 ~~and, if necessary, modify the plan under the following circumstances:~~

159.13 ~~(1) there is a lack of satisfactory progress in achieving the goals of the plan;~~

159.14 ~~(2) the participant has lost unsubsidized or subsidized employment;~~

159.15 ~~(3) a family member has failed or is unable to comply with a family stabilization~~
159.16 ~~plan requirement;~~

159.17 ~~(4) services, supports, or other activities required by the plan are unavailable;~~

159.18 ~~(5) changes to the plan are needed to promote the well-being of the children; or~~

159.19 ~~(6) the participant and case manager determine that the plan is no longer appropriate~~
159.20 ~~for any other reason. Participants determined eligible for family stabilization services must~~
159.21 ~~have access to employment and training services under sections 256J.515 to 256J.575, to~~
159.22 ~~the extent these services are available to other MFIP participants.~~

159.23 Sec. 7. Minnesota Statutes 2010, section 256J.575, subdivision 6, is amended to read:

159.24 Subd. 6. **Cooperation with services requirements.** ~~(a)~~ A participant who is eligible
159.25 for family stabilization services ~~under this section shall comply with paragraphs (b) to (d).~~

159.26 ~~(b)~~ Participants shall engage in family stabilization ~~plan~~ services for the appropriate
159.27 number of hours per week ~~that the activities are scheduled and available, based on the~~
159.28 needs of the participant and the participant's family, unless good cause exists for not
159.29 doing so, as defined in section 256J.57, subdivision 1. ~~The appropriate number of hours~~
159.30 ~~must be based on the participant's plan.~~

159.31 ~~(c)~~ The ~~case manager~~ county agency or employment services agency shall review
159.32 the participant's progress toward the goals in the family stabilization plan every six
159.33 months to determine whether conditions have changed, including whether revisions to
159.34 the plan are needed.

160.1 ~~(d) A participant's requirement to comply with any or all family stabilization plan~~
160.2 ~~requirements under this subdivision is excused when the case management services,~~
160.3 ~~training and educational services, or family support services identified in the participant's~~
160.4 ~~family stabilization plan are unavailable for reasons beyond the control of the participant,~~
160.5 ~~including when money appropriated is not sufficient to provide the services.~~

160.6 Sec. 8. Minnesota Statutes 2010, section 256J.575, subdivision 8, is amended to read:

160.7 Subd. 8. **Funding.** (a) The commissioner of human services shall treat MFIP
160.8 expenditures made to or on behalf of any minor child under this section, who is part of a
160.9 household that meets criteria in subdivision 3, as expenditures under a separately funded
160.10 state program. These expenditures shall not count toward the state's maintenance of effort
160.11 requirements under the federal TANF program.

160.12 (b) A family is no longer part of a separately funded program under this section if
160.13 the caregiver no longer meets the criteria for family stabilization services in subdivision
160.14 3, ~~or if it is determined at recertification that a caregiver with a child under the age of six~~
160.15 ~~is working at least 87 hours per month in paid or unpaid employment, or a caregiver~~
160.16 ~~without a child under the age of six is working at least 130 hours per month in paid or~~
160.17 ~~unpaid employment, whichever occurs sooner.~~

160.18 Sec. 9. Minnesota Statutes 2010, section 256J.621, is amended to read:

160.19 **256J.621 WORK PARTICIPATION CASH BENEFITS.**

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

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

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

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

160.32 (3) if the household is a two-parent family, at least one of the parents must be
160.33 employed ~~an average of at least~~ 130 hours per month.

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

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

161.9 Sec. 10. Minnesota Statutes 2010, section 256J.68, subdivision 7, is amended to read:

161.10 Subd. 7. **Exclusive procedure.** The procedure established by this section is
 161.11 exclusive of all other legal, equitable, and statutory remedies against the state, its political
 161.12 subdivisions, or employees of the state or its political subdivisions. The claimant shall
 161.13 not be entitled to seek damages from any state, county, tribal, or reservation insurance
 161.14 policy or self-insurance program. A provider who accepts or agrees to accept an injury
 161.15 protection program payment for services provided to an individual must not require any
 161.16 payment from the individual.

161.17 Sec. 11. Minnesota Statutes 2010, section 256J.95, subdivision 3, is amended to read:

161.18 Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories
 161.19 of family units listed ~~below~~ in clauses (1) to (8), all family units who apply for cash
 161.20 benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are
 161.21 eligible and must participate in the diversionary work program. Family units or individuals
 161.22 that are not eligible for the diversionary work program include:

161.23 (1) child only cases;

161.24 (2) ~~a~~ single-parent family ~~unit~~ units that ~~includes~~ include a child under 12 months of
 161.25 age. A parent is eligible for this exception once in a parent's lifetime;

161.26 (3) family units with a minor parent without a high school diploma or its equivalent;

161.27 (4) family units with an 18- or 19-year-old caregiver without a high school diploma
 161.28 or its equivalent who chooses to have an employment plan with an education option;

161.29 ~~(5) a caregiver age 60 or over;~~

161.30 ~~(6)~~ (5) family units with a caregiver who received DWP benefits ~~in~~ within the 12
 161.31 months prior to the month the family applied for DWP, except as provided in paragraph (c);

161.32 ~~(7)~~ (6) family units with a caregiver who received MFIP within the 12 months prior
 161.33 to the month the family ~~unit~~ applied for DWP;

162.1 ~~(8)~~ (7) family unit units with a caregiver who received 60 or more months of
 162.2 TANF assistance; and

162.3 ~~(9)~~ (8) family units with a caregiver who is disqualified from the work participation
 162.4 cash benefit program, DWP, or MFIP due to fraud; and

162.5 ~~(10) refugees and asylees as defined in Code of Federal Regulations, title 45, part~~
 162.6 ~~400, subpart d, section 400.43, who arrived in the United States in the 12 months prior to~~
 162.7 ~~the date of application for family cash assistance.~~

162.8 (b) A two-parent family must participate in DWP unless both caregivers meet the
 162.9 criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit
 162.10 includes a parent who meets the criteria in paragraph (a), clause (6), (7), (8), (9), or (10).

162.11 (c) Once DWP eligibility is determined, the four months run consecutively. If a
 162.12 participant leaves the program for any reason and reapplies during the four-month period,
 162.13 the county must redetermine eligibility for DWP.

162.14 ARTICLE 9

162.15 CONTINUING CARE

162.16 Section 1. Minnesota Statutes 2011 Supplement, section 144A.071, subdivision 3,
 162.17 is amended to read:

162.18 Subd. 3. **Exceptions authorizing increase in beds; hardship areas.** (a) The
 162.19 commissioner of health, in coordination with the commissioner of human services, may
 162.20 approve the addition of new licensed and Medicare and Medicaid certified nursing home
 162.21 beds, using the criteria and process set forth in this subdivision.

162.22 (b) The commissioner, in cooperation with the commissioner of human services,
 162.23 shall consider the following criteria when determining that an area of the state is a
 162.24 hardship area with regard to access to nursing facility services:

162.25 (1) a low number of beds per thousand in a specified area using as a standard the
 162.26 beds per thousand people age 65 and older, in five year age groups, using data from the
 162.27 most recent census and population projections, weighted by each group's most recent
 162.28 nursing home utilization, of the county at the 20th percentile, as determined by the
 162.29 commissioner of human services;

162.30 (2) a high level of out-migration for nursing facility services associated with a
 162.31 described area from the county or counties of residence to other Minnesota counties, as
 162.32 determined by the commissioner of human services, using as a standard an amount greater
 162.33 than the out-migration of the county ranked at the 50th percentile;

162.34 (3) an adequate level of availability of noninstitutional long-term care services
 162.35 measured as public spending for home and community-based long-term care services per

163.1 individual age 65 and older, in five year age groups, using data from the most recent
163.2 census and population projections, weighted by each group's most recent nursing home
163.3 utilization, as determined by the commissioner of human services using as a standard an
163.4 amount greater than the 50th percentile of counties;

163.5 (4) there must be a declaration of hardship resulting from insufficient access to
163.6 nursing home beds by local county agencies and area agencies on aging; and

163.7 (5) other factors that may demonstrate the need to add new nursing facility beds.

163.8 (c) On August 15 of odd-numbered years, the commissioner, in cooperation with
163.9 the commissioner of human services, may publish in the State Register a request for
163.10 information in which interested parties, using the data provided under section 144A.351,
163.11 along with any other relevant data, demonstrate that a specified area is a hardship area
163.12 with regard to access to nursing facility services. For a response to be considered, the
163.13 commissioner must receive it by November 15. The commissioner shall make responses
163.14 to the request for information available to the public and shall allow 30 days for comment.
163.15 The commissioner shall review responses and comments and determine if any areas of
163.16 the state are to be declared hardship areas.

163.17 (d) For each designated hardship area determined in paragraph (c), the commissioner
163.18 shall publish a request for proposals in accordance with section 144A.073 and Minnesota
163.19 Rules, parts 4655.1070 to 4655.1098. The request for proposals must be published in the
163.20 State Register by March 15 following receipt of responses to the request for information.
163.21 The request for proposals must specify the number of new beds which may be added
163.22 in the designated hardship area, which must not exceed the number which, if added to
163.23 the existing number of beds in the area, including beds in layaway status, would have
163.24 prevented it from being determined to be a hardship area under paragraph (b), clause
163.25 (1). Beginning July 1, 2011, the number of new beds approved must not exceed 200
163.26 beds statewide per biennium. After June 30, 2019, the number of new beds that may be
163.27 approved in a biennium must not exceed 300 statewide. For a proposal to be considered,
163.28 the commissioner must receive it within six months of the publication of the request for
163.29 proposals. The commissioner shall review responses to the request for proposals and
163.30 shall approve or disapprove each proposal by the following July 15, in accordance with
163.31 section 144A.073 and Minnesota Rules, parts 4655.1070 to 4655.1098. The commissioner
163.32 shall base approvals or disapprovals on a comparison and ranking of proposals using
163.33 only the criteria in subdivision 4a. Approval of a proposal expires after 18 months
163.34 unless the facility has added the new beds using existing space, subject to approval
163.35 by the commissioner, or has commenced construction as defined in section 144A.071,
163.36 subdivision 1a, paragraph (d). ~~Operating~~ If, after the approved beds have been added,

164.1 fewer than 50 percent of the beds in a facility are newly licensed, the operating payment
164.2 rates previously in effect shall remain. If, after the approved beds have been added, 50
164.3 percent or more of the beds in a facility are newly licensed, operating payment rates shall
164.4 be determined according to Minnesota Rules, part 9549.0057, using the limits under
164.5 section 256B.441. External fixed payment rates must be determined according to section
164.6 256B.441, subdivision 53. Property payment rates for facilities with beds added under this
164.7 subdivision must be determined in the same manner as rate determinations resulting from
164.8 projects approved and completed under section 144A.073.

164.9 (e) The commissioner may:

164.10 (1) certify or license new beds in a new facility that is to be operated by the
164.11 commissioner of veterans affairs or when the costs of constructing and operating the new
164.12 beds are to be reimbursed by the commissioner of veterans affairs or the United States
164.13 Veterans Administration; and

164.14 (2) license or certify beds in a facility that has been involuntarily delicensed or
164.15 decertified for participation in the medical assistance program, provided that an application
164.16 for relicensure or recertification is submitted to the commissioner by an organization that
164.17 is not a related organization as defined in section 256B.441, subdivision 34, to the prior
164.18 licensee within 120 days after delicensure or decertification.

164.19 Sec. 2. Minnesota Statutes 2011 Supplement, section 144A.071, subdivision 4a,
164.20 is amended to read:

164.21 Subd. 4a. **Exceptions for replacement beds.** It is in the best interest of the state
164.22 to ensure that nursing homes and boarding care homes continue to meet the physical
164.23 plant licensing and certification requirements by permitting certain construction projects.
164.24 Facilities should be maintained in condition to satisfy the physical and emotional needs
164.25 of residents while allowing the state to maintain control over nursing home expenditure
164.26 growth.

164.27 The commissioner of health in coordination with the commissioner of human
164.28 services, may approve the renovation, replacement, upgrading, or relocation of a nursing
164.29 home or boarding care home, under the following conditions:

164.30 (a) to license or certify beds in a new facility constructed to replace a facility or to
164.31 make repairs in an existing facility that was destroyed or damaged after June 30, 1987, by
164.32 fire, lightning, or other hazard provided:

164.33 (i) destruction was not caused by the intentional act of or at the direction of a
164.34 controlling person of the facility;

165.1 (ii) at the time the facility was destroyed or damaged the controlling persons of the
165.2 facility maintained insurance coverage for the type of hazard that occurred in an amount
165.3 that a reasonable person would conclude was adequate;

165.4 (iii) the net proceeds from an insurance settlement for the damages caused by the
165.5 hazard are applied to the cost of the new facility or repairs;

165.6 (iv) the number of licensed and certified beds in the new facility does not exceed the
165.7 number of licensed and certified beds in the destroyed facility; and

165.8 (v) the commissioner determines that the replacement beds are needed to prevent an
165.9 inadequate supply of beds.

165.10 Project construction costs incurred for repairs authorized under this clause shall not be
165.11 considered in the dollar threshold amount defined in subdivision 2;

165.12 (b) to license or certify beds that are moved from one location to another within a
165.13 nursing home facility, provided the total costs of remodeling performed in conjunction
165.14 with the relocation of beds does not exceed \$1,000,000;

165.15 (c) to license or certify beds in a project recommended for approval under section
165.16 144A.073;

165.17 (d) to license or certify beds that are moved from an existing state nursing home to
165.18 a different state facility, provided there is no net increase in the number of state nursing
165.19 home beds;

165.20 (e) to certify and license as nursing home beds boarding care beds in a certified
165.21 boarding care facility if the beds meet the standards for nursing home licensure, or in a
165.22 facility that was granted an exception to the moratorium under section 144A.073, and if
165.23 the cost of any remodeling of the facility does not exceed \$1,000,000. If boarding care
165.24 beds are licensed as nursing home beds, the number of boarding care beds in the facility
165.25 must not increase beyond the number remaining at the time of the upgrade in licensure.
165.26 The provisions contained in section 144A.073 regarding the upgrading of the facilities
165.27 do not apply to facilities that satisfy these requirements;

165.28 (f) to license and certify up to 40 beds transferred from an existing facility owned and
165.29 operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the
165.30 same location as the existing facility that will serve persons with Alzheimer's disease and
165.31 other related disorders. The transfer of beds may occur gradually or in stages, provided
165.32 the total number of beds transferred does not exceed 40. At the time of licensure and
165.33 certification of a bed or beds in the new unit, the commissioner of health shall delicense
165.34 and decertify the same number of beds in the existing facility. As a condition of receiving
165.35 a license or certification under this clause, the facility must make a written commitment

166.1 to the commissioner of human services that it will not seek to receive an increase in its
166.2 property-related payment rate as a result of the transfers allowed under this paragraph;

166.3 (g) to license and certify nursing home beds to replace currently licensed and certified
166.4 boarding care beds which may be located either in a remodeled or renovated boarding care
166.5 or nursing home facility or in a remodeled, renovated, newly constructed, or replacement
166.6 nursing home facility within the identifiable complex of health care facilities in which the
166.7 currently licensed boarding care beds are presently located, provided that the number of
166.8 boarding care beds in the facility or complex are decreased by the number to be licensed
166.9 as nursing home beds and further provided that, if the total costs of new construction,
166.10 replacement, remodeling, or renovation exceed ten percent of the appraised value of
166.11 the facility or \$200,000, whichever is less, the facility makes a written commitment to
166.12 the commissioner of human services that it will not seek to receive an increase in its
166.13 property-related payment rate by reason of the new construction, replacement, remodeling,
166.14 or renovation. The provisions contained in section 144A.073 regarding the upgrading of
166.15 facilities do not apply to facilities that satisfy these requirements;

166.16 (h) to license as a nursing home and certify as a nursing facility a facility that is
166.17 licensed as a boarding care facility but not certified under the medical assistance program,
166.18 but only if the commissioner of human services certifies to the commissioner of health that
166.19 licensing the facility as a nursing home and certifying the facility as a nursing facility will
166.20 result in a net annual savings to the state general fund of \$200,000 or more;

166.21 (i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing
166.22 home beds in a facility that was licensed and in operation prior to January 1, 1992;

166.23 (j) to license and certify new nursing home beds to replace beds in a facility acquired
166.24 by the Minneapolis Community Development Agency as part of redevelopment activities
166.25 in a city of the first class, provided the new facility is located within three miles of the site
166.26 of the old facility. Operating and property costs for the new facility must be determined
166.27 and allowed under section 256B.431 or 256B.434;

166.28 (k) to license and certify up to 20 new nursing home beds in a community-operated
166.29 hospital and attached convalescent and nursing care facility with 40 beds on April 21,
166.30 1991, that suspended operation of the hospital in April 1986. The commissioner of human
166.31 services shall provide the facility with the same per diem property-related payment rate
166.32 for each additional licensed and certified bed as it will receive for its existing 40 beds;

166.33 (l) to license or certify beds in renovation, replacement, or upgrading projects as
166.34 defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the
166.35 facility's remodeling projects do not exceed \$1,000,000;

167.1 (m) to license and certify beds that are moved from one location to another for the
167.2 purposes of converting up to five four-bed wards to single or double occupancy rooms
167.3 in a nursing home that, as of January 1, 1993, was county-owned and had a licensed
167.4 capacity of 115 beds;

167.5 (n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified
167.6 nursing facility located in Minneapolis to layaway all of its licensed and certified nursing
167.7 home beds. These beds may be relicensed and recertified in a newly constructed teaching
167.8 nursing home facility affiliated with a teaching hospital upon approval by the legislature.
167.9 The proposal must be developed in consultation with the interagency committee on
167.10 long-term care planning. The beds on layaway status shall have the same status as
167.11 voluntarily delicensed and decertified beds, except that beds on layaway status remain
167.12 subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1998;

167.13 (o) to allow a project which will be completed in conjunction with an approved
167.14 moratorium exception project for a nursing home in southern Cass County and which is
167.15 directly related to that portion of the facility that must be repaired, renovated, or replaced,
167.16 to correct an emergency plumbing problem for which a state correction order has been
167.17 issued and which must be corrected by August 31, 1993;

167.18 (p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified
167.19 nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to
167.20 the commissioner, up to 30 of the facility's licensed and certified beds by converting
167.21 three-bed wards to single or double occupancy. Beds on layaway status shall have the
167.22 same status as voluntarily delicensed and decertified beds except that beds on layaway
167.23 status remain subject to the surcharge in section 256.9657, remain subject to the license
167.24 application and renewal fees under section 144A.07 and shall be subject to a \$100 per bed
167.25 reactivation fee. In addition, at any time within three years of the effective date of the
167.26 layaway, the beds on layaway status may be:

167.27 (1) relicensed and recertified upon relocation and reactivation of some or all of
167.28 the beds to an existing licensed and certified facility or facilities located in Pine River,
167.29 Brainerd, or International Falls; provided that the total project construction costs related to
167.30 the relocation of beds from layaway status for any facility receiving relocated beds may
167.31 not exceed the dollar threshold provided in subdivision 2 unless the construction project
167.32 has been approved through the moratorium exception process under section 144A.073;

167.33 (2) relicensed and recertified, upon reactivation of some or all of the beds within the
167.34 facility which placed the beds in layaway status, if the commissioner has determined a
167.35 need for the reactivation of the beds on layaway status.

168.1 The property-related payment rate of a facility placing beds on layaway status
168.2 must be adjusted by the incremental change in its rental per diem after recalculating the
168.3 rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The
168.4 property-related payment rate for a facility relicensing and recertifying beds from layaway
168.5 status must be adjusted by the incremental change in its rental per diem after recalculating
168.6 its rental per diem using the number of beds after the relicensing to establish the facility's
168.7 capacity day divisor, which shall be effective the first day of the month following the
168.8 month in which the relicensing and recertification became effective. Any beds remaining
168.9 on layaway status more than three years after the date the layaway status became effective
168.10 must be removed from layaway status and immediately delicensed and decertified;

168.11 (q) to license and certify beds in a renovation and remodeling project to convert 12
168.12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing
168.13 home that, as of January 1, 1994, met the following conditions: the nursing home was
168.14 located in Ramsey County; had a licensed capacity of 154 beds; and had been ranked
168.15 among the top 15 applicants by the 1993 moratorium exceptions advisory review panel.
168.16 The total project construction cost estimate for this project must not exceed the cost
168.17 estimate submitted in connection with the 1993 moratorium exception process;

168.18 (r) to license and certify up to 117 beds that are relocated from a licensed and
168.19 certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed
168.20 hospital beds located in South St. Paul, provided that the nursing facility and hospital are
168.21 owned by the same or a related organization and that prior to the date the relocation is
168.22 completed the hospital ceases operation of its inpatient hospital services at that hospital.
168.23 After relocation, the nursing facility's status ~~under section 256B.431, subdivision 2j~~, shall
168.24 be the same as it was prior to relocation. The nursing facility's property-related payment
168.25 rate resulting from the project authorized in this paragraph shall become effective no
168.26 earlier than April 1, 1996. For purposes of calculating the incremental change in the
168.27 facility's rental per diem resulting from this project, the allowable appraised value of
168.28 the nursing facility portion of the existing health care facility physical plant prior to the
168.29 renovation and relocation may not exceed \$2,490,000;

168.30 (s) to license and certify two beds in a facility to replace beds that were voluntarily
168.31 delicensed and decertified on June 28, 1991;

168.32 (t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed
168.33 nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding
168.34 the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed
168.35 nursing home facility after completion of a construction project approved in 1993 under
168.36 section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner.

169.1 Beds on layaway status shall have the same status as voluntarily delicensed or decertified
169.2 beds except that they shall remain subject to the surcharge in section 256.9657. The
169.3 16 beds on layaway status may be relicensed as nursing home beds and recertified at
169.4 any time within five years of the effective date of the layaway upon relocation of some
169.5 or all of the beds to a licensed and certified facility located in Watertown, provided that
169.6 the total project construction costs related to the relocation of beds from layaway status
169.7 for the Watertown facility may not exceed the dollar threshold provided in subdivision
169.8 2 unless the construction project has been approved through the moratorium exception
169.9 process under section 144A.073.

169.10 The property-related payment rate of the facility placing beds on layaway status
169.11 must be adjusted by the incremental change in its rental per diem after recalculating the
169.12 rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The
169.13 property-related payment rate for the facility relicensing and recertifying beds from
169.14 layaway status must be adjusted by the incremental change in its rental per diem after
169.15 recalculating its rental per diem using the number of beds after the relicensing to establish
169.16 the facility's capacity day divisor, which shall be effective the first day of the month
169.17 following the month in which the relicensing and recertification became effective. Any
169.18 beds remaining on layaway status more than five years after the date the layaway status
169.19 became effective must be removed from layaway status and immediately delicensed
169.20 and decertified;

169.21 (u) to license and certify beds that are moved within an existing area of a facility or
169.22 to a newly constructed addition which is built for the purpose of eliminating three- and
169.23 four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary
169.24 service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had
169.25 a licensed capacity of 129 beds;

169.26 (v) to relocate 36 beds in Crow Wing County and four beds from Hennepin County
169.27 to a 160-bed facility in Crow Wing County, provided all the affected beds are under
169.28 common ownership;

169.29 (w) to license and certify a total replacement project of up to 49 beds located in
169.30 Norman County that are relocated from a nursing home destroyed by flood and whose
169.31 residents were relocated to other nursing homes. The operating cost payment rates for
169.32 the new nursing facility shall be determined based on the interim and settle-up payment
169.33 provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of
169.34 section 256B.431, ~~except that subdivision 26, paragraphs (a) and (b), shall not apply until~~
169.35 ~~the second rate year after the settle-up cost report is filed.~~ Property-related reimbursement

170.1 rates shall be determined under section 256B.431, taking into account any federal or state
170.2 flood-related loans or grants provided to the facility;

170.3 (x) to license and certify a total replacement project of up to 129 beds located
170.4 in Polk County that are relocated from a nursing home destroyed by flood and whose
170.5 residents were relocated to other nursing homes. The operating cost payment rates for
170.6 the new nursing facility shall be determined based on the interim and settle-up payment
170.7 provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of
170.8 section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until
170.9 the second rate year after the settle-up cost report is filed. Property-related reimbursement
170.10 rates shall be determined under section 256B.431, taking into account any federal or state
170.11 flood-related loans or grants provided to the facility;

170.12 (y) to license and certify beds in a renovation and remodeling project to convert 13
170.13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and
170.14 add improvements in a nursing home that, as of January 1, 1994, met the following
170.15 conditions: the nursing home was located in Ramsey County, was not owned by a hospital
170.16 corporation, had a licensed capacity of 64 beds, and had been ranked among the top 15
170.17 applicants by the 1993 moratorium exceptions advisory review panel. The total project
170.18 construction cost estimate for this project must not exceed the cost estimate submitted in
170.19 connection with the 1993 moratorium exception process;

170.20 (z) to license and certify up to 150 nursing home beds to replace an existing 285
170.21 bed nursing facility located in St. Paul. The replacement project shall include both the
170.22 renovation of existing buildings and the construction of new facilities at the existing
170.23 site. The reduction in the licensed capacity of the existing facility shall occur during the
170.24 construction project as beds are taken out of service due to the construction process. Prior
170.25 to the start of the construction process, the facility shall provide written information to the
170.26 commissioner of health describing the process for bed reduction, plans for the relocation
170.27 of residents, and the estimated construction schedule. The relocation of residents shall be
170.28 in accordance with the provisions of law and rule;

170.29 (aa) to allow the commissioner of human services to license an additional 36 beds
170.30 to provide residential services for the physically disabled under Minnesota Rules, parts
170.31 9570.2000 to 9570.3400, in a 198-bed nursing home located in Red Wing, provided that
170.32 the total number of licensed and certified beds at the facility does not increase;

170.33 (bb) to license and certify a new facility in St. Louis County with 44 beds
170.34 constructed to replace an existing facility in St. Louis County with 31 beds, which has
170.35 resident rooms on two separate floors and an antiquated elevator that creates safety

171.1 concerns for residents and prevents nonambulatory residents from residing on the second
171.2 floor. The project shall include the elimination of three- and four-bed rooms;

171.3 (cc) to license and certify four beds in a 16-bed certified boarding care home in
171.4 Minneapolis to replace beds that were voluntarily delicensed and decertified on or
171.5 before March 31, 1992. The licensure and certification is conditional upon the facility
171.6 periodically assessing and adjusting its resident mix and other factors which may
171.7 contribute to a potential institution for mental disease declaration. The commissioner of
171.8 human services shall retain the authority to audit the facility at any time and shall require
171.9 the facility to comply with any requirements necessary to prevent an institution for mental
171.10 disease declaration, including delicensure and decertification of beds, if necessary;

171.11 (dd) to license and certify 72 beds in an existing facility in Mille Lacs County with
171.12 80 beds as part of a renovation project. The renovation must include construction of
171.13 an addition to accommodate ten residents with beginning and midstage dementia in a
171.14 self-contained living unit; creation of three resident households where dining, activities,
171.15 and support spaces are located near resident living quarters; designation of four beds
171.16 for rehabilitation in a self-contained area; designation of 30 private rooms; and other
171.17 improvements;

171.18 (ee) to license and certify beds in a facility that has undergone replacement or
171.19 remodeling as part of a planned closure under section 256B.437;

171.20 (ff) to license and certify a total replacement project of up to 124 beds located
171.21 in Wilkin County that are in need of relocation from a nursing home significantly
171.22 damaged by flood. The operating cost payment rates for the new nursing facility shall
171.23 be determined based on the interim and settle-up payment provisions of Minnesota
171.24 Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, ~~except~~
171.25 ~~that section 256B.431, subdivision 26, paragraphs (a) and (b), shall not apply until the~~
171.26 ~~second rate year after the settle-up cost report is filed.~~ Property-related reimbursement
171.27 rates shall be determined under section 256B.431, taking into account any federal or state
171.28 flood-related loans or grants provided to the facility;

171.29 (gg) to allow the commissioner of human services to license an additional nine beds
171.30 to provide residential services for the physically disabled under Minnesota Rules, parts
171.31 9570.2000 to 9570.3400, in a 240-bed nursing home located in Duluth, provided that the
171.32 total number of licensed and certified beds at the facility does not increase;

171.33 (hh) to license and certify up to 120 new nursing facility beds to replace beds in a
171.34 facility in Anoka County, which was licensed for 98 beds as of July 1, 2000, provided the
171.35 new facility is located within four miles of the existing facility and is in Anoka County.
171.36 Operating and property rates shall be determined and allowed under section 256B.431

172.1 and Minnesota Rules, parts 9549.0010 to 9549.0080, or section 256B.434 or ~~256B.435~~.
172.2 ~~The provisions of section 256B.431, subdivision 26, paragraphs (a) and (b), do not apply~~
172.3 ~~until the second rate year following settle-up 256B.441; or~~

172.4 (ii) to transfer up to 98 beds of a 129-licensed bed facility located in Anoka County
172.5 that, as of March 25, 2001, is in the active process of closing, to a 122-licensed bed
172.6 nonprofit nursing facility located in the city of Columbia Heights or its affiliate. The
172.7 transfer is effective when the receiving facility notifies the commissioner in writing of the
172.8 number of beds accepted. The commissioner shall place all transferred beds on layaway
172.9 status held in the name of the receiving facility. The layaway adjustment provisions of
172.10 section 256B.431, subdivision 30, do not apply to this layaway. The receiving facility
172.11 may only remove the beds from layaway for recertification and relicensure at the receiving
172.12 facility's current site, or at a newly constructed facility located in Anoka County. The
172.13 receiving facility must receive statutory authorization before removing these beds from
172.14 layaway status, or may remove these beds from layaway status if removal from layaway
172.15 status is part of a moratorium exception project approved by the commissioner under
172.16 section 144A.073.

172.17 Sec. 3. Minnesota Statutes 2011 Supplement, section 245A.03, subdivision 7, is
172.18 amended to read:

172.19 Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an
172.20 initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to
172.21 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to
172.22 9555.6265, under this chapter for a physical location that will not be the primary residence
172.23 of the license holder for the entire period of licensure. If a license is issued during this
172.24 moratorium, and the license holder changes the license holder's primary residence away
172.25 from the physical location of the foster care license, the commissioner shall revoke the
172.26 license according to section 245A.07. Exceptions to the moratorium include:

172.27 (1) foster care settings that are required to be registered under chapter 144D;
172.28 (2) foster care licenses replacing foster care licenses in existence on May 15, 2009,
172.29 and determined to be needed by the commissioner under paragraph (b);

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

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

173.1 (5) new foster care licenses determined to be needed by the commissioner for the
173.2 transition of people from personal care assistance to the home and community-based
173.3 services.

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

173.10 ~~(c) Residential settings that would otherwise be subject to the moratorium established~~
173.11 ~~in paragraph (a), that are in the process of receiving an adult or child foster care license as~~
173.12 ~~of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult~~
173.13 ~~or child foster care license. For this paragraph, all of the following conditions must be met~~
173.14 ~~to be considered in the process of receiving an adult or child foster care license:~~

173.15 ~~(1) participants have made decisions to move into the residential setting, including~~
173.16 ~~documentation in each participant's care plan;~~

173.17 ~~(2) the provider has purchased housing or has made a financial investment in the~~
173.18 ~~property;~~

173.19 ~~(3) the lead agency has approved the plans, including costs for the residential setting~~
173.20 ~~for each individual;~~

173.21 ~~(4) the completion of the licensing process, including all necessary inspections, is~~
173.22 ~~the only remaining component prior to being able to provide services; and~~

173.23 ~~(5) the needs of the individuals cannot be met within the existing capacity in that~~
173.24 ~~county.~~

173.25 ~~To qualify for the process under this paragraph, the lead agency must submit~~
173.26 ~~documentation to the commissioner by August 1, 2009, that all of the above criteria are~~
173.27 ~~met.~~

173.28 ~~(d)~~ (c) The commissioner shall study the effects of the license moratorium under this
173.29 subdivision and shall report back to the legislature by January 15, 2011. This study shall
173.30 include, but is not limited to the following:

173.31 (1) the overall capacity and utilization of foster care beds where the physical location
173.32 is not the primary residence of the license holder prior to and after implementation
173.33 of the moratorium;

173.34 (2) the overall capacity and utilization of foster care beds where the physical
173.35 location is the primary residence of the license holder prior to and after implementation
173.36 of the moratorium; and

174.1 (3) the number of licensed and occupied ICF/MR beds prior to and after
174.2 implementation of the moratorium.

174.3 ~~(e)~~ (d) When a foster care recipient moves out of a foster home that is not the
174.4 primary residence of the license holder according to section 256B.49, subdivision 15,
174.5 paragraph (f), the county shall immediately inform the Department of Human Services
174.6 Licensing Division, and the department shall immediately decrease the licensed capacity
174.7 for the home. A decreased licensed capacity according to this paragraph is not subject to
174.8 appeal under this chapter.

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

174.17 (f) License holders of foster care homes identified under paragraph (e) that are not
174.18 the primary residence of the license holder and that also provide services in the foster care
174.19 home that are covered by a federally approved home and community-based services
174.20 waiver, as authorized under section 256B.0915, 256B.092, or 256B.49 must inform the
174.21 human services licensing division that the license holder provides or intends to provide
174.22 these waiver-funded services. These license holders must be considered registered under
174.23 section 256B.092, subdivision 11, paragraph (c), and this registration status must be
174.24 identified on their license certificates.

174.25 Sec. 4. Minnesota Statutes 2010, section 245A.11, subdivision 2a, is amended to read:

174.26 Subd. 2a. **Adult foster care license capacity.** (a) The commissioner shall issue
174.27 adult foster care licenses with a maximum licensed capacity of four beds, including
174.28 nonstaff roomers and boarders, except that the commissioner may issue a license with a
174.29 capacity of five beds, including roomers and boarders, according to paragraphs (b) to (f).

174.30 (b) An adult foster care license holder may have a maximum license capacity of five
174.31 if all persons in care are age 55 or over and do not have a serious and persistent mental
174.32 illness or a developmental disability.

174.33 (c) The commissioner may grant variances to paragraph (b) to allow a foster care
174.34 provider with a licensed capacity of five persons to admit an individual under the age of 55

175.1 if the variance complies with section 245A.04, subdivision 9, and approval of the variance
175.2 is recommended by the county in which the licensed foster care provider is located.

175.3 (d) The commissioner may grant variances to paragraph (b) to allow the use of a fifth
175.4 bed for emergency crisis services for a person with serious and persistent mental illness
175.5 or a developmental disability, regardless of age, if the variance complies with section
175.6 245A.04, subdivision 9, and approval of the variance is recommended by the county in
175.7 which the licensed foster care provider is located.

175.8 (e) If the 2009 legislature adopts a rate reduction that impacts providers of adult
175.9 foster care services, the commissioner may issue an adult foster care license with a
175.10 capacity of five adults if the fifth bed does not increase the overall statewide capacity of
175.11 licensed adult foster care beds in homes that are not the primary residence of the license
175.12 holder, over the licensed capacity in such homes on July 1, 2009, as identified in a plan
175.13 submitted to the commissioner by the county, when the capacity is recommended by
175.14 the county licensing agency of the county in which the facility is located and if the
175.15 recommendation verifies that:

175.16 (1) the facility meets the physical environment requirements in the adult foster
175.17 care licensing rule;

175.18 (2) the five-bed living arrangement is specified for each resident in the resident's:

175.19 (i) individualized plan of care;

175.20 (ii) individual service plan under section 256B.092, subdivision 1b, if required; or

175.21 (iii) individual resident placement agreement under Minnesota Rules, part
175.22 9555.5105, subpart 19, if required;

175.23 (3) the license holder obtains written and signed informed consent from each
175.24 resident or resident's legal representative documenting the resident's informed choice to
175.25 living in the home and that the resident's refusal to consent would not have resulted in
175.26 service termination; and

175.27 (4) the facility was licensed for adult foster care before March 1, 2009.

175.28 (f) The commissioner shall not issue a new adult foster care license under paragraph
175.29 (e) after June 30, ~~2011~~ 2014. The commissioner shall allow a facility with an adult foster
175.30 care license issued under paragraph (e) before June 30, ~~2011~~ 2016, to continue with a
175.31 capacity of five adults if the license holder continues to comply with the requirements in
175.32 paragraph (e).

175.33 Sec. 5. Minnesota Statutes 2010, section 245A.11, subdivision 8, is amended to read:

175.34 Subd. 8. **Community residential setting license.** (a) The commissioner shall
175.35 establish provider standards for residential support services that integrate service standards

176.1 and the residential setting under one license. The commissioner shall propose statutory
176.2 language and an implementation plan for licensing requirements for residential support
176.3 services to the legislature by January 15, ~~2011~~ 2012, as a component of the quality outcome
176.4 standards recommendations required by Laws 2010, chapter 352, article 1, section 24.

176.5 (b) Providers licensed under chapter 245B, and providing, contracting, or arranging
176.6 for services in settings licensed as adult foster care under Minnesota Rules, parts
176.7 9555.5105 to 9555.6265, or child foster care under Minnesota Rules, parts 2960.3000 to
176.8 2960.3340; and meeting the provisions of section 256B.092, subdivision 11, paragraph
176.9 (b), must be required to obtain a community residential setting license.

176.10 Sec. 6. Minnesota Statutes 2010, section 252.32, subdivision 1a, is amended to read:

176.11 Subd. 1a. **Support grants.** (a) Provision of support grants must be limited to
176.12 families who require support and whose dependents are under the age of 21 and who
176.13 have been certified disabled under section 256B.055, subdivision 12, paragraphs (a),
176.14 (b), (c), (d), and (e). Families who are receiving: home and community-based waived
176.15 services for persons with ~~developmental~~ disabilities authorized under section 256B.092 or
176.16 256B.49; personal care assistance under section 256B.0652; or a consumer support grant
176.17 under section 256.476 are not eligible for support grants.

176.18 Families whose annual adjusted gross income is \$60,000 or more are not eligible for
176.19 support grants except in cases where extreme hardship is demonstrated. Beginning in state
176.20 fiscal year 1994, the commissioner shall adjust the income ceiling annually to reflect the
176.21 projected change in the average value in the United States Department of Labor Bureau of
176.22 Labor Statistics Consumer Price Index (all urban) for that year.

176.23 (b) Support grants may be made available as monthly subsidy grants and lump-sum
176.24 grants.

176.25 (c) Support grants may be issued in the form of cash, voucher, and direct county
176.26 payment to a vendor.

176.27 (d) Applications for the support grant shall be made by the legal guardian to the
176.28 county social service agency. The application shall specify the needs of the families, the
176.29 form of the grant requested by the families, and the items and services to be reimbursed.

176.30 Sec. 7. **[252.34] REPORT BY COMMISSIONER OF HUMAN SERVICES.**

176.31 Beginning January 1, 2013, the commissioner of human services shall provide a
176.32 biennial report to the chairs of the legislative committees with jurisdiction over health and
176.33 human services policy and funding. The report must provide a summary of overarching
176.34 goals and priorities for persons with disabilities, including the status of how each of the

177.1 following programs administered by the commissioner is supporting the overarching
 177.2 goals and priorities:

177.3 (1) home and community-based services waivers for persons with disabilities under
 177.4 sections 256B.092 and 256B.49;

177.5 (2) home care services under section 256B.0652; and

177.6 (3) other relevant programs and services as determined by the commissioner.

177.7 Sec. 8. Minnesota Statutes 2010, section 252A.21, subdivision 2, is amended to read:

177.8 Subd. 2. **Rules.** The commissioner shall adopt rules to implement this chapter.

177.9 The rules must include standards for performance of guardianship or conservatorship
 177.10 duties including, but not limited to: twice a year visits with the ward; ~~quarterly reviews~~
 177.11 ~~of records from day, residential, and support services;~~ a requirement that the duties of
 177.12 guardianship or conservatorship and case management not be performed by the same
 177.13 person; specific standards for action on "do not resuscitate" orders, sterilization requests,
 177.14 and the use of psychotropic medication and aversive procedures.

177.15 Sec. 9. Minnesota Statutes 2010, section 256.476, subdivision 11, is amended to read:

177.16 Subd. 11. **Consumer support grant program after July 1, 2001.** Effective

177.17 July 1, 2001, the commissioner shall allocate consumer support grant resources to
 177.18 serve additional individuals based on a review of Medicaid authorization and payment
 177.19 information of persons eligible for a consumer support grant from the most recent fiscal
 177.20 year. The commissioner shall use the following methodology to calculate maximum
 177.21 allowable monthly consumer support grant levels:

177.22 (1) For individuals whose program of origination is medical assistance home care
 177.23 under sections 256B.0651 and 256B.0653 to 256B.0656, the maximum allowable monthly
 177.24 grant levels are calculated by:

177.25 (i) determining ~~50 percent of the average~~ the service authorization for each
 177.26 individual based on the individual's home care rating assessment;

177.27 (ii) calculating the overall ratio of actual payments to service authorizations by
 177.28 program;

177.29 (iii) applying the overall ratio to ~~the average~~ 50 percent of the service authorization
 177.30 level of each home care rating; and

177.31 (iv) adjusting the result for any authorized rate ~~increases~~ changes provided by the
 177.32 legislature; ~~and.~~

177.33 ~~(v) adjusting the result for the average monthly utilization per recipient.~~

178.1 (2) The commissioner ~~may review and evaluate~~ shall ensure the methodology ~~to~~
178.2 ~~reflect changes in~~ is consistent with the home care programs.

178.3 Sec. 10. Minnesota Statutes 2010, section 256.9657, subdivision 1, is amended to read:

178.4 Subdivision 1. **Nursing home license surcharge.** (a) Effective July 1, 1993,
178.5 each non-state-operated nursing home licensed under chapter 144A shall pay to the
178.6 commissioner an annual surcharge according to the schedule in subdivision 4. The
178.7 surcharge shall be calculated as \$620 per licensed bed. If the number of licensed beds
178.8 is reduced, the surcharge shall be based on the number of remaining licensed beds the
178.9 second month following the receipt of timely notice by the commissioner of human
178.10 services that beds have been delicensed. The nursing home must notify the commissioner
178.11 of health in writing when beds are delicensed. The commissioner of health must notify
178.12 the commissioner of human services within ten working days after receiving written
178.13 notification. If the notification is received by the commissioner of human services by
178.14 the 15th of the month, the invoice for the second following month must be reduced
178.15 to recognize the delicensing of beds. Beds on layaway status continue to be subject to
178.16 the surcharge. The commissioner of human services must acknowledge a medical care
178.17 surcharge appeal within 30 days of receipt of the written appeal from the provider.

178.18 (b) Effective July 1, 1994, the surcharge in paragraph (a) shall be increased to \$625.

178.19 (c) Effective August 15, 2002, the surcharge under paragraph (b) shall be increased
178.20 to \$990.

178.21 (d) Effective July 15, 2003, the surcharge under paragraph (c) shall be increased
178.22 to \$2,815.

178.23 (e) The commissioner may reduce, and may subsequently restore, the surcharge
178.24 under paragraph (d) based on the commissioner's determination of a permissible surcharge.

178.25 (f) Between April 1, 2002, and August 15, 2004, a facility governed by this
178.26 subdivision may elect to assume full participation in the medical assistance program
178.27 by agreeing to comply with all of the requirements of the medical assistance program,
178.28 including the rate equalization law in section 256B.48, subdivision 1, paragraph (a), and
178.29 all other requirements established in law or rule, and to begin intake of new medical
178.30 assistance recipients. Rates will be determined under Minnesota Rules, parts 9549.0010
178.31 to 9549.0080. ~~Notwithstanding section 256B.431, subdivision 27, paragraph (i),~~ Rate
178.32 calculations will be subject to limits as prescribed in rule and law. Other than the
178.33 adjustments in sections 256B.431, subdivisions 30 and 32; 256B.437, subdivision 3,
178.34 paragraph (b), Minnesota Rules, part 9549.0057, and any other applicable legislation
178.35 enacted prior to the finalization of rates, facilities assuming full participation in medical

179.1 assistance under this paragraph are not eligible for any rate adjustments until the July 1
179.2 following their settle-up period.

179.3 Sec. 11. Minnesota Statutes 2010, section 256B.0625, subdivision 19c, is amended to
179.4 read:

179.5 Subd. 19c. **Personal care.** Medical assistance covers personal care assistance
179.6 services provided by an individual who is qualified to provide the services according to
179.7 subdivision 19a and sections 256B.0651 to 256B.0656, provided in accordance with a
179.8 plan, and supervised by a qualified professional.

179.9 "Qualified professional" means a mental health professional as defined in section
179.10 245.462, subdivision 18, clauses (1) to (6), or 245.4871, subdivision 27, clauses (1) to (6);
179.11 or a registered nurse as defined in sections 148.171 to 148.285, a licensed social worker
179.12 as defined in sections 148D.010 and 148D.055, or a qualified developmental disabilities
179.13 specialist under section 245B.07, subdivision 4. The qualified professional shall perform
179.14 the duties required in section 256B.0659.

179.15 Sec. 12. Minnesota Statutes 2010, section 256B.0659, subdivision 1, is amended to
179.16 read:

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

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

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

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

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

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

179.31 (g) "Extended personal care assistance service" means personal care assistance
179.32 services included in a service plan under one of the home and community-based services
179.33 waivers authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49,

180.1 which exceed the amount, duration, and frequency of the state plan personal care
180.2 assistance services for participants who:

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

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

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

180.13 (i) "Instrumental activities of daily living" means activities to include meal planning
180.14 and preparation; basic assistance with paying bills; shopping for food, clothing, and other
180.15 essential items; performing household tasks integral to the personal care assistance
180.16 services; communication by telephone and other media; and traveling, including to
180.17 medical appointments and to participate in the community.

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

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

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

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

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

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

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

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

181.1 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA
181.2 taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,
181.3 mileage reimbursement, health and dental insurance, life insurance, disability insurance,
181.4 long-term care insurance, uniform allowance, and contributions to employee retirement
181.5 accounts.

181.6 Sec. 13. Minnesota Statutes 2010, section 256B.0659, subdivision 3, is amended to
181.7 read:

181.8 Subd. 3. **Noncovered personal care assistance services.** (a) Personal care
181.9 assistance services are not eligible for medical assistance payment under this section
181.10 when provided:

181.11 (1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal
181.12 guardian, licensed foster provider, except as allowed under section 256B.0652, subdivision
181.13 10, or responsible party;

181.14 (2) ~~in lieu of other staffing options~~ order to meet staffing or license requirements in a
181.15 residential or child care setting;

181.16 (3) solely as a child care or babysitting service; or

181.17 (4) without authorization by the commissioner or the commissioner's designee.

181.18 (b) The following personal care services are not eligible for medical assistance
181.19 payment under this section when provided in residential settings:

181.20 (1) ~~effective January 1, 2010,~~ when the provider of home care services who is not
181.21 related by blood, marriage, or adoption owns or otherwise controls the living arrangement,
181.22 including licensed or unlicensed services; or

181.23 (2) when personal care assistance services are the responsibility of a residential or
181.24 program license holder under the terms of a service agreement and administrative rules.

181.25 (c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible
181.26 for medical assistance reimbursement for personal care assistance services under this
181.27 section include:

181.28 (1) sterile procedures;

181.29 (2) injections of fluids and medications into veins, muscles, or skin;

181.30 (3) home maintenance or chore services;

181.31 (4) homemaker services not an integral part of assessed personal care assistance
181.32 services needed by a recipient;

181.33 (5) application of restraints or implementation of procedures under section 245.825;

182.1 (6) instrumental activities of daily living for children under the age of 18, except
182.2 when immediate attention is needed for health or hygiene reasons integral to the personal
182.3 care services and the need is listed in the service plan by the assessor; and

182.4 (7) assessments for personal care assistance services by personal care assistance
182.5 provider agencies or by independently enrolled registered nurses.

182.6 Sec. 14. Minnesota Statutes 2010, section 256B.0659, subdivision 9, is amended to
182.7 read:

182.8 Subd. 9. **Responsible party; generally.** (a) "Responsible party" means an
182.9 individual who is capable of providing the support necessary to assist the recipient to live
182.10 in the community.

182.11 (b) A responsible party must be 18 years of age, actively participate in planning and
182.12 directing of personal care assistance services, and attend all assessments for the recipient.

182.13 (c) A responsible party must not be the:

182.14 (1) personal care assistant;

182.15 (2) qualified professional;

182.16 (3) home care provider agency owner or ~~staff manager~~; ~~or~~

182.17 (4) home care provider agency staff unless staff who are not listed in clauses (1) to

182.18 (3) are related to the recipient by blood, marriage, or adoption; or

182.19 ~~(3)~~ (5) county staff acting as part of employment.

182.20 (d) A licensed family foster parent who lives with the recipient may be the
182.21 responsible party as long as the family foster parent meets the other responsible party
182.22 requirements.

182.23 (e) A responsible party is required when:

182.24 (1) the person is a minor according to section 524.5-102, subdivision 10;

182.25 (2) the person is an incapacitated adult according to section 524.5-102, subdivision
182.26 6, resulting in a court-appointed guardian; or

182.27 (3) the assessment according to subdivision 3a determines that the recipient is in
182.28 need of a responsible party to direct the recipient's care.

182.29 (f) There may be two persons designated as the responsible party for reasons such
182.30 as divided households and court-ordered custodies. Each person named as responsible
182.31 party must meet the program criteria and responsibilities.

182.32 (g) The recipient or the recipient's legal representative shall appoint a responsible
182.33 party if necessary to direct and supervise the care provided to the recipient. The
182.34 responsible party must be identified at the time of assessment and listed on the recipient's
182.35 service agreement and personal care assistance care plan.

183.1 Sec. 15. Minnesota Statutes 2011 Supplement, section 256B.0659, subdivision 11,
183.2 is amended to read:

183.3 Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant
183.4 must meet the following requirements:

183.5 (1) be at least 18 years of age with the exception of persons who are 16 or 17 years
183.6 of age with these additional requirements:

183.7 (i) supervision by a qualified professional every 60 days; and

183.8 (ii) employment by only one personal care assistance provider agency responsible
183.9 for compliance with current labor laws;

183.10 (2) be employed by a personal care assistance provider agency;

183.11 (3) enroll with the department as a personal care assistant after clearing a background
183.12 study. Except as provided in subdivision 11a, before a personal care assistant provides
183.13 services, the personal care assistance provider agency must initiate a background study on
183.14 the personal care assistant under chapter 245C, and the personal care assistance provider
183.15 agency must have received a notice from the commissioner that the personal care assistant
183.16 is:

183.17 (i) not disqualified under section 245C.14; or

183.18 (ii) is disqualified, but the personal care assistant has received a set aside of the
183.19 disqualification under section 245C.22;

183.20 (4) be able to effectively communicate with the recipient and personal care
183.21 assistance provider agency;

183.22 (5) be able to provide covered personal care assistance services according to the
183.23 recipient's personal care assistance care plan, respond appropriately to recipient needs,
183.24 and report changes in the recipient's condition to the supervising qualified professional
183.25 or physician;

183.26 (6) not be a consumer of personal care assistance services;

183.27 (7) maintain daily written records including, but not limited to, time sheets under
183.28 subdivision 12;

183.29 (8) effective January 1, 2010, complete standardized training as determined
183.30 by the commissioner before completing enrollment. The training must be available
183.31 in languages other than English and to those who need accommodations due to
183.32 disabilities. Personal care assistant training must include successful completion of the
183.33 following training components: basic first aid, vulnerable adult, child maltreatment,
183.34 OSHA universal precautions, basic roles and responsibilities of personal care assistants
183.35 including information about assistance with lifting and transfers for recipients, emergency
183.36 preparedness, orientation to positive behavioral practices, fraud issues, and completion of

184.1 time sheets. Upon completion of the training components, the personal care assistant must
184.2 demonstrate the competency to provide assistance to recipients;

184.3 (9) complete training and orientation on the needs of the recipient ~~within the first~~
184.4 ~~seven days after the services begin~~; and

184.5 (10) be limited to providing and being paid for up to 275 hours per month, ~~except~~
184.6 ~~that this limit shall be 275 hours per month for the period July 1, 2009, through June 30,~~
184.7 ~~2011~~, of personal care assistance services regardless of the number of recipients being
184.8 served or the number of personal care assistance provider agencies enrolled with. The
184.9 number of hours worked per day shall not be disallowed by the department unless in
184.10 violation of the law.

184.11 (b) A legal guardian may be a personal care assistant if the guardian is not being paid
184.12 for the guardian services and meets the criteria for personal care assistants in paragraph (a).

184.13 (c) Persons who do not qualify as a personal care assistant include parents ~~and~~
184.14 ~~stepparents, and legal guardians~~ of minors~~;~~ spouses~~;~~ paid legal guardians~~;~~ of adults;
184.15 family foster care providers, except as otherwise allowed in section 256B.0625,
184.16 subdivision 19a, ~~or~~ and staff of a residential setting. When the personal care assistant is a
184.17 relative of the recipient, the commissioner shall pay 80 percent of the provider rate. For
184.18 purposes of this section, relative means the parent or adoptive parent of an adult child, a
184.19 sibling aged 16 years or older, an adult child, a grandparent, or a grandchild.

184.20 Sec. 16. Minnesota Statutes 2010, section 256B.0659, subdivision 13, is amended to
184.21 read:

184.22 Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional
184.23 must work for a personal care assistance provider agency and meet the definition under
184.24 section 256B.0625, subdivision 19c. Before a qualified professional provides services, the
184.25 personal care assistance provider agency must initiate a background study on the qualified
184.26 professional under chapter 245C, and the personal care assistance provider agency must
184.27 have received a notice from the commissioner that the qualified professional:

184.28 (1) is not disqualified under section 245C.14; or

184.29 (2) is disqualified, but the qualified professional has received a set aside of the
184.30 disqualification under section 245C.22.

184.31 (b) The qualified professional shall perform the duties of training, supervision, and
184.32 evaluation of the personal care assistance staff and evaluation of the effectiveness of
184.33 personal care assistance services. The qualified professional shall:

184.34 (1) develop and monitor with the recipient a personal care assistance care plan based
184.35 on the service plan and individualized needs of the recipient;

185.1 (2) develop and monitor with the recipient a monthly plan for the use of personal
185.2 care assistance services;

185.3 (3) review documentation of personal care assistance services provided;

185.4 (4) provide training and ensure competency for the personal care assistant in the
185.5 individual needs of the recipient; and

185.6 (5) document all training, communication, evaluations, and needed actions to
185.7 improve performance of the personal care assistants.

185.8 (c) Effective July 1, ~~2010~~ 2011, the qualified professional shall complete the provider
185.9 training with basic information about the personal care assistance program approved by
185.10 the commissioner. Newly hired qualified professionals must complete the training within
185.11 six months of the date hired by a personal care assistance provider agency. Qualified
185.12 professionals who have completed the required training as a worker from a personal care
185.13 assistance provider agency do not need to repeat the required training if they are hired
185.14 by another agency, if they have completed the training within the last three years. The
185.15 required training shall ~~must~~ be available in languages other than English and to those who
185.16 ~~need accommodations due to disabilities~~, with meaningful access according to title VI of
185.17 the Civil Rights Act and federal regulations adopted under that law or any guidance from
185.18 the United States Health and Human Services Department. The required training must
185.19 be available online, or by electronic remote connection, and. The required training must
185.20 provide for competency testing to demonstrate an understanding of the content without
185.21 attending in-person training. A qualified professional is allowed to be employed and is not
185.22 subject to the training requirement until the training is offered online or through remote
185.23 electronic connection. A qualified professional employed by a personal care assistance
185.24 provider agency certified for participation in Medicare as a home health agency is exempt
185.25 from the training required in this subdivision. When available, the qualified professional
185.26 working for a Medicare-certified home health agency must successfully complete the
185.27 competency test. The commissioner shall ensure there is a mechanism in place to verify
185.28 the identity of persons completing the competency testing electronically.

185.29 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2011.

185.30 Sec. 17. Minnesota Statutes 2010, section 256B.0659, subdivision 14, is amended to
185.31 read:

185.32 Subd. 14. **Qualified professional; duties.** (a) Effective January 1, 2010, all personal
185.33 care assistants must be supervised by a qualified professional.

186.1 (b) Through direct training, observation, return demonstrations, and consultation
186.2 with the staff and the recipient, the qualified professional must ensure and document
186.3 that the personal care assistant is:

186.4 (1) capable of providing the required personal care assistance services;

186.5 (2) knowledgeable about the plan of personal care assistance services before services
186.6 are performed; and

186.7 (3) able to identify conditions that should be immediately brought to the attention of
186.8 the qualified professional.

186.9 (c) The qualified professional shall evaluate the personal care assistant within the
186.10 first 14 days of starting to provide regularly scheduled services for a recipient, or sooner as
186.11 determined by the qualified professional, except for the personal care assistance choice
186.12 option under subdivision 19, paragraph (a), clause (4). For the initial evaluation, the
186.13 qualified professional shall evaluate the personal care assistance services for a recipient
186.14 through direct observation of a personal care assistant's work. The qualified professional
186.15 may conduct additional training and evaluation visits, based upon the needs of the
186.16 recipient and the personal care assistant's ability to meet those needs. Subsequent visits to
186.17 evaluate the personal care assistance services provided to a recipient do not require direct
186.18 observation of each personal care assistant's work and shall occur:

186.19 (1) at least every 90 days thereafter for the first year of a recipient's services;

186.20 (2) every 120 days after the first year of a recipient's service or whenever needed for
186.21 response to a recipient's request for increased supervision of the personal care assistance
186.22 staff; and

186.23 (3) after the first 180 days of a recipient's service, supervisory visits may alternate
186.24 between unscheduled phone or Internet technology and in-person visits, unless the
186.25 in-person visits are needed according to the care plan.

186.26 (d) Communication with the recipient is a part of the evaluation process of the
186.27 personal care assistance staff.

186.28 (e) At each supervisory visit, the qualified professional shall evaluate personal care
186.29 assistance services including the following information:

186.30 (1) satisfaction level of the recipient with personal care assistance services;

186.31 (2) review of the month-to-month plan for use of personal care assistance services;

186.32 (3) review of documentation of personal care assistance services provided;

186.33 (4) whether the personal care assistance services are meeting the goals of the service
186.34 as stated in the personal care assistance care plan and service plan;

186.35 (5) a written record of the results of the evaluation and actions taken to correct any
186.36 deficiencies in the work of a personal care assistant; and

187.1 (6) revision of the personal care assistance care plan as necessary in consultation
187.2 with the recipient or responsible party, to meet the needs of the recipient.

187.3 (f) The qualified professional shall complete the required documentation in the
187.4 agency recipient and employee files and the recipient's home, including the following
187.5 documentation:

187.6 (1) the personal care assistance care plan based on the service plan and individualized
187.7 needs of the recipient;

187.8 (2) a month-to-month plan for use of personal care assistance services;

187.9 (3) changes in need of the recipient requiring a change to the level of service and the
187.10 personal care assistance care plan;

187.11 (4) evaluation results of supervision visits and identified issues with personal care
187.12 assistance staff with actions taken;

187.13 (5) all communication with the recipient and personal care assistance staff; and

187.14 (6) hands-on training or individualized training for the care of the recipient.

187.15 (g) The documentation in paragraph (f) must be done on agency ~~forms~~ templates.

187.16 (h) The services that are not eligible for payment as qualified professional services
187.17 include:

187.18 (1) direct professional nursing tasks that could be assessed and authorized as skilled
187.19 nursing tasks;

187.20 ~~(2) supervision of personal care assistance completed by telephone;~~

187.21 ~~(3)~~ (2) agency administrative activities;

187.22 ~~(4)~~ (3) training other than the individualized training required to provide care for a
187.23 recipient; and

187.24 ~~(5)~~ (4) any other activity that is not described in this section.

187.25 Sec. 18. Minnesota Statutes 2010, section 256B.0659, subdivision 19, is amended to
187.26 read:

187.27 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a)

187.28 Under personal care assistance choice, the recipient or responsible party shall:

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

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

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

- 188.1 (4) effective January 1, 2010, supervise and evaluate the personal care assistant with
188.2 the qualified professional, who is required to visit the recipient at least every 180 days;
- 188.3 (5) monitor and verify in writing and report to the personal care assistance choice
188.4 agency the number of hours worked by the personal care assistant and the qualified
188.5 professional;
- 188.6 (6) engage in an annual face-to-face reassessment to determine continuing eligibility
188.7 and service authorization; and
- 188.8 (7) use the same personal care assistance choice provider agency if shared personal
188.9 assistance care is being used.
- 188.10 (b) The personal care assistance choice provider agency shall:
- 188.11 (1) meet all personal care assistance provider agency standards;
- 188.12 (2) enter into a written agreement with the recipient, responsible party, and personal
188.13 care assistants;
- 188.14 (3) not be related as a parent, child, sibling, or spouse to the recipient, ~~qualified~~
188.15 ~~professional~~, or the personal care assistant; and
- 188.16 (4) ensure arm's-length transactions without undue influence or coercion with the
188.17 recipient and personal care assistant.
- 188.18 (c) The duties of the personal care assistance choice provider agency are to:
- 188.19 (1) be the employer of the personal care assistant and the qualified professional for
188.20 employment law and related regulations including, but not limited to, purchasing and
188.21 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,
188.22 and liability insurance, and submit any or all necessary documentation including, but not
188.23 limited to, workers' compensation and unemployment insurance;
- 188.24 (2) bill the medical assistance program for personal care assistance services and
188.25 qualified professional services;
- 188.26 (3) request and complete background studies that comply with the requirements for
188.27 personal care assistants and qualified professionals;
- 188.28 (4) pay the personal care assistant and qualified professional based on actual hours
188.29 of services provided;
- 188.30 (5) withhold and pay all applicable federal and state taxes;
- 188.31 (6) verify and keep records of hours worked by the personal care assistant and
188.32 qualified professional;
- 188.33 (7) make the arrangements and pay taxes and other benefits, if any, and comply with
188.34 any legal requirements for a Minnesota employer;
- 188.35 (8) enroll in the medical assistance program as a personal care assistance choice
188.36 agency; and

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

189.3 Sec. 19. Minnesota Statutes 2010, section 256B.0659, subdivision 21, is amended to
189.4 read:

189.5 Subd. 21. **Requirements for initial enrollment of personal care assistance**
189.6 **provider agencies.** (a) All personal care assistance provider agencies must provide, at the
189.7 time of enrollment as a personal care assistance provider agency in a format determined
189.8 by the commissioner, information and documentation that includes, but is not limited to,
189.9 the following:

189.10 (1) the personal care assistance provider agency's current contact information
189.11 including address, telephone number, and e-mail address;

189.12 (2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the
189.13 provider's payments from Medicaid in the previous year, whichever is less;

189.14 (3) proof of fidelity bond coverage in the amount of \$20,000;

189.15 (4) proof of workers' compensation insurance coverage;

189.16 (5) proof of liability insurance;

189.17 (6) a description of the personal care assistance provider agency's organization
189.18 identifying the names of all owners, managing employees, staff, board of directors, and
189.19 the affiliations of the directors, owners, or staff to other service providers;

189.20 (7) a copy of the personal care assistance provider agency's written policies and
189.21 procedures including: hiring of employees; training requirements; service delivery;
189.22 and employee and consumer safety including process for notification and resolution
189.23 of consumer grievances, identification and prevention of communicable diseases, and
189.24 employee misconduct;

189.25 (8) copies of all other forms the personal care assistance provider agency uses in
189.26 the course of daily business including, but not limited to:

189.27 (i) a copy of the personal care assistance provider agency's time sheet if the time
189.28 sheet varies from the standard time sheet for personal care assistance services approved
189.29 by the commissioner, and a letter requesting approval of the personal care assistance
189.30 provider agency's nonstandard time sheet;

189.31 (ii) the personal care assistance provider agency's template for the personal care
189.32 assistance care plan; and

189.33 (iii) the personal care assistance provider agency's template for the written
189.34 agreement in subdivision 20 for recipients using the personal care assistance choice
189.35 option, if applicable;

190.1 (9) a list of all training and classes that the personal care assistance provider agency
190.2 requires of its staff providing personal care assistance services;

190.3 (10) documentation that the personal care assistance provider agency and staff have
190.4 successfully completed all the training required by this section;

190.5 (11) documentation of the agency's marketing practices;

190.6 (12) disclosure of ownership, leasing, or management of all residential properties
190.7 that is used or could be used for providing home care services;

190.8 (13) documentation that the agency will use the following percentages of revenue
190.9 generated from the medical assistance rate paid for personal care assistance services
190.10 for employee personal care assistant wages and benefits: 72.5 percent of revenue in the
190.11 personal care assistance choice option and 72.5 percent of revenue from other personal
190.12 care assistance providers; and

190.13 (14) effective May 15, 2010, documentation that the agency does not burden
190.14 recipients' free exercise of their right to choose service providers by requiring personal
190.15 care assistants to sign an agreement not to work with any particular personal care
190.16 assistance recipient or for another personal care assistance provider agency after leaving
190.17 the agency and that the agency is not taking action on any such agreements or requirements
190.18 regardless of the date signed.

190.19 (b) Personal care assistance provider agencies shall provide the information specified
190.20 in paragraph (a) to the commissioner at the time the personal care assistance provider
190.21 agency enrolls as a vendor or upon request from the commissioner. The commissioner
190.22 shall collect the information specified in paragraph (a) from all personal care assistance
190.23 providers beginning July 1, 2009.

190.24 (c) All personal care assistance provider agencies shall require all employees in
190.25 management and supervisory positions and owners of the agency who are active in the
190.26 day-to-day management and operations of the agency to complete mandatory training
190.27 as determined by the commissioner before enrollment of the agency as a provider.
190.28 Employees in management and supervisory positions and owners who are active in
190.29 the day-to-day operations of an agency who have completed the required training as
190.30 an employee with a personal care assistance provider agency do not need to repeat
190.31 the required training if they are hired by another agency, if they have completed the
190.32 training within the past three years. By September 1, 2010, the required training must be
190.33 available ~~in languages other than English and to those who need accommodations due~~
190.34 ~~to disabilities, with meaningful access according to title VI of the Civil Rights Act and~~
190.35 federal regulations adopted under that law or any guidance from the United States Health
190.36 and Human Services Department. The required training must be available online, or by

191.1 electronic remote connection, ~~and~~. The required training must provide for competency
 191.2 testing. Personal care assistance provider agency billing staff shall complete training about
 191.3 personal care assistance program financial management. This training is effective July 1,
 191.4 2009. Any personal care assistance provider agency enrolled before that date shall, if it
 191.5 has not already, complete the provider training within 18 months of July 1, 2009. Any new
 191.6 owners or employees in management and supervisory positions involved in the day-to-day
 191.7 operations are required to complete mandatory training as a requisite of working for the
 191.8 agency. Personal care assistance provider agencies certified for participation in Medicare
 191.9 as home health agencies are exempt from the training required in this subdivision. When
 191.10 available, Medicare-certified home health agency owners, supervisors, or managers must
 191.11 successfully complete the competency test.

191.12 Sec. 20. Minnesota Statutes 2010, section 256B.0659, subdivision 30, is amended to
 191.13 read:

191.14 Subd. 30. **Notice of service changes to recipients.** The commissioner must provide:

191.15 (1) by October 31, 2009, information to recipients likely to be affected that (i)
 191.16 describes the changes to the personal care assistance program that may result in the
 191.17 loss of access to personal care assistance services, and (ii) includes resources to obtain
 191.18 further information; and

191.19 ~~(2) notice of changes in medical assistance personal care assistance services to each~~
 191.20 ~~affected recipient at least 30 days before the effective date of the change.~~

191.21 ~~The notice shall include how to get further information on the changes, how to get help to~~
 191.22 ~~obtain other services, a list of community resources, and appeal rights. Notwithstanding~~
 191.23 ~~section 256.045, a recipient may request continued services pending appeal within the~~
 191.24 ~~time period allowed to request an appeal; and~~

191.25 ~~(3)~~ (2) a service agreement authorizing personal care assistance hours of service at
 191.26 the previously authorized level, throughout the appeal process period, when a recipient
 191.27 requests services pending an appeal.

191.28 **EFFECTIVE DATE.** This section is effective July 1, 2012.

191.29 Sec. 21. Minnesota Statutes 2010, section 256B.0916, subdivision 7, is amended to
 191.30 read:

191.31 Subd. 7. **Annual report by commissioner.** (a) Beginning November 1, 2001, and
 191.32 each November 1 thereafter, the commissioner shall issue an annual report on county and

192.1 state use of available resources for the home and community-based waiver for persons with
192.2 developmental disabilities. For each county or county partnership, the report shall include:
192.3 (1) the amount of funds allocated but not used;
192.4 (2) the county specific allowed reserve amount approved and used;
192.5 (3) the number, ages, and living situations of individuals screened and waiting for
192.6 services;
192.7 (4) the urgency of need for services to begin within one, two, or more than two
192.8 years for each individual;
192.9 (5) the services needed;
192.10 (6) the number of additional persons served by approval of increased capacity within
192.11 existing allocations;
192.12 (7) results of action by the commissioner to streamline administrative requirements
192.13 and improve county resource management; and
192.14 (8) additional action that would decrease the number of those eligible and waiting
192.15 for waived services.

192.16 The commissioner shall specify intended outcomes for the program and the degree to
192.17 which these specified outcomes are attained.

192.18 (b) This subdivision expires January 1, 2013.

192.19 Sec. 22. Minnesota Statutes 2010, section 256B.092, subdivision 11, is amended to
192.20 read:

192.21 Subd. 11. **Residential support services.** (a) Upon federal approval, there is
192.22 established a new service called residential support that is available on the community
192.23 alternative care, community alternatives for disabled individuals, developmental
192.24 disabilities, and traumatic brain injury waivers. Existing waiver service descriptions
192.25 must be modified to the extent necessary to ensure there is no duplication between
192.26 other services. Residential support services must be provided by vendors licensed as a
192.27 community residential setting as defined in section 245A.11, subdivision 8.

192.28 (b) Residential support services must meet the following criteria:

192.29 (1) providers of residential support services must own or control the residential site;
192.30 (2) the residential site must not be the primary residence of the license holder;
192.31 (3) the residential site must have a designated program supervisor responsible for
192.32 program oversight, development, and implementation of policies and procedures;
192.33 (4) the provider of residential support services must provide supervision, training,
192.34 and assistance as described in the person's community support plan; and

193.1 (5) the provider of residential support services must meet the requirements of
193.2 licensure and additional requirements of the person's community support plan.

193.3 (c) Providers of residential support services that meet the definition in paragraph
193.4 (a) must be registered using a process determined by the commissioner beginning July
193.5 1, 2009. Providers licensed to provide child foster care under Minnesota Rules, parts
193.6 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts
193.7 9555.5105 to 9555.6265, and that meet the requirements in section 245A.03, subdivision
193.8 7, paragraph (e), are considered registered under this section.

193.9 Sec. 23. Minnesota Statutes 2010, section 256B.096, subdivision 5, is amended to read:

193.10 Subd. 5. **Biennial report.** (a) The commissioner shall provide a biennial report to
193.11 the chairs of the legislative committees with jurisdiction over health and human services
193.12 policy and funding beginning January 15, 2009, on the development and activities of the
193.13 quality management, assurance, and improvement system designed to meet the federal
193.14 requirements under the home and community-based services waiver programs for persons
193.15 with disabilities. By January 15, 2008, the commissioner shall provide a preliminary
193.16 report on priorities for meeting the federal requirements, progress on development and
193.17 field testing of the annual survey, appropriations necessary to implement an annual survey
193.18 of service recipients once field testing is completed, recommendations for improvements
193.19 in the incident reporting system, and a plan for incorporating quality assurance efforts
193.20 under section 256B.095 and other regional efforts into the statewide system.

193.21 (b) This subdivision expires January 1, 2013.

193.22 Sec. 24. Minnesota Statutes 2010, section 256B.441, subdivision 13, is amended to
193.23 read:

193.24 Subd. 13. **External fixed costs.** "External fixed costs" means costs related to the
193.25 nursing home surcharge under section 256.9657, subdivision 1; licensure fees under
193.26 section 144.122; long-term care consultation fees under section 256B.0911, subdivision 6;
193.27 family advisory council fee under section 144A.33; scholarships under section 256B.431,
193.28 subdivision 36; planned closure rate adjustments under section ~~256B.436~~ or 256B.437; or
193.29 single bed room incentives under section 256B.431, subdivision 42; property taxes and
193.30 property insurance; and PERA.

193.31 Sec. 25. Minnesota Statutes 2010, section 256B.441, subdivision 31, is amended to
193.32 read:

194.1 Subd. 31. **Prior system operating cost payment rate.** "Prior system operating
194.2 cost payment rate" means the operating cost payment rate in effect on September 30,
194.3 2008, under Minnesota Rules and Minnesota Statutes, not including planned closure rate
194.4 adjustments under section ~~256B.436~~ or 256B.437, or single bed room incentives under
194.5 section 256B.431, subdivision 42.

194.6 Sec. 26. Minnesota Statutes 2010, section 256B.441, subdivision 53, is amended to
194.7 read:

194.8 Subd. 53. **Calculation of payment rate for external fixed costs.** The commissioner
194.9 shall calculate a payment rate for external fixed costs.

194.10 (a) For a facility licensed as a nursing home, the portion related to section 256.9657
194.11 shall be equal to \$8.86. For a facility licensed as both a nursing home and a boarding care
194.12 home, the portion related to section 256.9657 shall be equal to \$8.86 multiplied by the
194.13 result of its number of nursing home beds divided by its total number of licensed beds.

194.14 (b) The portion related to the licensure fee under section 144.122, paragraph (d),
194.15 shall be the amount of the fee divided by actual resident days.

194.16 (c) The portion related to scholarships shall be determined under section 256B.431,
194.17 subdivision 36.

194.18 (d) The portion related to long-term care consultation shall be determined according
194.19 to section 256B.0911, subdivision 6.

194.20 (e) The portion related to development and education of resident and family advisory
194.21 councils under section 144A.33 shall be \$5 divided by 365.

194.22 (f) The portion related to planned closure rate adjustments shall be as determined
194.23 under ~~sections 256B.436 and section 256B.437, subdivision 6, and Minnesota Statutes~~
194.24 2010, section 256B.436. Planned closure rate adjustments that take effect before October
194.25 1, 2014, shall no longer be included in the payment rate for external fixed costs beginning
194.26 October 1, 2016. Planned closure rate adjustments that take effect on or after October 1,
194.27 2014, shall no longer be included in the payment rate for external fixed costs beginning on
194.28 October 1 of the first year not less than two years after their effective date.

194.29 (g) The portions related to property insurance, real estate taxes, special assessments,
194.30 and payments made in lieu of real estate taxes directly identified or allocated to the nursing
194.31 facility shall be the actual amounts divided by actual resident days.

194.32 (h) The portion related to the Public Employees Retirement Association shall be
194.33 actual costs divided by resident days.

194.34 (i) The single bed room incentives shall be as determined under section 256B.431,
194.35 subdivision 42. Single bed room incentives that take effect before October 1, 2014, shall

195.1 no longer be included in the payment rate for external fixed costs beginning October 1,
195.2 2016. Single bed room incentives that take effect on or after October 1, 2014, shall no
195.3 longer be included in the payment rate for external fixed costs beginning on October 1 of
195.4 the first year not less than two years after their effective date.

195.5 (j) The payment rate for external fixed costs shall be the sum of the amounts in
195.6 paragraphs (a) to (i).

195.7 Sec. 27. Minnesota Statutes 2010, section 256B.49, subdivision 21, is amended to read:

195.8 Subd. 21. **Report.** (a) The commissioner shall expand on the annual report required
195.9 under section 256B.0916, subdivision 7, to include information on the county of residence
195.10 and financial responsibility, age, and major diagnoses for persons eligible for the home
195.11 and community-based waivers authorized under subdivision 11 who are:

- 195.12 (1) receiving those services;
195.13 (2) screened and waiting for waiver services; and
195.14 (3) residing in nursing facilities and are under age 65.

195.15 (b) This subdivision expires January 1, 2013.

195.16 Sec. 28. Minnesota Statutes 2011 Supplement, section 626.557, subdivision 9, is
195.17 amended to read:

195.18 Subd. 9. **Common entry point designation.** (a) Each county board shall designate
195.19 a common entry point for reports of suspected maltreatment. Two or more county boards
195.20 may jointly designate a single common entry point. The common entry point is the unit
195.21 responsible for receiving the report of suspected maltreatment under this section.

195.22 (b) The common entry point must be available 24 hours per day to take calls from
195.23 reporters of suspected maltreatment. The common entry point shall use a standard intake
195.24 form that includes:

- 195.25 (1) the time and date of the report;
195.26 (2) the name, address, and telephone number of the person reporting;
195.27 (3) the time, date, and location of the incident;
195.28 (4) the names of the persons involved, including but not limited to, perpetrators,
195.29 alleged victims, and witnesses;
195.30 (5) whether there was a risk of imminent danger to the alleged victim;
195.31 (6) a description of the suspected maltreatment;
195.32 (7) the disability, if any, of the alleged victim;
195.33 (8) the relationship of the alleged perpetrator to the alleged victim;
195.34 (9) whether a facility was involved and, if so, which agency licenses the facility;

196.1 (10) any action taken by the common entry point;

196.2 (11) whether law enforcement has been notified;

196.3 (12) whether the reporter wishes to receive notification of the initial and final
196.4 reports; and

196.5 (13) if the report is from a facility with an internal reporting procedure, the name,
196.6 mailing address, and telephone number of the person who initiated the report internally.

196.7 (c) The common entry point is not required to complete each item on the form prior
196.8 to dispatching the report to the appropriate lead investigative agency.

196.9 (d) The common entry point shall immediately report to a law enforcement agency
196.10 any incident in which there is reason to believe a crime has been committed.

196.11 (e) If a report is initially made to a law enforcement agency or a lead investigative
196.12 agency, those agencies shall take the report on the appropriate common entry point intake
196.13 forms and immediately forward a copy to the common entry point.

196.14 (f) The common entry point staff must receive training on how to screen and
196.15 dispatch reports efficiently and in accordance with this section.

196.16 (g) ~~When a centralized database is available, the common entry point has access to~~
196.17 ~~the centralized database and must log the reports into the database.~~ The commissioner of
196.18 human services shall maintain a centralized database for the collection of common entry
196.19 point data, lead investigative agency data including maltreatment report disposition, and
196.20 appeals data.

196.21 Sec. 29. Minnesota Statutes 2011 Supplement, section 626.5572, subdivision 13,
196.22 is amended to read:

196.23 Subd. 13. **Lead investigative agency.** "Lead investigative agency" is the primary
196.24 administrative agency responsible for investigating reports made under section 626.557.

196.25 (a) The Department of Health is the lead investigative agency for facilities or
196.26 services licensed or required to be licensed as hospitals, home care providers, nursing
196.27 homes, boarding care homes, hospice providers, residential facilities that are also federally
196.28 certified as intermediate care facilities that serve people with developmental disabilities,
196.29 or any other facility or service not listed in this subdivision that is licensed or required to
196.30 be licensed by the Department of Health for the care of vulnerable adults. "Home care
196.31 provider" has the meaning provided in section 144A.43, subdivision 4, and applies when
196.32 care or services are delivered in the vulnerable adult's home, whether a private home or a
196.33 housing with services establishment registered under chapter 144D, including those that
196.34 offer assisted living services under chapter 144G.

197.1 (b) Except as provided under paragraph (c), for services licensed according to
197.2 chapter 245D, the Department of Human Services is the lead investigative agency for
197.3 facilities or services licensed or required to be licensed as adult day care, adult foster care,
197.4 programs for people with developmental disabilities, family adult day services, mental
197.5 health programs, mental health clinics, chemical dependency programs, the Minnesota
197.6 sex offender program, or any other facility or service not listed in this subdivision that is
197.7 licensed or required to be licensed by the Department of Human Services.

197.8 (c) The county social service agency or its designee is the lead investigative agency
197.9 for all other reports, including, but not limited to, reports involving vulnerable adults
197.10 receiving services from a personal care provider organization under section 256B.0659,
197.11 or receiving home and community-based services licensed by the Department of Human
197.12 Services and subject to chapter 245D.

197.13 Sec. 30. Laws 2009, chapter 79, article 8, section 81, as amended by Laws 2010,
197.14 chapter 352, article 1, section 24, is amended to read:

197.15 Sec. 81. **ESTABLISHING A SINGLE SET OF STANDARDS.**

197.16 (a) The commissioner of human services shall consult with disability service
197.17 providers, advocates, counties, and consumer families to develop a single set of standards,
197.18 to be referred to as "quality outcome standards," governing services for people with
197.19 disabilities receiving services under the home and community-based waiver services
197.20 program, with the exception of customized living services because the service license
197.21 is under the jurisdiction of the Department of Health, to replace all or portions of
197.22 existing laws and rules including, but not limited to, data practices, licensure of facilities
197.23 and providers, background studies, reporting of maltreatment of minors, reporting of
197.24 maltreatment of vulnerable adults, and the psychotropic medication checklist. The
197.25 standards must:

197.26 (1) enable optimum consumer choice;

197.27 (2) be consumer driven;

197.28 (3) link services to individual needs and life goals;

197.29 (4) be based on quality assurance and individual outcomes;

197.30 (5) utilize the people closest to the recipient, who may include family, friends, and
197.31 health and service providers, in conjunction with the recipient's risk management plan to
197.32 assist the recipient or the recipient's guardian in making decisions that meet the recipient's
197.33 needs in a cost-effective manner and assure the recipient's health and safety;

197.34 (6) utilize person-centered planning; and

197.35 (7) maximize federal financial participation.

198.1 (b) The commissioner may consult with existing stakeholder groups convened under
198.2 the commissioner's authority, including the home and community-based expert services
198.3 panel established by the commissioner in 2008, to meet all or some of the requirements
198.4 of this section.

198.5 (c) The commissioner shall provide the reports and plans required by this section to
198.6 the legislative committees and budget divisions with jurisdiction over health and human
198.7 services policy and finance by January 15, 2012.

198.8 Sec. 31. **DISABILITY HOME AND COMMUNITY-BASED WAIVER**
198.9 **REQUEST.**

198.10 By December 1, 2012, the commissioner shall request all federal approvals and
198.11 waiver amendments to the disability home and community-based waivers to allow properly
198.12 licensed adult foster care homes to provide residential services for up to five individuals.

198.13 **EFFECTIVE DATE.** This section is effective July 1, 2012.

198.14 Sec. 32. **HOURLY NURSING DETERMINATION MATRIX.**

198.15 A service provider applying for medical assistance payments for private duty nursing
198.16 services under Minnesota Statutes, section 256B.0654, must complete and submit to the
198.17 commissioner of human services an hourly nursing determination matrix for each recipient
198.18 of private duty nursing services. The commissioner of human services will collect and
198.19 analyze data from the hourly nursing determination matrix.

198.20 Sec. 33. **REPEALER.**

198.21 (a) Minnesota Statutes 2010, sections 256B.431, subdivisions 2c, 2g, 2i, 2j, 2k, 2l,
198.22 2o, 3c, 11, 14, 17b, 17f, 19, 20, 25, 27, and 29; 256B.434, subdivisions 4a, 4b, 4c, 4d, 4e,
198.23 4g, 4h, 7, and 8; 256B.435; and 256B.436, are repealed.

198.24 (b) Minnesota Statutes 2011 Supplement, section 256B.431, subdivision 26, is
198.25 repealed.

198.26 (c) Minnesota Rules, part 9555.7700, is repealed.

198.27 **ARTICLE 10**

198.28 **TELEPHONE EQUIPMENT PROGRAM**

198.29 Section 1. Minnesota Statutes 2010, section 237.50, is amended to read:

198.30 **237.50 DEFINITIONS.**

199.1 Subdivision 1. **Scope.** The terms used in sections 237.50 to 237.56 have the
199.2 meanings given them in this section.

199.3 Subd. 3. **Communication ~~impaired~~ disability.** "Communication ~~impaired~~
199.4 disability" means certified as ~~deaf, severely hearing impaired, hard-of-hearing~~ having
199.5 a hearing loss, speech ~~impaired, deaf and blind disability~~, or mobility impaired if the
199.6 mobility impairment significantly impedes the ability physical disability that makes it
199.7 difficult or impossible to use standard customer premises telecommunications services
199.8 and equipment.

199.9 ~~Subd. 4. **Communication device.** "Communication device" means a device that~~
199.10 ~~when connected to a telephone enables a communication-impaired person to communicate~~
199.11 ~~with another person utilizing the telephone system. A "communication device" includes a~~
199.12 ~~ring signaler, an amplification device, a telephone device for the deaf, a Braille device~~
199.13 ~~for use with a telephone, and any other device the Department of Human Services deems~~
199.14 ~~necessary.~~

199.15 Subd. 4a. **Deaf.** "Deaf" means a hearing ~~impairment~~ loss of such severity that the
199.16 individual must depend primarily upon visual communication such as writing, lip reading,
199.17 ~~manual communication~~ sign language, and gestures.

199.18 Subd. 4b. **Deafblind.** "Deafblind" means any combination of vision and hearing
199.19 loss which interferes with acquiring information from the environment to the extent that
199.20 compensatory strategies and skills are necessary to access that or other information.

199.21 ~~Subd. 5. **Exchange.** "Exchange" means a unit area established and described by the~~
199.22 ~~tariff of a telephone company for the administration of telephone service in a specified~~
199.23 ~~geographical area, usually embracing a city, town, or village and its environs, and served~~
199.24 ~~by one or more central offices, together with associated facilities used in providing~~
199.25 ~~service within that area.~~

199.26 Subd. 6. **Fund.** "Fund" means the telecommunications access Minnesota fund
199.27 established in section 237.52.

199.28 Subd. 6a. **Hard-of-hearing.** "Hard-of-hearing" means a hearing ~~impairment~~ loss
199.29 resulting in a functional ~~loss~~ limitation, but not to the extent that the individual must
199.30 depend primarily upon visual communication.

199.31 ~~Subd. 7. **Interexchange service.** "Interexchange service" means telephone service~~
199.32 ~~between points in two or more exchanges.~~

199.33 ~~Subd. 8. **Inter-LATA interexchange service.** "Inter-LATA interexchange service"~~
199.34 ~~means interexchange service originating and terminating in different LATAs.~~

199.35 ~~Subd. 9. **Local access and transport area.** "Local access and transport area~~
199.36 ~~(LATA)" means a geographical area designated by the Modification of Final Judgment~~

200.1 ~~in U.S. v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982), including~~
200.2 ~~modifications in effect on the effective date of sections 237.51 to 237.54.~~

200.3 ~~Subd. 10. **Local exchange service.** "Local exchange service" means telephone~~
200.4 ~~service between points within an exchange.~~

200.5 Subd. 10a. **Telecommunications device.** "Telecommunications device" means
200.6 a device that (1) allows a person with a communication disability to have access to
200.7 telecommunications services as defined in subdivision 13, and (2) is specifically
200.8 selected by the Department of Human Services for its capacity to allow persons with
200.9 communication disabilities to use telecommunications services in a manner that is
200.10 functionally equivalent to the ability of an individual who does not have a communication
200.11 disability. A telecommunications device may include a ring signaler, an amplified
200.12 telephone, a hands-free telephone, a text telephone, a captioned telephone, a wireless
200.13 device, a device that produces Braille output for use with a telephone, and any other
200.14 device the Department of Human Services deems appropriate.

200.15 ~~Subd. 11. **Telecommunication Telecommunications Relay service Services.**~~
200.16 ~~"Telecommunication Telecommunications Relay service Services" or "TRS" means~~
200.17 ~~a central statewide service through which a communication-impaired person,~~
200.18 ~~using a communication device, may send and receive messages to and from a~~
200.19 ~~non-communication-impaired person whose telephone is not equipped with a~~
200.20 ~~communication device and through which a non-communication-impaired person~~
200.21 ~~may, by using voice communication, send and receive messages to and from a~~
200.22 ~~communication-impaired person the telecommunications transmission services required~~
200.23 ~~under Federal Communications Commission (FCC) regulations at Code of Federal~~
200.24 ~~Regulations, title 47, sections 64.604 to 64.606. TRS allows an individual who has~~
200.25 ~~a communication disability to use telecommunications services in a manner that is~~
200.26 ~~functionally equivalent to the ability of an individual who does not have a communication~~
200.27 ~~disability.~~

200.28 Subd. 12. **Telecommunications.** "Telecommunications" means the transmission,
200.29 between or among points specified by the user, of information of the user's choosing,
200.30 without change in the form or content of the information as sent and received.

200.31 Subd. 13. **Telecommunications services.** "Telecommunications services" means
200.32 the offering of telecommunications for fee directly to the public, or to such classes of users
200.33 as to be effectively available to the public, regardless of the facilities used.

201.1 Sec. 2. Minnesota Statutes 2010, section 237.51, is amended to read:

201.2 **237.51 TELECOMMUNICATIONS ACCESS MINNESOTA PROGRAM**
 201.3 **ADMINISTRATION.**

201.4 Subdivision 1. **Creation.** The commissioner of commerce shall:

201.5 (1) administer through interagency agreement with the commissioner of human
 201.6 services a program to distribute ~~communication~~ telecommunications devices to eligible
 201.7 ~~communication-impaired~~ persons who have communication disabilities; and

201.8 (2) contract with ~~a~~ one or more qualified ~~vendor~~ vendors that ~~serves~~
 201.9 ~~communication-impaired~~ serve persons who have communication disabilities to ~~create~~
 201.10 ~~and maintain a telecommunication~~ provide telecommunications relay service services.

201.11 For purposes of sections 237.51 to 237.56, the Department of Commerce and any
 201.12 organization with which it contracts pursuant to this section or section 237.54, subdivision
 201.13 2, are not telephone companies or telecommunications carriers as defined in section
 201.14 237.01.

201.15 Subd. 5. **Commissioner of commerce duties.** In addition to any duties specified
 201.16 elsewhere in sections 237.51 to 237.56, the commissioner of commerce shall:

201.17 (1) prepare the reports required by section 237.55;

201.18 (2) administer the fund created in section 237.52; and

201.19 (3) adopt rules under chapter 14 to implement the provisions of sections 237.50
 201.20 to 237.56.

201.21 Subd. 5a. ~~Department~~ **Commissioner of human services duties.** (a) In addition to
 201.22 any duties specified elsewhere in sections 237.51 to 237.56, the commissioner of human
 201.23 services shall:

201.24 (1) define economic hardship, special needs, and household criteria so as to
 201.25 determine the priority of eligible applicants for initial distribution of devices and to
 201.26 determine circumstances necessitating provision of more than one ~~communication~~
 201.27 telecommunications device per household;

201.28 (2) establish a method to verify eligibility requirements;

201.29 (3) establish specifications for ~~communication~~ telecommunications devices to be
 201.30 ~~purchased~~ provided under section 237.53, subdivision 3; ~~and~~

201.31 (4) inform the public and specifically ~~the community of communication-impaired~~
 201.32 persons who have communication disabilities of the program; and

201.33 (5) provide devices based on the assessed need of eligible applicants.

201.34 (b) The commissioner may establish an advisory board to advise the department
 201.35 in carrying out the duties specified in this section and to advise the commissioner of

202.1 commerce in carrying out duties under section 237.54. If so established, the advisory
202.2 board must include, at a minimum, the following ~~communication-impaired~~ persons:

202.3 (1) at least one member who is deaf;

202.4 (2) at least one member who ~~is~~ has a speech impaired disability;

202.5 (3) at least one member who ~~is mobility impaired~~ has a physical disability that
202.6 makes it difficult or impossible for the person to access telecommunications services; and

202.7 (4) at least one member who is hard-of-hearing.

202.8 The membership terms, compensation, and removal of members and the filling of
202.9 membership vacancies are governed by section 15.059. Advisory board meetings shall be
202.10 held at the discretion of the commissioner.

202.11 Sec. 3. Minnesota Statutes 2010, section 237.52, is amended to read:

202.12 **237.52 TELECOMMUNICATIONS ACCESS MINNESOTA FUND.**

202.13 Subdivision 1. **Fund established.** A telecommunications access Minnesota fund is
202.14 established as an account in the state treasury. Earnings, such as interest, dividends, and
202.15 any other earnings arising from fund assets, must be credited to the fund.

202.16 Subd. 2. **Assessment.** (a) The commissioner of commerce, the commissioner
202.17 of employment and economic development, and the commissioner of human services
202.18 shall annually recommend to the Public Utilities Commission (PUC) an adequate and
202.19 appropriate surcharge and budget to implement sections 237.50 to 237.56, 248.062,
202.20 and 256C.30, respectively. The maximum annual budget for section 248.062 must not
202.21 exceed \$100,000 and for section 256C.30 must not exceed \$300,000. The Public Utilities
202.22 Commission shall review the budgets for reasonableness and may modify the budget
202.23 to the extent it is unreasonable. The commission shall annually determine the funding
202.24 mechanism to be used within 60 days of receipt of the recommendation of the departments
202.25 and shall order the imposition of surcharges effective on the earliest practicable date. The
202.26 commission shall establish a monthly charge no greater than 20 cents for each customer
202.27 access line, including trunk equivalents as designated by the commission pursuant to
202.28 section 403.11, subdivision 1.

202.29 (b) If the fund balance falls below a level capable of fully supporting all programs
202.30 eligible under subdivision 5 and sections 248.062 and 256C.30, expenditures under
202.31 sections 248.062 and 256C.30 shall be reduced on a pro rata basis and expenditures under
202.32 sections 237.53 and 237.54 shall be fully funded. Expenditures under sections 248.062
202.33 and 256C.30 shall resume at fully funded levels when the commissioner of commerce
202.34 determines there is a sufficient fund balance to fully fund those expenditures.

203.1 Subd. 3. **Collection.** Every ~~telephone company or communications carrier that~~
203.2 ~~provides service~~ provider of services capable of originating a ~~telecommunications relay~~
203.3 TRS call, including cellular communications and other nonwire access services, in this
203.4 state shall collect the charges established by the commission under subdivision 2 and
203.5 transfer amounts collected to the commissioner of public safety in the same manner as
203.6 provided in section 403.11, subdivision 1, paragraph (d). The commissioner of public
203.7 safety must deposit the receipts in the fund established in subdivision 1.

203.8 Subd. 4. **Appropriation.** Money in the fund is appropriated to the commissioner of
203.9 commerce to implement sections 237.51 to 237.56, to the commissioner of employment
203.10 and economic development to implement section 248.062, and to the commissioner of
203.11 human services to implement section 256C.30.

203.12 Subd. 5. **Expenditures.** (a) Money in the fund may only be used for:

203.13 (1) expenses of the Department of Commerce, including personnel cost, public
203.14 relations, advisory board members' expenses, preparation of reports, and other reasonable
203.15 expenses not to exceed ten percent of total program expenditures;

203.16 (2) reimbursing the commissioner of human services for purchases made or services
203.17 provided pursuant to section 237.53;

203.18 (3) reimbursing telephone companies for purchases made or services provided
203.19 under section 237.53, subdivision 5; and

203.20 (4) contracting for ~~establishment and operation of the telecommunication relay~~
203.21 ~~service~~ the provision of TRS required by section 237.54.

203.22 (b) All costs directly associated with the establishment of the program, the purchase
203.23 and distribution of ~~communication~~ telecommunications devices, and the ~~establishment~~
203.24 ~~and operation of the telecommunication relay service~~ provision of TRS are either
203.25 reimbursable or directly payable from the fund after authorization by the commissioner
203.26 of commerce. The commissioner of commerce shall contract with ~~the message relay~~
203.27 ~~service operator~~ one or more TRS providers to indemnify the ~~local exchange carriers of~~
203.28 ~~the relay telecommunications~~ service providers for any fines imposed by the Federal
203.29 Communications Commission related to the failure of the relay service to comply with
203.30 federal service standards. Notwithstanding section 16A.41, the commissioner may
203.31 advance money to the ~~contractor of the telecommunication relay service~~ TRS providers if
203.32 the ~~contractor establishes~~ providers establish to the commissioner's satisfaction that the
203.33 advance payment is necessary for the ~~operation~~ provision of the service. The advance
203.34 payment may be used only for working capital reserve for the operation of the service.
203.35 The advance payment must be offset or repaid by the end of the contract fiscal year
203.36 together with interest accrued from the date of payment.

204.1 Sec. 4. Minnesota Statutes 2010, section 237.53, is amended to read:

204.2 **237.53 ~~COMMUNICATION~~ TELECOMMUNICATIONS DEVICE.**

204.3 Subdivision 1. **Application.** A person applying for a ~~communication~~
204.4 telecommunications device under this section must apply to the program administrator on
204.5 a form prescribed by the Department of Human Services.

204.6 Subd. 2. **Eligibility.** To be eligible to obtain a ~~communication~~ telecommunications
204.7 device under this section, a person must ~~be~~:

204.8 (1) be able to benefit from and use the equipment for its intended purpose;

204.9 (2) have a communication ~~impaired~~ disability;

204.10 (3) be a resident of the state;

204.11 (4) be a resident in a household that has a median income at or below the applicable
204.12 median household income in the state, except a ~~deaf and blind~~ person who is deafblind
204.13 applying for a ~~telebraille unit~~ Braille device may reside in a household that has a median
204.14 income no more than 150 percent of the applicable median household income in the
204.15 state; and

204.16 (5) be a resident in a household that has ~~telephone~~ telecommunications service
204.17 or that has made application for service and has been assigned a telephone number; or
204.18 a resident in a residential care facility, such as a nursing home or group home where
204.19 ~~telephone~~ telecommunications service is not included as part of overall service provision.

204.20 Subd. 3. **Distribution.** The commissioner of human services shall purchase and
204.21 distribute a sufficient number of ~~communication~~ telecommunications devices so that each
204.22 eligible household receives ~~an appropriate device~~ devices as determined under section
204.23 237.51, subdivision 5a. The commissioner of human services shall distribute the devices
204.24 to eligible households ~~in each service area free of charge as determined under section~~
204.25 ~~237.51, subdivision 5a.~~

204.26 Subd. 4. **Training; maintenance.** The commissioner of human services shall
204.27 maintain the ~~communication~~ telecommunications devices until the warranty period
204.28 expires, and provide training, without charge, to first-time users of the devices.

204.29 ~~Subd. 5. **Wiring installation.** If a communication-impaired person is not served by~~
204.30 ~~telephone service and is subject to economic hardship as determined by the Department~~
204.31 ~~of Human Services, the telephone company providing local service shall at the direction~~
204.32 ~~of the administrator of the program install necessary outside wiring without charge to~~
204.33 ~~the household.~~

204.34 Subd. 6. **Ownership.** ~~All communication~~ Telecommunications devices purchased
204.35 pursuant to subdivision 3 ~~will become~~ are the property of the state of Minnesota. Policies
204.36 and procedures for the return of devices from individuals who withdraw from the program

205.1 or whose eligibility status changes shall be determined by the commissioner of human
 205.2 services.

205.3 Subd. 7. **Standards.** The ~~communication~~ telecommunications devices distributed
 205.4 under this section must comply with the electronic industries ~~association~~ alliance standards
 205.5 and be approved by the Federal Communications Commission. The commissioner of
 205.6 human services must provide each eligible person a choice of several models of devices,
 205.7 the retail value of which may not exceed \$600 for a ~~communication device for the deaf~~
 205.8 text telephone, and a retail value of \$7,000 for a ~~telebraille~~ Braille device, or an amount
 205.9 authorized by the Department of Human Services for a ~~telephone device for the deaf with~~
 205.10 auxiliary equipment all other telecommunications devices and auxiliary equipment it
 205.11 deems cost-effective and appropriate to distribute according to sections 237.51 to 237.56.

205.12 Sec. 5. Minnesota Statutes 2010, section 237.54, is amended to read:

205.13 **237.54 TELECOMMUNICATION TELECOMMUNICATIONS RELAY**
 205.14 **SERVICE SERVICES (TRS).**

205.15 Subd. 2. **Operation.** (a) The commissioner of commerce shall contract with
 205.16 ~~a one or more qualified vendor vendors~~ for the ~~operation and maintenance of the~~
 205.17 ~~telecommunication relay system~~ provision of Telecommunications Relay Services (TRS).

205.18 (b) The ~~telecommunication relay service provider~~ TRS providers shall operate the
 205.19 relay service within the state of Minnesota. The ~~operator of the system~~ TRS providers
 205.20 shall ~~keep all messages confidential, shall train personnel in the unique needs of~~
 205.21 ~~communication-impaired people, and shall inform communication-impaired persons~~
 205.22 ~~and the public of the availability and use of the system. Except in the case of a speech-~~
 205.23 ~~or mobility-impaired person, the operator shall not relay a message unless it originates~~
 205.24 ~~or terminates through a communication device for the deaf or a Braille device for use~~
 205.25 ~~with a telephone~~ comply with all current and subsequent FCC regulations at Code of
 205.26 Federal Regulations, title 47, sections 64.601 to 64.606, and shall inform persons who
 205.27 have communication disabilities and the public of the availability and use of TRS.

205.28 Sec. 6. Minnesota Statutes 2010, section 237.55, is amended to read:

205.29 **237.55 ANNUAL REPORT ON COMMUNICATION**
 205.30 **TELECOMMUNICATIONS ACCESS.**

205.31 The commissioner of commerce must prepare a report for presentation to the Public
 205.32 Utilities Commission by January 31 of each year. Each report must review the accessibility
 205.33 of ~~the telephone system to communication-impaired persons, review the ability of~~
 205.34 ~~non-communication-impaired persons to communicate with communication-impaired~~

206.1 ~~persons via the telephone system~~ telecommunications services to persons who have
206.2 communication disabilities, describe services provided, account for ~~money received and~~
206.3 ~~disbursed annually~~ annual revenues and expenditures for each aspect of the ~~program~~ fund
206.4 to date, and include predicted program future operation.

206.5 Sec. 7. Minnesota Statutes 2010, section 237.56, is amended to read:

206.6 **237.56 ADEQUATE SERVICE ENFORCEMENT.**

206.7 The services required to be provided under sections 237.50 to 237.55 may be
206.8 enforced under section 237.081 upon a complaint of at least two ~~communication-impaired~~
206.9 persons within the service area of any one ~~telephone company~~ telecommunications
206.10 service provider, provided that if only one person within the service area of a company
206.11 is receiving service under sections 237.50 to 237.55, the ~~commission~~ Public Utilities
206.12 Commission may proceed upon a complaint from that person.

206.13 **ARTICLE 11**

206.14 **COMPREHENSIVE ASSESSMENT AND CASE MANAGEMENT REFORM**

206.15 Section 1. Minnesota Statutes 2011 Supplement, section 256B.0625, subdivision 56,
206.16 is amended to read:

206.17 Subd. 56. **Medical service coordination.** (a) Medical assistance covers in-reach
206.18 community-based service coordination that is performed ~~in~~ through a hospital emergency
206.19 department as an eligible procedure under a state healthcare program ~~or private insurance~~
206.20 for a frequent user. A frequent user is defined as an individual who has frequented the
206.21 hospital emergency department for services three or more times in the previous four
206.22 consecutive months. In-reach community-based service coordination includes navigating
206.23 services to address a client's mental health, chemical health, social, economic, and housing
206.24 needs, or any other activity targeted at reducing the incidence of emergency room and
206.25 other nonmedically necessary health care utilization.

206.26 (b) Reimbursement must be made in 15-minute increments ~~under current Medicaid~~
206.27 ~~mental health social work reimbursement methodology~~ and allowed for up to 60 days
206.28 posthospital discharge based upon the specific identified emergency department visit or
206.29 inpatient admitting event. ~~A frequent user who is participating in care coordination within~~
206.30 ~~a health care home framework is ineligible for reimbursement under this subdivision.~~
206.31 In-reach community-based service coordination shall seek to connect frequent users with
206.32 existing covered services available to them, including, but not limited to, targeted case
206.33 management, waiver case management, or care coordination in a health care home.

207.1 Eligible in-reach service coordinators must hold a minimum of a bachelor's degree in
207.2 social work, public health, corrections, or a related field. The commissioner shall submit
207.3 any necessary application for waivers to the Centers for Medicare and Medicaid Services
207.4 to implement this subdivision.

207.5 (c) For the purposes of this subdivision, "in-reach community-based service
207.6 coordination" means the practice of a community-based worker with training, knowledge,
207.7 skills, and ability to access a continuum of services, including housing, transportation,
207.8 chemical and mental health treatment, employment, and peer support services, by working
207.9 with an organization's staff to transition an individual back into the individual's living
207.10 environment. In-reach community-based service coordination includes working with the
207.11 individual during their discharge and for up to a defined amount of time in the individual's
207.12 living environment, reducing the individual's need for readmittance.

207.13 Sec. 2. Minnesota Statutes 2010, section 256B.0659, subdivision 1, is amended to read:

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

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

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

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

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

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

207.28 (g) "Extended personal care assistance service" means personal care assistance
207.29 services included in a service plan under one of the home and community-based services
207.30 waivers authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49,
207.31 which exceed the amount, duration, and frequency of the state plan personal care
207.32 assistance services for participants who:

207.33 (1) need assistance provided periodically during a week, but less than daily will not
207.34 be able to remain in their homes without the assistance, and other replacement services

208.1 are more expensive or are not available when personal care assistance services are to be
208.2 terminated; or

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

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

208.9 (i) "Instrumental activities of daily living" means activities to include meal planning
208.10 and preparation; basic assistance with paying bills; shopping for food, clothing, and other
208.11 essential items; performing household tasks integral to the personal care assistance
208.12 services; communication by telephone and other media; and traveling, including to
208.13 medical appointments and to participate in the community.

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

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

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

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

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

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

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

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

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

209.1 long-term care insurance, uniform allowance, and contributions to employee retirement
209.2 accounts.

209.3 Sec. 3. Minnesota Statutes 2010, section 256B.0659, subdivision 2, is amended to read:

209.4 Subd. 2. **Personal care assistance services; covered services.** (a) The personal
209.5 care assistance services eligible for payment include services and supports furnished
209.6 to an individual, as needed, to assist in:

- 209.7 (1) activities of daily living;
209.8 (2) health-related procedures and tasks;
209.9 (3) observation and redirection of behaviors; and
209.10 (4) instrumental activities of daily living.

209.11 (b) Activities of daily living include the following covered services:

- 209.12 (1) dressing, including assistance with choosing, application, and changing of
209.13 clothing and application of special appliances, wraps, or clothing;
209.14 (2) grooming, including assistance with basic hair care, oral care, shaving, applying
209.15 cosmetics and deodorant, and care of eyeglasses and hearing aids. Nail care is included,
209.16 except for recipients who are diabetic or have poor circulation;
209.17 (3) bathing, including assistance with basic personal hygiene and skin care;
209.18 (4) eating, including assistance with hand washing and application of orthotics
209.19 required for eating, transfers, and feeding;
209.20 (5) transfers, including assistance with transferring the recipient from one seating or
209.21 reclining area to another;
209.22 (6) mobility, including assistance with ambulation, including use of a wheelchair.
209.23 Mobility does not include providing transportation for a recipient;
209.24 (7) positioning, including assistance with positioning or turning a recipient for
209.25 necessary care and comfort; and
209.26 (8) toileting, including assistance with helping recipient with bowel or bladder
209.27 elimination and care including transfers, mobility, positioning, feminine hygiene, use of
209.28 toileting equipment or supplies, cleansing the perineal area, inspection of the skin, and
209.29 adjusting clothing.

209.30 (c) Health-related procedures and tasks include the following covered services:

- 209.31 (1) range of motion and passive exercise to maintain a recipient's strength and
209.32 muscle functioning;
209.33 (2) assistance with self-administered medication as defined by this section, including
209.34 reminders to take medication, bringing medication to the recipient, and assistance with

210.1 opening medication under the direction of the recipient or responsible party, including
210.2 medications given through a nebulizer;

210.3 (3) interventions for seizure disorders, including monitoring and observation; and

210.4 (4) other activities considered within the scope of the personal care service and
210.5 meeting the definition of health-related procedures and tasks under this section.

210.6 (d) A personal care assistant may provide health-related procedures and tasks
210.7 associated with the complex health-related needs of a recipient if the procedures and
210.8 tasks meet the definition of health-related procedures and tasks under this section and the
210.9 personal care assistant is trained by a qualified professional and demonstrates competency
210.10 to safely complete the procedures and tasks. Delegation of health-related procedures and
210.11 tasks and all training must be documented in the personal care assistance care plan and the
210.12 recipient's and personal care assistant's files. A personal care assistant must not determine
210.13 the medication dose or time for medication.

210.14 (e) Effective January 1, 2010, for a personal care assistant to provide the
210.15 health-related procedures and tasks of tracheostomy suctioning and services to recipients
210.16 on ventilator support there must be:

210.17 (1) delegation and training by a registered nurse, certified or licensed respiratory
210.18 therapist, or a physician;

210.19 (2) utilization of clean rather than sterile procedure;

210.20 (3) specialized training about the health-related procedures and tasks and equipment,
210.21 including ventilator operation and maintenance;

210.22 (4) individualized training regarding the needs of the recipient; and

210.23 (5) supervision by a qualified professional who is a registered nurse.

210.24 (f) Effective January 1, 2010, a personal care assistant may observe and redirect the
210.25 recipient for episodes where there is a need for redirection due to behaviors. Training of
210.26 the personal care assistant must occur based on the needs of the recipient, the personal
210.27 care assistance care plan, and any other support services provided.

210.28 (g) Instrumental activities of daily living under subdivision 1, paragraph (i).

210.29 Sec. 4. Minnesota Statutes 2010, section 256B.0659, subdivision 3a, is amended to
210.30 read:

210.31 Subd. 3a. **Assessment; defined.** (a) "Assessment" means a review and evaluation
210.32 of a recipient's need for ~~home~~ personal care assistance services conducted in person.

210.33 Assessments for personal care assistance services shall be conducted by the county public
210.34 health nurse or a certified public health nurse under contract with the county except when a
210.35 long-term care consultation assessment is being conducted for the purposes of determining

211.1 a person's eligibility for home and community-based waiver services including personal
211.2 care assistance services according to section 256B.0911. An in-person assessment
211.3 must include: documentation of health status, determination of need, evaluation of
211.4 service effectiveness, identification of appropriate services, service plan development
211.5 or modification, coordination of services, referrals and follow-up to appropriate payers
211.6 and community resources, completion of required reports, recommendation of service
211.7 authorization, and consumer education. Once the need for personal care assistance
211.8 services is determined under this section ~~or sections 256B.0651, 256B.0653, 256B.0654,~~
211.9 ~~and 256B.0656,~~ the county public health nurse or certified public health nurse under
211.10 contract with the county is responsible for communicating this recommendation to the
211.11 commissioner and the recipient. An in-person assessment must occur at least annually or
211.12 when there is a significant change in the recipient's condition or when there is a change
211.13 in the need for personal care assistance services. A service update may substitute for
211.14 the annual face-to-face assessment when there is not a significant change in recipient
211.15 condition or a change in the need for personal care assistance service. A service update
211.16 may be completed by telephone, used when there is no need for an increase in personal
211.17 care assistance services, and used for two consecutive assessments if followed by a
211.18 face-to-face assessment. A service update must be completed on a form approved by the
211.19 commissioner. A service update or review for temporary increase includes a review of
211.20 initial baseline data, evaluation of service effectiveness, redetermination of service need,
211.21 modification of service plan and appropriate referrals, update of initial forms, obtaining
211.22 service authorization, and on going consumer education. Assessments or reassessments
211.23 must be completed on forms provided by the commissioner within 30 days of a request for
211.24 home care services by a recipient or responsible party ~~or personal care provider agency.~~
211.25 (b) This subdivision expires when notification is given by the commissioner as
211.26 described in section 256B.0911, subdivision 3a.

211.27 Sec. 5. Minnesota Statutes 2010, section 256B.0659, subdivision 4, is amended to read:

211.28 Subd. 4. **Assessment for personal care assistance services; limitations.** (a) An
211.29 assessment as defined in subdivision 3a must be completed for personal care assistance
211.30 services.

211.31 (b) The following limitations apply to the assessment:

211.32 (1) a person must be assessed as dependent in an activity of daily living based on the
211.33 person's daily need or need on the days during the week the activity is completed for:

211.34 (i) cuing and constant supervision to complete the task; or

211.35 (ii) hands-on assistance to complete the task; and

212.1 (2) a child may not be found to be dependent in an activity of daily living if because
212.2 of the child's age an adult would either perform the activity for the child or assist the child
212.3 with the activity. Assistance needed is the assistance appropriate for a typical child of
212.4 the same age.

212.5 (c) Assessment for complex health-related needs must meet the criteria in this
212.6 paragraph. ~~During the assessment process,~~ A recipient qualifies as having complex
212.7 health-related needs if the recipient has one or more of the interventions that are ordered
212.8 by a physician, specified in a personal care assistance care plan or community support
212.9 plan developed under section 256B.0911, and found in the following:

212.10 (1) tube feedings requiring:

212.11 (i) a gastrojejunostomy tube; or

212.12 (ii) continuous tube feeding lasting longer than 12 hours per day;

212.13 (2) wounds described as:

212.14 (i) stage III or stage IV;

212.15 (ii) multiple wounds;

212.16 (iii) requiring sterile or clean dressing changes or a wound vac; or

212.17 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require
212.18 specialized care;

212.19 (3) parenteral therapy described as:

212.20 (i) IV therapy more than two times per week lasting longer than four hours for
212.21 each treatment; or

212.22 (ii) total parenteral nutrition (TPN) daily;

212.23 (4) respiratory interventions, including:

212.24 (i) oxygen required more than eight hours per day;

212.25 (ii) respiratory vest more than one time per day;

212.26 (iii) bronchial drainage treatments more than two times per day;

212.27 (iv) sterile or clean suctioning more than six times per day;

212.28 (v) dependence on another to apply respiratory ventilation augmentation devices
212.29 such as BiPAP and CPAP; and

212.30 (vi) ventilator dependence under section 256B.0652;

212.31 (5) insertion and maintenance of catheter, including:

212.32 (i) sterile catheter changes more than one time per month;

212.33 (ii) clean intermittent catheterization, and including self-catheterization more than
212.34 six times per day; or

212.35 (iii) bladder irrigations;

213.1 (6) bowel program more than two times per week requiring more than 30 minutes to
213.2 perform each time;

213.3 (7) neurological intervention, including:

213.4 (i) seizures more than two times per week and requiring significant physical
213.5 assistance to maintain safety; or

213.6 (ii) swallowing disorders diagnosed by a physician and requiring specialized
213.7 assistance from another on a daily basis; and

213.8 (8) other congenital or acquired diseases creating a need for significantly increased
213.9 direct hands-on assistance and interventions in six to eight activities of daily living.

213.10 (d) An assessment of behaviors must meet the criteria in this paragraph. A recipient
213.11 qualifies as having a need for assistance due to behaviors if the recipient's behavior requires
213.12 assistance at least four times per week and shows one or more of the following behaviors:

213.13 (1) physical aggression towards self or others, or destruction of property that requires
213.14 the immediate response of another person;

213.15 (2) increased vulnerability due to cognitive deficits or socially inappropriate
213.16 behavior; or

213.17 (3) increased need for assistance for recipients who are verbally aggressive and or
213.18 resistive to care so that the time needed to perform activities of daily living is increased.

213.19 Sec. 6. Minnesota Statutes 2010, section 256B.0911, subdivision 1, is amended to read:

213.20 Subdivision 1. **Purpose and goal.** (a) The purpose of long-term care consultation
213.21 services is to assist persons with long-term or chronic care needs in making ~~long-term~~ care
213.22 decisions and selecting support and service options that meet their needs and reflect their
213.23 preferences. The availability of, and access to, information and other types of assistance,
213.24 including assessment and support planning, is also intended to prevent or delay ~~certified~~
213.25 ~~nursing facility~~ institutional placements and to provide access to transition assistance
213.26 after admission. Further, the goal of these services is to contain costs associated with
213.27 unnecessary ~~certified nursing facility~~ institutional admissions. Long-term consultation
213.28 services must be available to any person regardless of public program eligibility. The
213.29 commissioner of human services shall seek to maximize use of available federal and state
213.30 funds and establish the broadest program possible within the funding available.

213.31 (b) These services must be coordinated with long-term care options counseling
213.32 provided under section 256.975, subdivision 7, and section 256.01, subdivision 24, ~~for~~
213.33 ~~telephone assistance and follow up and to offer a variety of cost-effective alternatives~~
213.34 ~~to persons with disabilities and elderly persons.~~ The ~~county or tribal~~ lead agency or
213.35 ~~managed care plan~~ providing long-term care consultation services shall encourage the use

214.1 of volunteers from families, religious organizations, social clubs, and similar civic and
214.2 service organizations to provide community-based services.

214.3 Sec. 7. Minnesota Statutes 2011 Supplement, section 256B.0911, subdivision 1a,
214.4 is amended to read:

214.5 Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

214.6 (a) Until additional requirements apply under paragraph (b), "long-term care
214.7 consultation services" means:

214.8 (1) intake for and access to assistance in identifying services needed to maintain an
214.9 individual in the most inclusive environment;

214.10 (2) providing recommendations ~~on~~ for and referrals to cost-effective community
214.11 services that are available to the individual;

214.12 (3) development of an individual's person-centered community support plan;

214.13 (4) providing information regarding eligibility for Minnesota health care programs;

214.14 (5) face-to-face long-term care consultation assessments, which may be completed
214.15 in a hospital, nursing facility, intermediate care facility for persons with developmental
214.16 disabilities (ICF/DDs), regional treatment centers, or the person's current or planned
214.17 residence;

214.18 (6) federally mandated preadmission screening to determine the need for an
214.19 ~~institutional level of care under subdivision 4a~~ activities described under subdivisions
214.20 4a and 4b;

214.21 (7) determination of home and community-based waiver and other service eligibility
214.22 as required under sections 256B.0913, 256B.0915, and 256B.49, including level of
214.23 care determination for individuals who need an institutional level of care as determined
214.24 under section 256B.0911, subdivision 4a, paragraph (d), ~~or 256B.092, service eligibility~~
214.25 ~~including state plan home care services identified in sections 256B.0625, subdivisions 6,~~
214.26 ~~7, and 19, paragraphs (a) and (c), and 256B.0657, based on assessment and community~~
214.27 support plan development ~~with,~~ appropriate referrals to obtain necessary diagnostic
214.28 information, and including ~~the option~~ an eligibility determination for consumer-directed
214.29 community supports;

214.30 (8) providing recommendations for ~~nursing facility~~ institutional placement when
214.31 there are no cost-effective community services available; ~~and~~

214.32 (9) providing access to assistance to transition people back to community settings
214.33 after ~~facility~~ institutional admission; ~~and~~

214.34 (10) providing information about competitive employment, with or without supports,
214.35 for school-age youth and working-age adults and referrals to the Disability Linkage

215.1 Line and Disability Benefits 101 to ensure that an informed choice about competitive
215.2 employment can be made. For the purposes of this subdivision, "competitive employment"
215.3 means work in the competitive labor market that is performed on a full-time or part-time
215.4 basis in an integrated setting, and for which an individual is compensated at or above the
215.5 minimum wage, but not less than the customary wage and level of benefits paid by the
215.6 employer for the same or similar work performed by individuals without disabilities.

215.7 (b) Upon statewide implementation of lead agency requirements in subdivisions 2b,
215.8 2c, and 3a, "long-term care consultation services" also means:

215.9 (1) service eligibility determination for state plan home care services identified in:

215.10 (i) section 256B.0625, subdivisions 7, 19a, and 19c;

215.11 (ii) section 256B.0657; or

215.12 (iii) consumer support grants under section 256.476;

215.13 (2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024,
215.14 determination of eligibility for case management services available under sections
215.15 256B.0621, subdivision 2, paragraph (4), and 256B.0924 and Minnesota Rules, part
215.16 9525.0016;

215.17 (3) determination of institutional level of care, home and community-based service
215.18 waiver, and other service eligibility as required under section 256B.092, determination
215.19 of eligibility for family support grants under section 252.32, semi-independent living
215.20 services under section 252.275, and day training and habilitation services under section
215.21 256B.092; and

215.22 (4) obtaining necessary diagnostic information to determine eligibility under clauses
215.23 (2) and (3).

215.24 ~~(b)~~ (c) "Long-term care options counseling" means the services provided by the
215.25 linkage lines as mandated by sections 256.01 and 256.975, subdivision 7, and also
215.26 includes telephone assistance and follow up once a long-term care consultation assessment
215.27 has been completed.

215.28 ~~(c)~~ (d) "Minnesota health care programs" means the medical assistance program
215.29 under chapter 256B and the alternative care program under section 256B.0913.

215.30 ~~(d)~~ (e) "Lead agencies" means counties administering or a collaboration of counties,
215.31 tribes, and health plans administering under contract with the commissioner to administer
215.32 long-term care consultation assessment and support planning services.

215.33 Sec. 8. Minnesota Statutes 2010, section 256B.0911, subdivision 2b, is amended to
215.34 read:

216.1 Subd. 2b. **Certified assessors.** (a) ~~Beginning January 1, 2011,~~ Each lead agency
216.2 shall use certified assessors who have completed training and the certification processes
216.3 determined by the commissioner in subdivision 2c. Certified assessors shall demonstrate
216.4 best practices in assessment and support planning including person-centered planning
216.5 principals and have a common set of skills that must ensure consistency and equitable
216.6 access to services statewide. ~~Assessors must be part of a multidisciplinary team of~~
216.7 ~~professionals that includes public health nurses, social workers, and other professionals~~
216.8 ~~as defined in paragraph (b). For persons with complex health care needs, a public health~~
216.9 ~~nurse or registered nurse from a multidisciplinary team must be consulted.~~ A lead agency
216.10 may choose, according to departmental policies, to contract with a qualified, certified
216.11 assessor to conduct assessments and reassessments on behalf of the lead agency.

216.12 (b) Certified assessors are persons with a minimum of a bachelor's degree in social
216.13 work, nursing with a public health nursing certificate, or other closely related field with at
216.14 least one year of home and community-based experience, or a ~~two-year~~ registered nursing
216.15 ~~degree~~ nurse without public health certification with at least ~~three~~ two years of home and
216.16 community-based experience that ~~have~~ has received training and certification specific to
216.17 assessment and consultation for long-term care services in the state.

216.18 Sec. 9. Minnesota Statutes 2010, section 256B.0911, subdivision 2c, is amended to
216.19 read:

216.20 Subd. 2c. **Assessor training and certification.** The commissioner shall develop
216.21 and implement a curriculum and an assessor certification process ~~to begin no later than~~
216.22 ~~January 1, 2010.~~ All existing lead agency staff designated to provide the services defined
216.23 in subdivision 1a must be certified ~~by December 30, 2010.~~ within timelines specified by
216.24 the commissioner, but no sooner than six months after statewide availability of the training
216.25 and certification process. The commissioner must establish the timelines for training and
216.26 certification in a manner that allows lead agencies to most efficiently adopt the automated
216.27 process established in subdivision 5. Each lead agency is required to ensure that they have
216.28 sufficient numbers of certified assessors to provide long-term consultation assessment and
216.29 support planning within the timelines and parameters of the service ~~by January 1, 2011.~~
216.30 Certified assessors are required to be recertified every three years.

216.31 Sec. 10. Minnesota Statutes 2010, section 256B.0911, subdivision 3, is amended to
216.32 read:

216.33 Subd. 3. **Long-term care consultation team.** (a) ~~Until January 1, 2011,~~ A long-term
216.34 care consultation team shall be established by the county board of commissioners. ~~Each~~

217.1 ~~local consultation team shall consist of at least one social worker and at least one public~~
217.2 ~~health nurse from their respective county agencies. The board may designate public~~
217.3 ~~health or social services as the lead agency for long-term care consultation services. If a~~
217.4 ~~county does not have a public health nurse available, it may request approval from the~~
217.5 ~~commissioner to assign a county registered nurse with at least one year experience in~~
217.6 ~~home care to participate on the team. Two or more counties may collaborate to establish~~
217.7 a joint local consultation team or teams.

217.8 (b) Certified assessors must be part of a multidisciplinary long-term care consultation
217.9 team of professionals that includes public health nurses, social workers, and other
217.10 professionals as defined in subdivision 2b, paragraph (b). The team is responsible for
217.11 providing long-term care consultation services to all persons located in the county who
217.12 request the services, regardless of eligibility for Minnesota health care programs.

217.13 (c) The commissioner shall allow arrangements and make recommendations that
217.14 encourage counties and tribes to collaborate to establish joint local long-term care
217.15 consultation teams to ensure that long-term care consultations are done within the
217.16 timelines and parameters of the service. This includes integrated service models as
217.17 required in subdivision 1, paragraph (b).

217.18 (d) Tribes and health plans under contract with the commissioner must provide
217.19 long-term care consultation services as specified in the contract.

217.20 (e) The lead agency must provide the commissioner with an administrative contact
217.21 for communication purposes.

217.22 Sec. 11. Minnesota Statutes 2011 Supplement, section 256B.0911, subdivision 3a,
217.23 is amended to read:

217.24 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment,
217.25 services planning, or other assistance intended to support community-based living,
217.26 including persons who need assessment in order to determine waiver or alternative care
217.27 program eligibility, must be visited by a long-term care consultation team within ~~15~~ 20
217.28 calendar days after the date on which an assessment was requested or recommended.
217.29 ~~After January 1, 2011, these requirements also apply to~~ Upon statewide implementation
217.30 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person
217.31 requesting personal care assistance services; and private duty nursing, and home health
217.32 agency services, on timelines established in subdivision 5. The commissioner shall provide
217.33 at least a 90-day notice to lead agencies prior to the effective date of this requirement.

217.34 Face-to-face assessments must be conducted according to paragraphs (b) to (i).

218.1 (b) The ~~county~~ lead agency may utilize a team of either the social worker or public
218.2 health nurse, or both. ~~After January 1, 2011~~ Upon implementation of subdivisions 2b, 2c,
218.3 and 5, lead agencies shall use certified assessors to conduct the ~~assessment in a face-to-face~~
218.4 ~~interview~~ assessment. The consultation team members must confer regarding the most
218.5 appropriate care for each individual screened or assessed. For a person with complex
218.6 health care needs, a public health or registered nurse from the team must be consulted.

218.7 (c) The assessment must be comprehensive and include a person-centered assessment
218.8 of the health, psychological, functional, environmental, and social needs of referred
218.9 individuals and provide information necessary to develop a community support plan that
218.10 meets the consumers needs, using an assessment form provided by the commissioner.

218.11 (d) The assessment must be conducted in a face-to-face interview with the person
218.12 being assessed and the person's legal representative, ~~as required by legally executed~~
218.13 ~~documents,~~ and other individuals as requested by the person, who can provide information
218.14 on the needs, strengths, and preferences of the person necessary to develop a community
218.15 support plan that ensures the person's health and safety, but who is not a provider of
218.16 service or has any financial interest in the provision of services.

218.17 ~~(e) The person, or the person's legal representative, must be provided with written~~
218.18 ~~recommendations for community-based services, including consumer-directed options,~~
218.19 ~~or institutional care that include documentation that the most cost-effective alternatives~~
218.20 ~~available were offered to the individual, and alternatives to residential settings, including,~~
218.21 ~~but not limited to, foster care settings that are not the primary residence of the license~~
218.22 ~~holder. For purposes of this requirement, "cost-effective alternatives" means community~~
218.23 ~~services and living arrangements that cost the same as or less than institutional care.~~

218.24 ~~(f)~~ (e) If the person chooses to use community-based services, the person or the
218.25 person's legal representative must be provided with a written community support plan
218.26 within 40 calendar days of the assessment visit, regardless of whether the individual
218.27 is eligible for Minnesota health care programs. The written community support plan
218.28 must include:

218.29 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

218.30 (2) the individual's options and choices to meet identified needs, including all
218.31 available options for case management services and providers;

218.32 (3) identification of health and safety risks and how those risks will be addressed,
218.33 including personal risk management strategies;

218.34 (4) referral information; and

218.35 (5) informal caregiver supports, if applicable.

219.1 For a person determined eligible for state plan home care under subdivision 1a,
 219.2 paragraph (b), clause (1), the person or person's representative must also receive a copy of
 219.3 the home care service plan developed by the certified assessor.

219.4 (f) A person may request assistance in identifying community supports without
 219.5 participating in a complete assessment. Upon a request for assistance identifying
 219.6 community support, the person must be transferred or referred to ~~the~~ long-term care
 219.7 options counseling services available under sections 256.975, subdivision 7, and 256.01,
 219.8 subdivision 24, for telephone assistance and follow up.

219.9 (g) The person has the right to make the final decision between institutional
 219.10 placement and community placement after the recommendations have been provided,
 219.11 except as provided in subdivision 4a, paragraph (c).

219.12 (h) The ~~team~~ lead agency must give the person receiving assessment or support
 219.13 planning, or the person's legal representative, materials, and forms supplied by the
 219.14 commissioner containing the following information:

219.15 (1) written recommendations for community-based services and consumer-directed
 219.16 options;

219.17 (2) documentation that the most cost-effective alternatives available were offered to
 219.18 the individual. For purposes of this clause, "cost-effective" means community services and
 219.19 living arrangements that cost the same as or less than institutional care. For an individual
 219.20 found to meet eligibility criteria for home and community-based service programs under
 219.21 section 256B.0915 or 256B.49, "cost effectiveness" has the meaning found in the federally
 219.22 approved waiver plan for each program;

219.23 (3) the need for and purpose of preadmission screening if the person selects nursing
 219.24 facility placement;

219.25 ~~(2)~~ (4) the role of the long-term care consultation assessment and support planning
 219.26 in ~~waiver and alternative care program~~ eligibility determination for waiver and alternative
 219.27 care programs, and state plan home care, case management, and other services as defined
 219.28 in subdivision 1a, paragraphs (a), clause (7), and (b);

219.29 ~~(3)~~ (5) information about Minnesota health care programs;

219.30 ~~(4)~~ (6) the person's freedom to accept or reject the recommendations of the team;

219.31 ~~(5)~~ (7) the person's right to confidentiality under the Minnesota Government Data
 219.32 Practices Act, chapter 13;

219.33 ~~(6)~~ (8) the ~~long-term care consultant's~~ certified assessor's decision regarding the
 219.34 person's need for institutional level of care as determined under criteria established in
 219.35 section ~~144.0724, subdivision 11, or 256B.092~~ 256B.0911, subdivision 4a, paragraph (d),

220.1 and the certified assessor's decision regarding eligibility for all services and programs as
 220.2 defined in subdivision 1a, paragraphs (a), clause (7), and (b); and

220.3 ~~(7)~~ (9) the person's right to appeal the certified assessor's decision regarding
 220.4 eligibility for all services and programs as defined in subdivision 1a, paragraphs (a),
 220.5 clause (7), and (b), and incorporating the decision regarding the need for nursing facility
 220.6 institutional level of care or the county's lead agency's final decisions regarding public
 220.7 programs eligibility according to section 256.045, subdivision 3.

220.8 (i) Face-to-face assessment completed as part of eligibility determination for
 220.9 the alternative care, elderly waiver, community alternatives for disabled individuals,
 220.10 community alternative care, and ~~traumatic~~ brain injury waiver programs under sections
 220.11 256B.0913, 256B.0915, ~~256B.0917~~, and 256B.49 is valid to establish service eligibility
 220.12 for no more than 60 calendar days after the date of assessment.

220.13 (j) The effective eligibility start date for these programs in paragraph (i) can never
 220.14 be prior to the date of assessment. If an assessment was completed more than 60 days
 220.15 before the effective waiver or alternative care program eligibility start date, assessment
 220.16 and support plan information must be updated in a face-to-face visit and documented in
 220.17 the department's Medicaid Management Information System (MMIS). Notwithstanding
 220.18 retroactive medical assistance coverage of state plan services, the effective date of
 220.19 program eligibility in this case for programs included in paragraph (i) cannot be prior to
 220.20 the date the most recent updated assessment is completed.

220.21 Sec. 12. Minnesota Statutes 2010, section 256B.0911, subdivision 3b, is amended to
 220.22 read:

220.23 Subd. 3b. **Transition assistance.** (a) ~~A long-term care consultation team~~ Lead
 220.24 agency certified assessors shall provide assistance to persons residing in a nursing
 220.25 facility, hospital, regional treatment center, or intermediate care facility for persons with
 220.26 developmental disabilities who request or are referred for assistance. Transition assistance
 220.27 must include assessment, community support plan development, referrals to long-term
 220.28 care options counseling under section ~~256B.975~~ 256.975, subdivision ~~10~~ 7, for community
 220.29 support plan implementation and to Minnesota health care programs, including home and
 220.30 community-based waiver services and consumer-directed options through the waivers,
 220.31 and referrals to programs that provide assistance with housing. Transition assistance
 220.32 must also include information about the Centers for Independent Living ~~and the Senior~~
 220.33 LinkAge Line, Disability Linkage Line, and about other organizations that can provide
 220.34 assistance with relocation efforts, and information about contacting these organizations to
 220.35 obtain their assistance and support.

221.1 (b) The ~~county~~ lead agency shall ~~develop transition processes with institutional~~
 221.2 ~~social workers and discharge planners to~~ ensure that:

221.3 (1) referrals for in-person assessments are taken from long-term care options
 221.4 counselors as provided for in section 256.975, subdivision 7, paragraph (b), clause (11);

221.5 (2) persons admitted to facilities assessed in institutions receive information about
 221.6 transition assistance that is available;

221.7 ~~(2)~~ (3) the assessment is completed for persons within ~~ten working~~ 20 calendar days
 221.8 of the date of request or recommendation for assessment; ~~and~~

221.9 ~~(3)~~ (4) there is a plan for transition and follow-up for the individual's return to the
 221.10 community. ~~The plan must require, including~~ notification of other local agencies when a
 221.11 person ~~who~~ may require assistance ~~is screened by one county for admission to a facility~~
 221.12 from agencies located in another county; and

221.13 (5) relocation targeted case management as defined in section 256B.0621,
 221.14 subdivision 2, clause (4), is authorized for an eligible medical assistance recipient.

221.15 ~~(c) If a person who is eligible for a Minnesota health care program is admitted to a~~
 221.16 ~~nursing facility, the nursing facility must include a consultation team member or the case~~
 221.17 ~~manager in the discharge planning process.~~

221.18 Sec. 13. Minnesota Statutes 2011 Supplement, section 256B.0911, subdivision 4a,
 221.19 is amended to read:

221.20 Subd. 4a. **Preadmission screening activities related to nursing facility**

221.21 **admissions.** (a) All applicants to Medicaid certified nursing facilities, including certified
 221.22 boarding care facilities, must be screened prior to admission regardless of income, assets,
 221.23 or funding sources for nursing facility care, except as described in subdivision 4b. The
 221.24 purpose of the screening is to determine the need for nursing facility level of care as
 221.25 described in paragraph (d) and to complete activities required under federal law related to
 221.26 mental illness and developmental disability as outlined in paragraph (b).

221.27 (b) A person who has a diagnosis or possible diagnosis of mental illness or
 221.28 developmental disability must receive a preadmission screening before admission
 221.29 regardless of the exemptions outlined in subdivision 4b, paragraph (b), to identify the need
 221.30 for further evaluation and specialized services, unless the admission prior to screening is
 221.31 authorized by the local mental health authority or the local developmental disabilities case
 221.32 manager, or unless authorized by the county agency according to Public Law 101-508.

221.33 The following criteria apply to the preadmission screening:

222.1 (1) the ~~county~~ lead agency must use forms and criteria developed by the
222.2 commissioner to identify persons who require referral for further evaluation and
222.3 determination of the need for specialized services; and

222.4 (2) the evaluation and determination of the need for specialized services must be
222.5 done by:

222.6 (i) a qualified independent mental health professional, for persons with a primary or
222.7 secondary diagnosis of a serious mental illness; or

222.8 (ii) a qualified developmental disability professional, for persons with a primary or
222.9 secondary diagnosis of developmental disability. For purposes of this requirement, a
222.10 qualified developmental disability professional must meet the standards for a qualified
222.11 developmental disability professional under Code of Federal Regulations, title 42, section
222.12 483.430.

222.13 (c) The local county mental health authority or the state developmental disability
222.14 authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a
222.15 nursing facility if the individual does not meet the nursing facility level of care criteria or
222.16 needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For
222.17 purposes of this section, "specialized services" for a person with developmental disability
222.18 means active treatment as that term is defined under Code of Federal Regulations, title
222.19 42, section 483.440 (a)(1).

222.20 (d) The determination of the need for nursing facility level of care must be made
222.21 according to criteria developed by the commissioner, and in section 256B.092, using
222.22 forms developed by the commissioner. Effective no sooner than on or after July 1, 2012,
222.23 for individuals age 21 and older, and on or after October 1, 2019, for individuals under
222.24 age 21, the determination of need for nursing facility level of care shall be based on
222.25 criteria in section 144.0724, subdivision 11. In assessing a person's needs, consultation
222.26 team members shall have a physician available for consultation and shall consider the
222.27 assessment of the individual's attending physician, if any. The individual's physician must
222.28 be included if the physician chooses to participate. Other personnel may be included on
222.29 the team as deemed appropriate by the ~~county~~ lead agency.

222.30 Sec. 14. Minnesota Statutes 2010, section 256B.0911, subdivision 4c, is amended to
222.31 read:

222.32 Subd. 4c. **Screening requirements.** (a) A person may be screened for nursing
222.33 facility admission by telephone or in a face-to-face screening interview. ~~Consultation team~~
222.34 ~~members~~ Certified assessors shall identify each individual's needs using the following
222.35 categories:

223.1 (1) the person needs no face-to-face screening interview to determine the need
223.2 for nursing facility level of care based on information obtained from other health care
223.3 professionals;

223.4 (2) the person needs an immediate face-to-face screening interview to determine the
223.5 need for nursing facility level of care and complete activities required under subdivision
223.6 4a; or

223.7 (3) the person may be exempt from screening requirements as outlined in subdivision
223.8 4b, but will need transitional assistance after admission or in-person follow-along after
223.9 a return home.

223.10 (b) Persons admitted on a nonemergency basis to a Medicaid-certified nursing
223.11 facility must be screened prior to admission.

223.12 (c) The ~~county~~ lead agency screening or intake activity must include processes to
223.13 identify persons who may require transition assistance as described in subdivision 3b.

223.14 Sec. 15. Minnesota Statutes 2010, section 256B.0911, subdivision 6, is amended to
223.15 read:

223.16 **Subd. 6. Payment for long-term care consultation services.** (a) The total payment
223.17 for each county must be paid monthly by certified nursing facilities in the county. The
223.18 monthly amount to be paid by each nursing facility for each fiscal year must be determined
223.19 by dividing the county's annual allocation for long-term care consultation services by 12
223.20 to determine the monthly payment and allocating the monthly payment to each nursing
223.21 facility based on the number of licensed beds in the nursing facility. Payments to counties
223.22 in which there is no certified nursing facility must be made by increasing the payment
223.23 rate of the two facilities located nearest to the county seat.

223.24 (b) The commissioner shall include the total annual payment determined under
223.25 paragraph (a) for each nursing facility reimbursed under section 256B.431 ~~or~~ 256B.434
223.26 ~~according to section 256B.431, subdivision 2b, paragraph (g), or 256B.441.~~

223.27 (c) In the event of the layaway, delicensure and decertification, or removal from
223.28 layaway of 25 percent or more of the beds in a facility, the commissioner may adjust
223.29 the per diem payment amount in paragraph (b) and may adjust the monthly payment
223.30 amount in paragraph (a). The effective date of an adjustment made under this paragraph
223.31 shall be on or after the first day of the month following the effective date of the layaway,
223.32 delicensure and decertification, or removal from layaway.

223.33 (d) Payments for long-term care consultation services are available to the county
223.34 or counties to cover staff salaries and expenses to provide the services described in
223.35 subdivision 1a. The county shall employ, or contract with other agencies to employ, within

224.1 the limits of available funding, sufficient personnel to provide long-term care consultation
224.2 services while meeting the state's long-term care outcomes and objectives as defined in
224.3 ~~section 256B.0917~~, subdivision 1. The county shall be accountable for meeting local
224.4 objectives as approved by the commissioner in the biennial home and community-based
224.5 services quality assurance plan on a form provided by the commissioner.

224.6 (e) Notwithstanding section 256B.0641, overpayments attributable to payment of the
224.7 screening costs under the medical assistance program may not be recovered from a facility.

224.8 (f) The commissioner of human services shall amend the Minnesota medical
224.9 assistance plan to include reimbursement for the local consultation teams.

224.10 (g) Until the alternative payment methodology in paragraph (h) is implemented,
224.11 the county may bill, as case management services, assessments, support planning, and
224.12 follow-along provided to persons determined to be eligible for case management under
224.13 Minnesota health care programs. No individual or family member shall be charged for an
224.14 initial assessment or initial support plan development provided under subdivision 3a or 3b.

224.15 (h) The commissioner shall develop an alternative payment methodology for
224.16 long-term care consultation services that includes the funding available under this
224.17 subdivision, and sections 256B.092 and 256B.0659. In developing the new payment
224.18 methodology, the commissioner shall consider the maximization of other funding sources,
224.19 including federal funding, for ~~this~~ all long-term care consultation and preadmission
224.20 screening activity.

224.21 Sec. 16. Minnesota Statutes 2010, section 256B.0913, subdivision 7, is amended to
224.22 read:

224.23 Subd. 7. **Case management.** (a) The provision of case management under the
224.24 alternative care program is governed by requirements in section 256B.0915, subdivisions
224.25 1a and 1b.

224.26 (b) The case manager must not approve alternative care funding for a client in any
224.27 setting in which the case manager cannot reasonably ensure the client's health and safety.

224.28 (c) The case manager is responsible for the cost-effectiveness of the alternative care
224.29 individual ~~care~~ coordinated service and support plan and must not approve any ~~care~~ plan
224.30 in which the cost of services funded by alternative care and client contributions exceeds
224.31 the limit specified in section 256B.0915, subdivision ~~3~~ 3a, paragraph (b).

224.32 (d) Case manager responsibilities include those in section 256B.0915, subdivision
224.33 1a, paragraph (g).

225.1 Sec. 17. Minnesota Statutes 2010, section 256B.0913, subdivision 8, is amended to
225.2 read:

225.3 Subd. 8. **Requirements for individual ~~care~~ coordinated service and support**
225.4 **plan.** (a) The case manager shall implement the coordinated service and support plan ~~of~~
225.5 ~~care~~ for each alternative care client and ensure that a client's service needs and eligibility
225.6 are reassessed at least every 12 months. The coordinated service and support plan must
225.7 meet the requirements in section 256B.0915, subdivision 6. The plan shall include any
225.8 services prescribed by the individual's attending physician as necessary to allow the
225.9 individual to remain in a community setting. In developing the individual's care plan, the
225.10 case manager should include the use of volunteers from families and neighbors, religious
225.11 organizations, social clubs, and civic and service organizations to support the formal home
225.12 care services. The lead agency shall be held harmless for damages or injuries sustained
225.13 through the use of volunteers under this subdivision including workers' compensation
225.14 liability. The case manager shall provide documentation in each individual's plan ~~of care~~
225.15 and, if requested, to the commissioner that the most cost-effective alternatives available
225.16 have been offered to the individual and that the individual was free to choose among
225.17 available qualified providers, both public and private, including qualified case management
225.18 or service coordination providers other than those employed by any county; however, the
225.19 county or tribe maintains responsibility for prior authorizing services in accordance with
225.20 statutory and administrative requirements. The case manager must give the individual a
225.21 ten-day written notice of any denial, termination, or reduction of alternative care services.

225.22 (b) The county of service or tribe must provide access to and arrange for case
225.23 management services, including assuring implementation of the coordinated service
225.24 and support plan. "County of service" has the meaning given it in Minnesota Rules,
225.25 part 9505.0015, subpart 11. The county of service must notify the county of financial
225.26 responsibility of the approved care plan and the amount of encumbered funds.

225.27 Sec. 18. Minnesota Statutes 2010, section 256B.0915, subdivision 1a, is amended to
225.28 read:

225.29 Subd. 1a. **Elderly waiver case management services.** (a) ~~Elderly~~ Except
225.30 as provided to individuals under prepaid medical assistance programs as described
225.31 in paragraph (h), case management services under the home and community-based
225.32 services waiver for elderly individuals are available from providers meeting qualification
225.33 requirements and the standards specified in subdivision 1b. Eligible recipients may choose
225.34 any qualified provider of ~~elderly~~ case management services.

226.1 (b) Case management services assist individuals who receive waiver services in
226.2 gaining access to needed waiver and other state plan services; and assist individuals in
226.3 appeals under section 256.045, as well as needed medical, social, educational, and other
226.4 services regardless of the funding source for the services to which access is gained. Case
226.5 managers shall collaborate with consumers, families, legal representatives, and relevant
226.6 medical experts and service providers in the development and periodic review of the
226.7 coordinated service and support plan.

226.8 (c) A case aide shall provide assistance to the case manager in carrying out
226.9 administrative activities of the case management function. The case aide may not assume
226.10 responsibilities that require professional judgment including assessments, reassessments,
226.11 and care plan development. The case manager is responsible for providing oversight of
226.12 the case aide.

226.13 (d) Case managers shall be responsible for ongoing monitoring of the provision
226.14 of services included in the individual's plan of care. Case managers shall initiate ~~and~~
226.15 ~~oversee~~ the process of ~~assessment and~~ reassessment of the individual's ~~care~~ coordinated
226.16 service and support plan and review the plan of care at intervals specified in the federally
226.17 approved waiver plan.

226.18 (e) The county of service or tribe must provide access to and arrange for case
226.19 management services. County of service has the meaning given it in Minnesota Rules,
226.20 part 9505.0015, subpart 11.

226.21 (f) Except as described in paragraph (h), case management services must be provided
226.22 by a public or private agency that is enrolled as a medical assistance provider determined
226.23 by the commissioner to meet all of the requirements in subdivision 1b. Case management
226.24 services must not be provided to a recipient by a private agency that has a financial interest
226.25 in the provision of any other services included in the recipient's coordinated service and
226.26 support plan. For purposes of this section, "private agency" means any agency that is not
226.27 identified as a lead agency under section 256B.0911, subdivision 1a, paragraph (e).

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

226.29 (1) development of the coordinated service and support plan under subdivision 6;

226.30 (2) informing the individual or the individual's legal guardian or conservator of

226.31 service options, and options for case management services and providers;

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

226.33 (4) assisting the person in the identification of potential providers;

226.34 (5) assisting the person to access services;

226.35 (6) coordination of services; and

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

227.3 (h) Notwithstanding any requirements in this section, for individuals enrolled in
227.4 prepaid medical assistance programs under section 256B.69, subdivisions 6b and 23, the
227.5 health plan shall provide or arrange to provide elderly waiver case management services in
227.6 paragraph (g), in accordance with contract requirements established by the commissioner.

227.7 Sec. 19. Minnesota Statutes 2010, section 256B.0915, subdivision 1b, is amended to
227.8 read:

227.9 Subd. 1b. **Provider qualifications and standards.** (a) The commissioner must
227.10 enroll qualified providers of ~~elderly~~ case management services under the home and
227.11 community-based waiver for the elderly under section 1915(c) of the Social Security
227.12 Act. The enrollment process shall ensure the provider's ability to meet the qualification
227.13 requirements and standards in this subdivision and other federal and state requirements
227.14 of this service. ~~An elderly~~ A case management provider is an enrolled medical
227.15 assistance provider who is determined by the commissioner to have all of the following
227.16 characteristics:

227.17 (1) the demonstrated capacity and experience to provide the components of
227.18 case management to coordinate and link community resources needed by the eligible
227.19 population;

227.20 (2) administrative capacity and experience in serving the target population for
227.21 whom it will provide services and in ensuring quality of services under state and federal
227.22 requirements;

227.23 (3) a financial management system that provides accurate documentation of services
227.24 and costs under state and federal requirements;

227.25 (4) the capacity to document and maintain individual case records under state and
227.26 federal requirements; and

227.27 (5) the lead agency may allow a case manager employed by the lead agency to
227.28 delegate certain aspects of the case management activity to another individual employed
227.29 by the lead agency provided there is oversight of the individual by the case manager.

227.30 The case manager may not delegate those aspects which require professional judgment
227.31 including assessments, reassessments, and ~~care~~ coordinated service and support plan
227.32 development. Lead agencies include counties, health plans, and federally recognized
227.33 tribes who authorize services under this section.

228.1 (b) A health plan shall provide or arrange to provide elderly waiver case management
228.2 services in subdivision 1a, paragraph (g), in accordance with contract requirements
228.3 established by the commissioner related to provider standards and qualifications.

228.4 Sec. 20. Minnesota Statutes 2010, section 256B.0915, subdivision 3c, is amended to
228.5 read:

228.6 Subd. 3c. **Service approval and contracting provisions.** (a) Medical assistance
228.7 funding for skilled nursing services, private duty nursing, home health aide, and personal
228.8 care services for waiver recipients must be approved by the case manager and included in
228.9 the ~~individual care~~ coordinated service and support plan.

228.10 (b) A lead agency is not required to contract with a provider of supplies and
228.11 equipment if the monthly cost of the supplies and equipment is less than \$250.

228.12 Sec. 21. Minnesota Statutes 2010, section 256B.0915, subdivision 6, is amended to
228.13 read:

228.14 Subd. 6. **Implementation of ~~care~~ coordinated service and support plan.** (a) Each
228.15 elderly waiver client shall be provided a copy of a written ~~care~~ coordinated service and
228.16 support plan that meets the requirements outlined in section 256B.0913, subdivision 8.
228.17 ~~The care plan must be implemented by the county of service when it is different than the~~
228.18 ~~county of financial responsibility. The county of service administering waived services~~
228.19 ~~must notify the county of financial responsibility of the approved care plan, which:~~

228.20 (1) is developed and signed by the recipient within ten working days after the case
228.21 manager receives the assessment information and written community support plan as
228.22 described in section 256B.0911, subdivision 3a, from the certified assessor;

228.23 (2) includes the person's need for service and identification of service needs that will
228.24 be or that are met by the person's relatives, friends, and others, as well as community
228.25 services used by the general public;

228.26 (3) reasonably ensures the health and safety of the recipient;

228.27 (4) identifies the person's preferences for services as stated by the person or the
228.28 person's legal guardian or conservator;

228.29 (5) reflects the person's informed choice between institutional and community-based
228.30 services, as well as choice of services, supports, and providers, including available case
228.31 manager providers;

228.32 (6) identifies long and short-range goals for the person;

229.1 (7) identifies specific services and the amount, frequency, duration, and cost of the
 229.2 services to be provided to the person based on assessed needs, preferences, and available
 229.3 resources;

229.4 (8) includes information about the right to appeal decisions under section 256.045;
 229.5 and

229.6 (9) includes the authorized annual and estimated monthly amounts for the services.

229.7 (b) In developing the coordinated service and support plan, the case manager should
 229.8 also include the use of volunteers, religious organizations, social clubs, and civic and
 229.9 service organizations to support the individual in the community. The lead agency must be
 229.10 held harmless for damages or injuries sustained through the use of volunteers and agencies
 229.11 under this paragraph, including workers' compensation liability.

229.12 Sec. 22. Minnesota Statutes 2011 Supplement, section 256B.0915, subdivision 10,
 229.13 is amended to read:

229.14 Subd. 10. **Waiver payment rates; managed care organizations.** The
 229.15 commissioner shall adjust the elderly waiver capitation payment rates for managed
 229.16 care organizations paid under section 256B.69, subdivisions ~~6a~~ 6b and 23, to reflect the
 229.17 maximum service rate limits for customized living services and 24-hour customized
 229.18 living services under subdivisions 3e and 3h. Medical assistance rates paid to customized
 229.19 living providers by managed care organizations under this section shall not exceed the
 229.20 maximum service rate limits and component rates as determined by the commissioner
 229.21 under subdivisions 3e and 3h.

229.22 Sec. 23. Minnesota Statutes 2010, section 256B.092, subdivision 1, is amended to read:

229.23 Subdivision 1. **County of financial responsibility; duties.** Before any services
 229.24 shall be rendered to persons with developmental disabilities who are in need of social
 229.25 service and medical assistance, the county of financial responsibility shall conduct or
 229.26 arrange for a diagnostic evaluation in order to determine whether the person has or may
 229.27 have a developmental disability or has or may have a related condition. If the county
 229.28 of financial responsibility determines that the person has a developmental disability,
 229.29 the county shall inform the person of case management services available under this
 229.30 section. Except as provided in subdivision 1g or 4b, if a person is diagnosed as having a
 229.31 developmental disability, the county of financial responsibility shall conduct or arrange for
 229.32 a needs assessment by a certified assessor, and ~~develop or arrange for an individual service~~
 229.33 a community support plan according to section 256B.0911, provide or arrange for ongoing
 229.34 ~~case management services at the level identified in the individual service plan, provide~~

230.1 ~~or arrange for case management administration,~~ and authorize services identified in the
 230.2 person's ~~individual service~~ coordinated service and support plan developed according to
 230.3 subdivision 1b. Diagnostic information, obtained by other providers or agencies, may be
 230.4 used by the county agency in determining eligibility for case management. Nothing in this
 230.5 section shall be construed as requiring: (1) assessment in areas agreed to as unnecessary
 230.6 by ~~the case manager~~ a certified assessor and the person, or the person's legal guardian or
 230.7 conservator, or the parent if the person is a minor, or (2) assessments in areas where there
 230.8 has been a functional assessment completed in the previous 12 months for which the
 230.9 ~~case manager~~ certified assessor and the person or person's guardian or conservator, or the
 230.10 parent if the person is a minor, agree that further assessment is not necessary. For persons
 230.11 under state guardianship, the ~~case manager~~ certified assessor shall seek authorization from
 230.12 the public guardianship office for waiving any assessment requirements. Assessments
 230.13 related to health, safety, and protection of the person for the purpose of identifying service
 230.14 type, amount, and frequency or assessments required to authorize services may not be
 230.15 waived. To the extent possible, for wards of the commissioner the county shall consider
 230.16 the opinions of the parent of the person with a developmental disability when developing
 230.17 the person's ~~individual service~~ community support plan and coordinated service and
 230.18 support plan.

230.19 Sec. 24. Minnesota Statutes 2010, section 256B.092, subdivision 1a, is amended to
 230.20 read:

230.21 Subd. 1a. **Case management ~~administration and services.~~** (a) ~~The administrative~~
 230.22 ~~functions of case management provided to or arranged for a person include:~~ Each recipient
 230.23 of a home and community-based waiver shall be provided case management services by
 230.24 qualified vendors as described in the federally approved waiver application.

230.25 ~~(1) review of eligibility for services;~~

230.26 ~~(2) screening;~~

230.27 ~~(3) intake;~~

230.28 ~~(4) diagnosis;~~

230.29 ~~(5) the review and authorization of services based upon an individualized service~~
 230.30 ~~plan; and~~

230.31 ~~(6) responding to requests for conciliation conferences and appeals according to~~
 230.32 ~~section 256.045 made by the person, the person's legal guardian or conservator, or the~~
 230.33 ~~parent if the person is a minor.~~

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

231.1 (1) development of the ~~individual service~~ coordinated service and support plan
231.2 under subdivision 1b;

231.3 (2) informing the individual or the individual's legal guardian or conservator, or
231.4 parent if the person is a minor, of service options;

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

231.6 (4) assisting the person in the identification of potential providers;

231.7 (5) assisting the person to access services and assisting in appeals under section
231.8 256.045;

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

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

231.14 (8) ~~annual reviews of service plans and services provided~~ reviewing coordinated
231.15 service and support plans and providing the lead agency with recommendations for service
231.16 authorization based upon the individual's needs identified in the coordinated service and
231.17 support plan.

231.18 (c) Case management ~~administration and~~ service activities that are provided to the
231.19 person with a developmental disability shall be provided directly by county agencies or
231.20 under contract. Case management services must be provided by a public or private agency
231.21 that is enrolled as a medical assistance provider determined by the commissioner to meet
231.22 all of the requirements in the approved federal waiver plans. Case management services
231.23 must not be provided to a recipient by a private agency that has a financial interest in the
231.24 provision of any other services included in the recipient's coordinated service and support
231.25 plan. For purposes of this section, "private agency" means any agency that is not identified
231.26 as a lead agency under section 256B.0911, subdivision 1a, paragraph (e).

231.27 (d) Case managers are responsible for ~~the administrative duties and~~ service
231.28 provisions listed in paragraphs (a) and (b). Case managers shall collaborate with
231.29 consumers, families, legal representatives, and relevant medical experts and service
231.30 providers in the development and annual review of the ~~individualized service~~ coordinated
231.31 service and support plan and habilitation ~~plans~~ plan.

231.32 (e) The Department of Human Services shall offer ongoing education in case
231.33 management to case managers. Case managers shall receive no less than ten hours of case
231.34 management education and disability-related training each year.

232.1 Sec. 25. Minnesota Statutes 2010, section 256B.092, subdivision 1b, is amended to
232.2 read:

232.3 Subd. 1b. ~~Individual~~ **Coordinated service and support plan.** ~~The individual~~
232.4 ~~service plan must~~ (a) Each recipient of home and community-based waived services

232.5 shall be provided a copy of the written coordinated service and support plan which:

232.6 (1) is developed and signed by the recipient within ten working days after the case
232.7 manager receives the assessment information and written community support plan as
232.8 described in section 256B.0911, subdivision 3a, from the certified assessor;

232.9 ~~(1) include the results of the assessment information on~~ (2) includes the person's
232.10 need for service, including identification of service needs that will be or that are met
232.11 by the person's relatives, friends, and others, as well as community services used by
232.12 the general public;

232.13 (3) reasonably ensures the health and safety of the recipient;

232.14 ~~(2) identify~~ (4) identifies the person's preferences for services as stated by the
232.15 person, the person's legal guardian or conservator, or the parent if the person is a minor,
232.16 including the person's choices made on self-directed options and on services and supports
232.17 to achieve employment goals;

232.18 (5) provides for an informed choice, as defined in section 256B.77, subdivision 2,
232.19 paragraph (o), of service and support providers, and identifies all available options for
232.20 case management services and providers;

232.21 ~~(3) identify~~ (6) identifies long- and short-range goals for the person;

232.22 ~~(4) identify~~ (7) identifies specific services and the amount and frequency of the
232.23 services to be provided to the person based on assessed needs, preferences, and available
232.24 resources. ~~The individual service~~ coordinated service and support plan shall also specify
232.25 other services the person needs that are not available;

232.26 ~~(5) identify~~ (8) identifies the need for an individual program plan to be developed
232.27 by the provider according to the respective state and federal licensing and certification
232.28 standards, and additional assessments to be completed or arranged by the provider after
232.29 service initiation;

232.30 ~~(6) identify~~ (9) identifies provider responsibilities to implement and make
232.31 recommendations for modification to the ~~individual service~~ coordinated service and
232.32 support plan;

232.33 ~~(7) include~~ (10) includes notice of the right to request a conciliation conference or a
232.34 hearing under section 256.045;

233.1 ~~(8) be~~ (11) is agreed upon and signed by the person, the person's legal guardian
 233.2 or conservator, or the parent if the person is a minor, and the authorized county
 233.3 representative; ~~and~~

233.4 ~~(9) be~~ (12) is reviewed by a health professional if the person has overriding medical
 233.5 needs that impact the delivery of services; and

233.6 (13) includes the authorized annual and monthly amounts for the services.

233.7 ~~Service planning formats developed for interagency planning such as transition,~~
 233.8 ~~vocational, and individual family service plans may be substituted for service planning~~
 233.9 ~~formats developed by county agencies.~~

233.10 (b) In developing the coordinated service and support plan, the case manager is
 233.11 encouraged to include the use of volunteers, religious organizations, social clubs, and civic
 233.12 and service organizations to support the individual in the community. The lead agency
 233.13 must be held harmless for damages or injuries sustained through the use of volunteers and
 233.14 agencies under this paragraph, including workers' compensation liability.

233.15 Sec. 26. Minnesota Statutes 2010, section 256B.092, subdivision 1e, is amended to
 233.16 read:

233.17 Subd. 1e. **Coordination, evaluation, and monitoring of services.** (a) If the
 233.18 ~~individual service~~ coordinated service and support plan identifies the need for individual
 233.19 program plans for authorized services, the case manager shall assure that individual
 233.20 program plans are developed by the providers according to clauses (2) to (5). The
 233.21 providers shall assure that the individual program plans:

233.22 (1) are developed according to the respective state and federal licensing and
 233.23 certification requirements;

233.24 (2) are designed to achieve the goals of the ~~individual service~~ coordinated service
 233.25 and support plan;

233.26 (3) are consistent with other aspects of the ~~individual service~~ coordinated service
 233.27 and support plan;

233.28 (4) assure the health and safety of the person; and

233.29 (5) are developed with consistent and coordinated approaches to services among the
 233.30 various service providers.

233.31 (b) The case manager shall monitor the provision of services:

233.32 (1) to assure that the ~~individual service~~ coordinated service and support plan is
 233.33 being followed according to paragraph (a);

234.1 (2) to identify any changes or modifications that might be needed in the ~~individual~~
 234.2 ~~service~~ coordinated service and support plan, including changes resulting from
 234.3 recommendations of current service providers;

234.4 (3) to determine if the person's legal rights are protected, and if not, notify the
 234.5 person's legal guardian or conservator, or the parent if the person is a minor, protection
 234.6 services, or licensing agencies as appropriate; and

234.7 (4) to determine if the person, the person's legal guardian or conservator, or the
 234.8 parent if the person is a minor, is satisfied with the services provided.

234.9 (c) If the provider fails to develop or carry out the individual program plan according
 234.10 to paragraph (a), the case manager shall notify the person's legal guardian or conservator,
 234.11 or the parent if the person is a minor, the provider, the respective licensing and certification
 234.12 agencies, and the county board where the services are being provided. In addition, the
 234.13 case manager shall identify other steps needed to assure the person receives the services
 234.14 identified in the ~~individual service~~ coordinated service and support plan.

234.15 Sec. 27. Minnesota Statutes 2010, section 256B.092, subdivision 1g, is amended to
 234.16 read:

234.17 Subd. 1g. **Conditions not requiring development of ~~individual service~~**
 234.18 **coordinated service and support plan**. Unless otherwise required by federal law, the
 234.19 county agency is not required to complete ~~an individual service~~ a coordinated service and
 234.20 support plan as defined in subdivision 1b for:

234.21 (1) persons whose families are requesting respite care for their family member who
 234.22 resides with them, or whose families are requesting a family support grant and are not
 234.23 requesting purchase or arrangement of habilitative services; and

234.24 (2) persons with developmental disabilities, living independently without authorized
 234.25 services or receiving funding for services at a rehabilitation facility as defined in section
 234.26 268A.01, subdivision 6, and not in need of or requesting additional services.

234.27 Sec. 28. Minnesota Statutes 2010, section 256B.092, subdivision 2, is amended to read:

234.28 Subd. 2. **Medical assistance.** To assure quality case management to those persons
 234.29 who are eligible for medical assistance, the commissioner shall, upon request:

234.30 (1) provide consultation on the case management process;

234.31 (2) assist county agencies in the ~~screening and~~ annual reviews of clients review
 234.32 process to assure that appropriate levels of service are provided to persons;

234.33 (3) provide consultation on service planning and development of services with
 234.34 appropriate options;

235.1 (4) provide training and technical assistance to county case managers; and
235.2 (5) authorize payment for medical assistance services according to this chapter
235.3 and rules implementing it.

235.4 Sec. 29. Minnesota Statutes 2010, section 256B.092, subdivision 3, is amended to read:

235.5 Subd. 3. **Authorization and termination of services.** County agency case
235.6 managers, under rules of the commissioner, shall authorize and terminate services of
235.7 community and regional treatment center providers according to ~~individual service~~
235.8 support plans. Services provided to persons with developmental disabilities may only be
235.9 authorized and terminated by case managers or certified assessors according to (1) rules of
235.10 the commissioner and (2) the ~~individual service~~ coordinated service and support plan as
235.11 defined in subdivision 1b. Medical assistance services not needed shall not be authorized
235.12 by county agencies or funded by the commissioner. When purchasing or arranging for
235.13 unlicensed respite care services for persons with overriding health needs, the county
235.14 agency shall seek the advice of a health care professional in assessing provider staff
235.15 training needs and skills necessary to meet the medical needs of the person.

235.16 Sec. 30. Minnesota Statutes 2010, section 256B.092, subdivision 5, is amended to read:

235.17 Subd. 5. **Federal waivers.** (a) The commissioner shall apply for any federal
235.18 waivers necessary to secure, to the extent allowed by law, federal financial participation
235.19 under United States Code, title 42, sections 1396 et seq., as amended, for the provision
235.20 of services to persons who, in the absence of the services, would need the level of care
235.21 provided in a regional treatment center or a community intermediate care facility for
235.22 persons with developmental disabilities. The commissioner may seek amendments to the
235.23 waivers or apply for additional waivers under United States Code, title 42, sections 1396
235.24 et seq., as amended, to contain costs. The commissioner shall ensure that payment for
235.25 the cost of providing home and community-based alternative services under the federal
235.26 waiver plan shall not exceed the cost of intermediate care services including day training
235.27 and habilitation services that would have been provided without the waived services.

235.28 The commissioner shall seek an amendment to the 1915c home and
235.29 community-based waiver to allow properly licensed adult foster care homes to provide
235.30 residential services to up to five individuals with developmental disabilities. If the
235.31 amendment to the waiver is approved, adult foster care providers that can accommodate
235.32 five individuals shall increase their capacity to five beds, provided the providers continue
235.33 to meet all applicable licensing requirements.

236.1 (b) The commissioner, in administering home and community-based waivers for
236.2 persons with developmental disabilities, shall ensure that day services for eligible persons
236.3 are not provided by the person's residential service provider, unless the person or the
236.4 person's legal representative is offered a choice of providers and agrees in writing to
236.5 provision of day services by the residential service provider. The ~~individual service~~
236.6 coordinated service and support plan for individuals who choose to have their residential
236.7 service provider provide their day services must describe how health, safety, protection,
236.8 and habilitation needs will be met, including how frequent and regular contact with
236.9 persons other than the residential service provider will occur. The ~~individualized service~~
236.10 coordinated service and support plan must address the provision of services during the
236.11 day outside the residence on weekdays.

236.12 (c) When a ~~county~~ lead agency is evaluating denials, reductions, or terminations
236.13 of home and community-based services under section 256B.0916 for an individual, the
236.14 ~~case manager~~ lead agency shall offer to meet with the individual or the individual's
236.15 guardian in order to discuss the prioritization of service needs within the ~~individualized~~
236.16 service coordinated service and support plan. The reduction in the authorized services
236.17 for an individual due to changes in funding for waived services may not exceed the
236.18 amount needed to ensure medically necessary services to meet the individual's health,
236.19 safety, and welfare.

236.20 Sec. 31. Minnesota Statutes 2010, section 256B.092, subdivision 7, is amended to read:

236.21 Subd. 7. ~~Screening teams~~ Assessments. (a) Assessments and reassessments shall
236.22 be conducted by certified assessors according to section 256B.0911, and must incorporate
236.23 appropriate referrals to determine eligibility for case management under subdivision 1a.

236.24 (b) For persons with developmental disabilities, ~~screening teams shall be established~~
236.25 ~~which a certified assessor shall evaluate the need for the an institutional level of care,~~
236.26 ~~provided by residential-based habilitation services, residential services, training and~~
236.27 ~~habilitation services, and nursing facility services.~~ The evaluation assessment shall
236.28 address whether home and community-based services are appropriate for persons who
236.29 are at risk of placement in an intermediate care facility for persons with developmental
236.30 disabilities, or for whom there is reasonable indication that they might require this level of
236.31 care. The ~~screening team~~ certified assessor shall make an evaluation of need ~~within 60~~
236.32 ~~working days of a request for service by a person with a developmental disability, and~~
236.33 ~~within five working days of an emergency admission of a person to an intermediate care~~
236.34 ~~facility for persons with developmental disabilities. The screening team shall consist of~~
236.35 ~~the case manager for persons with developmental disabilities, the person, the person's~~

237.1 ~~legal guardian or conservator, or the parent if the person is a minor, and a qualified~~
 237.2 ~~developmental disability professional, as defined in the Code of Federal Regulations,~~
 237.3 ~~title 42, section 483.430, as amended through June 3, 1988. The case manager may also~~
 237.4 ~~act as the qualified developmental disability professional if the case manager meets~~
 237.5 ~~the federal definition. County social service agencies may contract with a public or~~
 237.6 ~~private agency or individual who is not a service provider for the person for the public~~
 237.7 ~~guardianship representation required by the screening or individual service planning~~
 237.8 ~~process. The contract shall be limited to public guardianship representation for the~~
 237.9 ~~screening and individual service planning activities. The contract shall require compliance~~
 237.10 ~~with the commissioner's instructions and may be for paid or voluntary services. For~~
 237.11 ~~persons determined to have overriding health care needs and are seeking admission to a~~
 237.12 ~~nursing facility or an ICF/MR, or seeking access to home and community-based waived~~
 237.13 ~~services, a registered nurse must be designated as either the case manager or the qualified~~
 237.14 ~~developmental disability professional. For persons under the jurisdiction of a correctional~~
 237.15 ~~agency, the case manager must consult with the corrections administrator regarding~~
 237.16 ~~additional health, safety, and supervision needs. The case manager, with the concurrence~~
 237.17 ~~of the person, the person's legal guardian or conservator, or the parent if the person is a~~
 237.18 ~~minor, may invite other individuals to attend meetings of the screening team. No member~~
 237.19 ~~of the screening team shall have any direct or indirect service provider interest in the case.~~
 237.20 ~~Nothing in this section shall be construed as requiring the screening team meeting to be~~
 237.21 ~~separate from the service planning meeting.~~

237.22 Sec. 32. Minnesota Statutes 2010, section 256B.092, subdivision 8, is amended to read:

237.23 Subd. 8. **Screening team Additional certified assessor duties.** In addition to the
 237.24 responsibilities of certified assessors described in section 256B.0911, for persons with
 237.25 developmental disabilities, the screening team certified assessor shall:

237.26 (1) ~~review diagnostic data;~~

237.27 (2) ~~review health, social, and developmental assessment data using a uniform~~
 237.28 ~~screening tool specified by the commissioner;~~

237.29 (3) ~~identify the level of services appropriate to maintain the person in the most~~
 237.30 ~~normal and least restrictive setting that is consistent with the person's treatment needs;~~

237.31 (4) (1) ~~identify other noninstitutional public assistance or social service that may~~
 237.32 ~~prevent or delay long-term residential placement;~~

237.33 (5) (2) ~~assess whether a person is in need of long-term residential care;~~

237.34 (6) (3) ~~make recommendations regarding placement and payment for:~~

238.1 (i) social service or public assistance support, or both, to maintain a person in the
238.2 person's own home or other place of residence;

238.3 (ii) training and habilitation service, vocational rehabilitation, and employment
238.4 training activities;

238.5 (iii) community residential service placement;

238.6 (iv) regional treatment center placement; or

238.7 (v) a home and community-based service alternative to community residential
238.8 placement service or regional treatment center placement including self-directed service
238.9 options;

238.10 ~~(7)~~ (4) evaluate the availability, location, and quality of the services listed in clause
238.11 ~~(6)~~ (3), including the impact of placement alternatives on the person's ability to maintain
238.12 or improve existing patterns of contact and involvement with parents and other family
238.13 members;

238.14 ~~(8)~~ (5) identify the cost implications of recommendations in clause ~~(6)~~ (3); and

238.15 ~~(9)~~ (6) make recommendations to a court as may be needed to assist the court in
238.16 making decisions regarding commitment of persons with developmental disabilities; ~~and~~

238.17 ~~(10) inform the person and the person's legal guardian or conservator, or the parent if~~
238.18 ~~the person is a minor, that appeal may be made to the commissioner pursuant to section~~
238.19 ~~256.045.~~

238.20 Sec. 33. Minnesota Statutes 2010, section 256B.092, subdivision 8a, is amended to
238.21 read:

238.22 Subd. 8a. **County concurrence notification.** (a) If the county of financial
238.23 responsibility wishes to place a person in another county for services, the county of
238.24 financial responsibility shall ~~seek concurrence from~~ notify the proposed county of service
238.25 and the placement shall be made cooperatively between the two counties. Arrangements
238.26 shall be made between the two counties for ongoing social service, including annual
238.27 reviews of the person's ~~individual service~~ coordinated service and support plan. The county
238.28 where services are provided may not make changes in the person's ~~service~~ coordinated
238.29 service and support plan without approval by the county of financial responsibility.

238.30 (b) ~~When a person has been screened and authorized for services in an intermediate~~
238.31 ~~care facility for persons with developmental disabilities or for home and community-based~~
238.32 ~~services for persons with developmental disabilities, the case manager shall assist that~~
238.33 ~~person in identifying a service provider who is able to meet the needs of the person~~
238.34 ~~according to the person's individual service plan. If the identified service is to be provided~~
238.35 ~~in a county other than the county of financial responsibility, the county of financial~~

239.1 ~~responsibility shall request concurrence of the county where the person is requesting to~~
239.2 ~~receive the identified services. The county of service may refuse to concur shall notify~~
239.3 ~~the county of financial responsibility if:~~

239.4 ~~(1) it can demonstrate that the provider is unable to provide the services identified in~~
239.5 ~~the person's individual service plan as services that are needed and are to be provided; or~~

239.6 ~~(2),~~ in the case of an intermediate care facility for persons with developmental
239.7 disabilities, there has been no authorization for admission by the admission review team
239.8 as required in section 256B.0926.

239.9 (c) The county of service shall notify the county of financial responsibility of
239.10 ~~concurrence or refusal to concur~~ any concerns about the chosen provider's capacity to
239.11 meet the needs of the person seeking to move to residential services in another county no
239.12 later than 20 working days following receipt of the written request notification. Unless
239.13 other mutually acceptable arrangements are made by the involved county agencies, the
239.14 county of financial responsibility is responsible for costs of social services and the costs
239.15 associated with the development and maintenance of the placement. The county of
239.16 service may request that the county of financial responsibility purchase case management
239.17 services from the county of service or from a contracted provider of case management
239.18 when the county of financial responsibility is not providing case management as defined
239.19 in this section and rules adopted under this section, unless other mutually acceptable
239.20 arrangements are made by the involved county agencies. Standards for payment limits
239.21 under this section may be established by the commissioner. Financial disputes between
239.22 counties shall be resolved as provided in section 256G.09. This subdivision also applies to
239.23 home and community-based waiver services provided under section 256B.49.

239.24 Sec. 34. Minnesota Statutes 2010, section 256B.092, subdivision 9, is amended to read:

239.25 Subd. 9. **Reimbursement.** Payment for services shall not be provided to a
239.26 service provider for any person placed in an intermediate care facility for persons with
239.27 developmental disabilities prior to the person ~~being screened by the screening team~~
239.28 receiving an assessment by a certified assessor. The commissioner shall not deny
239.29 reimbursement for: (1) a person admitted to an intermediate care facility for persons
239.30 with developmental disabilities who is assessed to need long-term supportive services,
239.31 if long-term supportive services other than intermediate care are not available in that
239.32 community; (2) any person admitted to an intermediate care facility for persons with
239.33 developmental disabilities under emergency circumstances; (3) any eligible person placed
239.34 in the intermediate care facility for persons with developmental disabilities pending an
239.35 appeal of the ~~screening team's~~ certified assessor's decision; or (4) any medical assistance

240.1 recipient when, after full discussion of all appropriate alternatives including those that
240.2 are expected to be less costly than intermediate care for persons with developmental
240.3 disabilities, the person or the person's legal guardian or conservator, or the parent if the
240.4 person is a minor, insists on intermediate care placement. The ~~screening team~~ certified
240.5 assessor shall provide documentation that the most cost-effective alternatives available
240.6 were offered to this individual or the individual's legal guardian or conservator.

240.7 Sec. 35. Minnesota Statutes 2010, section 256B.092, subdivision 11, is amended to
240.8 read:

240.9 Subd. 11. **Residential support services.** (a) Upon federal approval, there is
240.10 established a new service called residential support that is available on the community
240.11 alternative care, community alternatives for disabled individuals, developmental
240.12 disabilities, and traumatic brain injury waivers. Existing waiver service descriptions
240.13 must be modified to the extent necessary to ensure there is no duplication between
240.14 other services. Residential support services must be provided by vendors licensed as a
240.15 community residential setting as defined in section 245A.11, subdivision 8.

240.16 (b) Residential support services must meet the following criteria:

240.17 (1) providers of residential support services must own or control the residential site;

240.18 (2) the residential site must not be the primary residence of the license holder;

240.19 (3) the residential site must have a designated program supervisor responsible for
240.20 program oversight, development, and implementation of policies and procedures;

240.21 (4) the provider of residential support services must provide supervision, training,
240.22 and assistance as described in the person's ~~community~~ community coordinated service and support
240.23 plan; and

240.24 (5) the provider of residential support services must meet the requirements of
240.25 licensure and additional requirements of the person's ~~community~~ community coordinated service and
240.26 support plan.

240.27 (c) Providers of residential support services that meet the definition in paragraph
240.28 (a) must be registered using a process determined by the commissioner beginning July
240.29 1, 2009.

240.30 Sec. 36. Minnesota Statutes 2010, section 256B.15, subdivision 1c, is amended to read:

240.31 Subd. 1c. **Notice of potential claim.** (a) A state agency with a claim or potential
240.32 claim under this section may file a notice of potential claim under this subdivision anytime
240.33 before or within one year after a medical assistance recipient dies. The claimant shall be
240.34 the state agency. A notice filed prior to the recipient's death shall not take effect and shall

241.1 not be effective as notice until the recipient dies. A notice filed after a recipient dies
241.2 shall be effective from the time of filing.

241.3 (b) The notice of claim shall be filed or recorded in the real estate records in the
241.4 office of the county recorder or registrar of titles for each county in which any part of
241.5 the property is located. The recorder shall accept the notice for recording or filing. The
241.6 registrar of titles shall accept the notice for filing if the recipient has a recorded interest in
241.7 the property. The registrar of titles shall not carry forward to a new certificate of title any
241.8 notice filed more than one year from the date of the recipient's death.

241.9 (c) The notice must be dated, state the name of the claimant, the medical assistance
241.10 recipient's name and last four digits of the Social Security number if filed before their
241.11 death and their date of death if filed after they die, the name and date of death of any
241.12 predeceased spouse of the medical assistance recipient for whom a claim may exist, a
241.13 statement that the claimant may have a claim arising under this section, generally identify
241.14 the recipient's interest in the property, contain a legal description for the property and
241.15 whether it is abstract or registered property, a statement of when the notice becomes
241.16 effective and the effect of the notice, be signed by an authorized representative of the state
241.17 agency, and may include such other contents as the state agency may deem appropriate.

241.18 Sec. 37. Minnesota Statutes 2010, section 256B.15, subdivision 1f, is amended to read:

241.19 Subd. 1f. **Agency lien.** (a) The notice shall constitute a lien in favor of the
241.20 Department of Human Services against the recipient's interests in the real estate it
241.21 describes for a period of 20 years from the date of filing or the date of the recipient's death,
241.22 whichever is later. Notwithstanding any law or rule to the contrary, a recipient's life estate
241.23 and joint tenancy interests shall not end upon the recipient's death but shall continue
241.24 according to subdivisions 1h, 1i, and 1j. The amount of the lien shall be equal to the total
241.25 amount of the claims that could be presented in the recipient's estate under this section.

241.26 (b) If no estate has been opened for the deceased recipient, any holder of an interest
241.27 in the property may apply to the lienholder for a statement of the amount of the lien or
241.28 for a full or partial release of the lien. The application shall include the applicant's name,
241.29 current mailing address, current home and work telephone numbers, and a description of
241.30 their interest in the property, a legal description of the recipient's interest in the property,
241.31 and the deceased recipient's name, date of birth, and last four digits of the Social Security
241.32 number. The lienholder shall send the applicant by certified mail, return receipt requested,
241.33 a written statement showing the amount of the lien, whether the lienholder is willing to
241.34 release the lien and under what conditions, and inform them of the right to a hearing under

242.1 section 256.045. The lienholder shall have the discretion to compromise and settle the lien
242.2 upon any terms and conditions the lienholder deems appropriate.

242.3 (c) Any holder of an interest in property subject to the lien has a right to request
242.4 a hearing under section 256.045 to determine the validity, extent, or amount of the lien.
242.5 The request must be in writing, and must include the names, current addresses, and home
242.6 and business telephone numbers for all other parties holding an interest in the property. A
242.7 request for a hearing by any holder of an interest in the property shall be deemed to be a
242.8 request for a hearing by all parties owning interests in the property. Notice of the hearing
242.9 shall be given to the lienholder, the party filing the appeal, and all of the other holders of
242.10 interests in the property at the addresses listed in the appeal by certified mail, return receipt
242.11 requested, or by ordinary mail. Any owner of an interest in the property to whom notice of
242.12 the hearing is mailed shall be deemed to have waived any and all claims or defenses in
242.13 respect to the lien unless they appear and assert any claims or defenses at the hearing.

242.14 (d) If the claim the lien secures could be filed under subdivision 1h, the lienholder
242.15 may collect, compromise, settle, or release the lien upon any terms and conditions it deems
242.16 appropriate. If the claim the lien secures could be filed under subdivision 1i or 1j, the lien
242.17 may be adjusted or enforced to the same extent had it been filed under subdivisions 1i
242.18 and 1j, and the provisions of subdivisions 1i, clause (f), and 1j, clause (d), shall apply to
242.19 voluntary payment, settlement, or satisfaction of the lien.

242.20 (e) If no probate proceedings have been commenced for the recipient as of the date
242.21 the lien holder executes a release of the lien on a recipient's life estate or joint tenancy
242.22 interest, created for purposes of this section, the release shall terminate the life estate or
242.23 joint tenancy interest created under this section as of the date it is recorded or filed to the
242.24 extent of the release. If the claimant executes a release for purposes of extinguishing a
242.25 life estate or a joint tenancy interest created under this section to remove a cloud on title
242.26 to real property, the release shall have the effect of extinguishing any life estate or joint
242.27 tenancy interests in the property it describes which may have been continued by reason
242.28 of this section retroactive to the date of death of the deceased life tenant or joint tenant
242.29 except as provided for in section 514.981, subdivision 6.

242.30 (f) If the deceased recipient's estate is probated, a claim shall be filed under this
242.31 section. The amount of the lien shall be limited to the amount of the claim as finally
242.32 allowed. If the claim the lien secures is filed under subdivision 1h, the lien may be released
242.33 in full after any allowance of the claim becomes final or according to any agreement to
242.34 settle and satisfy the claim. The release shall release the lien but shall not extinguish
242.35 or terminate the interest being released. If the claim the lien secures is filed under
242.36 subdivision 1i or 1j, the lien shall be released after the lien under subdivision 1i or 1j is

243.1 filed or recorded, or settled according to any agreement to settle and satisfy the claim. The
 243.2 release shall not extinguish or terminate the interest being released. If the claim is finally
 243.3 disallowed in full, the claimant shall release the claimant's lien at the claimant's expense.

243.4 Sec. 38. Minnesota Statutes 2010, section 256B.49, subdivision 13, is amended to read:

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

243.9 ~~(1) assessing the needs of the individual within 20 working days of a recipient's~~
 243.10 ~~request;~~

243.11 ~~(2) developing~~ (1) finalizing the written individual service coordinated service and
 243.12 support plan within ten working days after the assessment is completed case manager
 243.13 receives the plan from the certified assessor;

243.14 ~~(3) (2)~~ informing the recipient or the recipient's legal guardian or conservator
 243.15 of service options;

243.16 ~~(4) (3)~~ assisting the recipient in the identification of potential service providers and
 243.17 available options for case management service and providers;

243.18 ~~(5) (4)~~ assisting the recipient to access services and assisting with appeals under
 243.19 section 256.045; and

243.20 ~~(6) (5)~~ coordinating, evaluating, and monitoring of the services identified in the
 243.21 service plan;

243.22 ~~(7) completing the annual reviews of the service plan; and~~

243.23 ~~(8) informing the recipient or legal representative of the right to have assessments~~
 243.24 ~~completed and service plans developed within specified time periods, and to appeal county~~
 243.25 ~~action or inaction under section 256.045, subdivision 3, including the determination of~~
 243.26 ~~nursing facility level of care.~~

243.27 (b) The case manager may delegate certain aspects of the case management service
 243.28 activities to another individual provided there is oversight by the case manager. The case
 243.29 manager may not delegate those aspects which require professional judgment including
 243.30 ~~assessments, reassessments, and care plan development.;~~

243.31 (1) finalizing the coordinated service and support plan;

243.32 (2) ongoing assessment and monitoring of the person's needs and adequacy of the
 243.33 approved coordinated service and support plan; and

243.34 (3) adjustments to the coordinated service and support plan.

244.1 (c) Case management services must be provided by a public or private agency that is
244.2 enrolled as a medical assistance provider determined by the commissioner to meet all of
244.3 the requirements in the approved federal waiver plans. Case management services must
244.4 not be provided to a recipient by a private agency that has any financial interest in the
244.5 provision of any other services included in the recipient's coordinated service and support
244.6 plan. For purposes of this section, "private agency" means any agency that is not identified
244.7 as a lead agency under section 256B.0911, subdivision 1a, paragraph (e).

244.8 Sec. 39. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 14,
244.9 is amended to read:

244.10 Subd. 14. **Assessment and reassessment.** (a) ~~Assessments of each recipient's~~
244.11 ~~strengths, informal support systems, and need for services shall be completed within 20~~
244.12 ~~working days of the recipient's request as provided in section 256B.0911. Reassessment~~
244.13 ~~of each recipient's strengths, support systems, and need for services shall be conducted~~
244.14 ~~at least every 12 months and at other times when there has been a significant change in~~
244.15 ~~the recipient's functioning and reassessments shall be conducted by certified assessors~~
244.16 according to section 256B.0911, subdivision 2b.

244.17 (b) There must be a determination that the client requires a hospital level of care or a
244.18 nursing facility level of care as defined in section 256B.0911, subdivision 4a, paragraph
244.19 (d), at initial and subsequent assessments to initiate and maintain participation in the
244.20 waiver program.

244.21 (c) Regardless of other assessments identified in section 144.0724, subdivision 4, as
244.22 appropriate to determine nursing facility level of care for purposes of medical assistance
244.23 payment for nursing facility services, only face-to-face assessments conducted according
244.24 to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care
244.25 determination or a nursing facility level of care determination must be accepted for
244.26 purposes of initial and ongoing access to waiver services payment.

244.27 ~~(d) Persons with developmental disabilities who apply for services under the nursing~~
244.28 ~~facility level waiver programs shall be screened for the appropriate level of care according~~
244.29 ~~to section 256B.092.~~

244.30 ~~(e)~~ (d) Recipients who are found eligible for home and community-based services
244.31 under this section before their 65th birthday may remain eligible for these services after
244.32 their 65th birthday if they continue to meet all other eligibility factors.

244.33 ~~(f)~~ (e) The commissioner shall develop criteria to identify recipients whose level of
244.34 functioning is reasonably expected to improve and reassess these recipients to establish
244.35 a baseline assessment. Recipients who meet these criteria must have a comprehensive

245.1 transitional service plan developed under subdivision 15, paragraphs (b) and (c), and be
245.2 reassessed every six months until there has been no significant change in the recipient's
245.3 functioning for at least 12 months. After there has been no significant change in the
245.4 recipient's functioning for at least 12 months, reassessments of the recipient's strengths,
245.5 informal support systems, and need for services shall be conducted at least every 12
245.6 months and at other times when there has been a significant change in the recipient's
245.7 functioning. Counties, case managers, and service providers are responsible for
245.8 conducting these reassessments and shall complete the reassessments out of existing funds.

245.9 Sec. 40. Minnesota Statutes 2011 Supplement, section 256B.49, subdivision 15,
245.10 is amended to read:

245.11 Subd. 15. ~~Individualized service~~ **Coordinated service and support plan;**
245.12 **comprehensive transitional service plan; maintenance service plan.** (a) Each recipient
245.13 of home and community-based waived services shall be provided a copy of the written
245.14 coordinated service and support plan which meets the requirements in section 256B.092,
245.15 subdivision 1b.

245.16 ~~(1) is developed and signed by the recipient within ten working days of the~~
245.17 ~~completion of the assessment;~~

245.18 ~~(2) meets the assessed needs of the recipient;~~

245.19 ~~(3) reasonably ensures the health and safety of the recipient;~~

245.20 ~~(4) promotes independence;~~

245.21 ~~(5) allows for services to be provided in the most integrated settings; and~~

245.22 ~~(6) provides for an informed choice, as defined in section 256B.77, subdivision 2,~~
245.23 ~~paragraph (p), of service and support providers.~~

245.24 (b) In developing the comprehensive transitional service plan, the individual
245.25 receiving services, the case manager, and the guardian, if applicable, will identify
245.26 the transitional service plan fundamental service outcome and anticipated timeline to
245.27 achieve this outcome. Within the first 20 days following a recipient's request for an
245.28 assessment or reassessment, the transitional service planning team must be identified. A
245.29 team leader must be identified who will be responsible for assigning responsibility and
245.30 communicating with team members to ensure implementation of the transition plan and
245.31 ongoing assessment and communication process. The team leader should be an individual,
245.32 such as the case manager or guardian, who has the opportunity to follow the recipient to
245.33 the next level of service.

245.34 Within ten days following an assessment, a comprehensive transitional service plan
245.35 must be developed incorporating elements of a comprehensive functional assessment and

246.1 including short-term measurable outcomes and timelines for achievement of and reporting
246.2 on these outcomes. Functional milestones must also be identified and reported according
246.3 to the timelines agreed upon by the transitional service planning team. In addition, the
246.4 comprehensive transitional service plan must identify additional supports that may assist
246.5 in the achievement of the fundamental service outcome such as the development of greater
246.6 natural community support, increased collaboration among agencies, and technological
246.7 supports.

246.8 The timelines for reporting on functional milestones will prompt a reassessment of
246.9 services provided, the units of services, rates, and appropriate service providers. It is
246.10 the responsibility of the transitional service planning team leader to review functional
246.11 milestone reporting to determine if the milestones are consistent with observable skills
246.12 and that milestone achievement prompts any needed changes to the comprehensive
246.13 transitional service plan.

246.14 For those whose fundamental transitional service outcome involves the need to
246.15 procure housing, a plan for the recipient to seek the resources necessary to secure the least
246.16 restrictive housing possible should be incorporated into the plan, including employment
246.17 and public supports such as housing access and shelter needy funding.

246.18 (c) Counties and other agencies responsible for funding community placement and
246.19 ongoing community supportive services are responsible for the implementation of the
246.20 comprehensive transitional service plans. Oversight responsibilities include both ensuring
246.21 effective transitional service delivery and efficient utilization of funding resources.

246.22 (d) Following one year of transitional services, the transitional services planning
246.23 team will make a determination as to whether or not the individual receiving services
246.24 requires the current level of continuous and consistent support in order to maintain the
246.25 recipient's current level of functioning. Recipients who are determined to have not had
246.26 a significant change in functioning for 12 months must move from a transitional to a
246.27 maintenance service plan. Recipients on a maintenance service plan must be reassessed
246.28 to determine if the recipient would benefit from a transitional service plan at least every
246.29 12 months and at other times when there has been a significant change in the recipient's
246.30 functioning. This assessment should consider any changes to technological or natural
246.31 community supports.

246.32 (e) When a county is evaluating denials, reductions, or terminations of home and
246.33 community-based services under section 256B.49 for an individual, the case manager
246.34 shall offer to meet with the individual or the individual's guardian in order to discuss the
246.35 prioritization of service needs within the ~~individualized~~ coordinated service and support
246.36 plan, comprehensive transitional service plan, or maintenance service plan. The reduction

247.1 in the authorized services for an individual due to changes in funding for waived
247.2 services may not exceed the amount needed to ensure medically necessary services to
247.3 meet the individual's health, safety, and welfare.

247.4 (f) At the time of reassessment, local agency case managers shall assess each
247.5 recipient of community alternatives for disabled individuals or traumatic brain injury
247.6 waived services currently residing in a licensed adult foster home that is not the primary
247.7 residence of the license holder, or in which the license holder is not the primary caregiver,
247.8 to determine if that recipient could appropriately be served in a community-living setting.
247.9 If appropriate for the recipient, the case manager shall offer the recipient, through a
247.10 person-centered planning process, the option to receive alternative housing and service
247.11 options. In the event that the recipient chooses to transfer from the adult foster home,
247.12 the vacated bed shall not be filled with another recipient of waiver services and group
247.13 residential housing, unless provided under section 245A.03, subdivision 7, paragraph (a),
247.14 clauses (3) and (4), and the licensed capacity shall be reduced accordingly. If the adult
247.15 foster home becomes no longer viable due to these transfers, the county agency, with the
247.16 assistance of the department, shall facilitate a consolidation of settings or closure. This
247.17 reassessment process shall be completed by June 30, 2012.

247.18 Sec. 41. Minnesota Statutes 2010, section 256G.02, subdivision 6, is amended to read:

247.19 Subd. 6. **Excluded time.** "Excluded time" means:

247.20 ~~(a)~~ (1) any period an applicant spends in a hospital, sanitarium, nursing home,
247.21 shelter other than an emergency shelter, halfway house, foster home, semi-independent
247.22 living domicile or services program, residential facility offering care, board and lodging
247.23 facility or other institution for the hospitalization or care of human beings, as defined in
247.24 section 144.50, 144A.01, or 245A.02, subdivision 14; maternity home, battered women's
247.25 shelter, or correctional facility; or any facility based on an emergency hold under sections
247.26 253B.05, subdivisions 1 and 2, and 253B.07, subdivision 6;

247.27 ~~(b)~~ (2) any period an applicant spends on a placement basis in a training and
247.28 habilitation program, including: a rehabilitation facility or work or employment program
247.29 as defined in section 268A.01; ~~or receiving personal care assistance services pursuant to~~
247.30 ~~section 256B.0659~~; semi-independent living services provided under section 252.275, and
247.31 Minnesota Rules, parts 9525.0500 to 9525.0660; or day training and habilitation programs
247.32 and assisted living services; and

247.33 ~~(c)~~ (3) any placement for a person with an indeterminate commitment, including
247.34 independent living.

249.1 Subd. 6. **Diagnostic codes list.** By July 1, 2013, the commissioner of human
249.2 services shall develop a list of diagnostic codes to define the range of child and adult
249.3 mental illnesses for the statewide mental health system. The commissioner may use the
249.4 International Classification of Diseases (ICD); the American Psychiatric Association's
249.5 Diagnostic and Statistical Manual (DSM); or a combination of both to develop the list.
249.6 The commissioner shall establish an advisory committee, comprising mental health
249.7 professional associations, counties, tribes, managed care organizations, state agencies,
249.8 and consumer organizations that shall advise the commissioner regarding development of
249.9 the diagnostic codes list. The commissioner shall annually notify providers of changes
249.10 to the list.

249.11 Sec. 2. Minnesota Statutes 2010, section 245.462, subdivision 20, is amended to read:

249.12 Subd. 20. **Mental illness.** (a) "Mental illness" means an organic disorder of the
249.13 brain or a clinically significant disorder of thought, mood, perception, orientation,
249.14 memory, or behavior that is ~~listed in the clinical manual of the International Classification~~
249.15 ~~of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0~~
249.16 ~~or the corresponding code in the American Psychiatric Association's Diagnostic and~~
249.17 ~~Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III~~
249.18 detailed in a diagnostic codes list published by the commissioner, and that seriously limits
249.19 a person's capacity to function in primary aspects of daily living such as personal relations,
249.20 living arrangements, work, and recreation.

249.21 (b) An "adult with acute mental illness" means an adult who has a mental illness that
249.22 is serious enough to require prompt intervention.

249.23 (c) For purposes of case management and community support services, a "person
249.24 with serious and persistent mental illness" means an adult who has a mental illness and
249.25 meets at least one of the following criteria:

249.26 (1) the adult has undergone two or more episodes of inpatient care for a mental
249.27 illness within the preceding 24 months;

249.28 (2) the adult has experienced a continuous psychiatric hospitalization or residential
249.29 treatment exceeding six months' duration within the preceding 12 months;

249.30 (3) the adult has been treated by a crisis team two or more times within the preceding
249.31 24 months;

249.32 (4) the adult:

249.33 (i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline
249.34 personality disorder;

249.35 (ii) indicates a significant impairment in functioning; and

250.1 (iii) has a written opinion from a mental health professional, in the last three years,
250.2 stating that the adult is reasonably likely to have future episodes requiring inpatient or
250.3 residential treatment, of a frequency described in clause (1) or (2), unless ongoing case
250.4 management or community support services are provided;

250.5 (5) the adult has, in the last three years, been committed by a court as a person
250.6 who is mentally ill under chapter 253B, or the adult's commitment has been stayed or
250.7 continued; or

250.8 (6) the adult (i) was eligible under clauses (1) to (5), but the specified time period
250.9 has expired or the adult was eligible as a child under section 245.4871, subdivision 6; and
250.10 (ii) has a written opinion from a mental health professional, in the last three years, stating
250.11 that the adult is reasonably likely to have future episodes requiring inpatient or residential
250.12 treatment, of a frequency described in clause (1) or (2), unless ongoing case management
250.13 or community support services are provided.

250.14 Sec. 3. Minnesota Statutes 2010, section 245.487, is amended by adding a subdivision
250.15 to read:

250.16 Subd. 7. **Diagnostic codes list.** By July 1, 2013, the commissioner of human
250.17 services shall develop a list of diagnostic codes to define the range of child and adult
250.18 mental illnesses for the statewide mental health system. The commissioner may use the
250.19 International Classification of Diseases (ICD); the American Psychiatric Association's
250.20 Diagnostic and Statistical Manual (DSM); or a combination of both to develop the list.
250.21 The commissioner shall establish an advisory committee, comprising mental health
250.22 professional associations, counties, tribes, managed care organizations, state agencies,
250.23 and consumer organizations that shall advise the commissioner regarding development of
250.24 the diagnostic codes list. The commissioner shall annually notify providers of changes
250.25 to the list.

250.26 Sec. 4. Minnesota Statutes 2010, section 245.4871, subdivision 15, is amended to read:

250.27 Subd. 15. **Emotional disturbance.** "Emotional disturbance" means an organic
250.28 disorder of the brain or a clinically significant disorder of thought, mood, perception,
250.29 orientation, memory, or behavior that:

250.30 (1) ~~is listed in the clinical manual of the International Classification of Diseases~~
250.31 ~~(ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the~~
250.32 ~~corresponding code in the American Psychiatric Association's Diagnostic and Statistical~~
250.33 ~~Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III detailed in a~~
250.34 diagnostic codes list published by the commissioner; and

251.1 (2) seriously limits a child's capacity to function in primary aspects of daily living
251.2 such as personal relations, living arrangements, work, school, and recreation.

251.3 "Emotional disturbance" is a generic term and is intended to reflect all categories
251.4 of disorder described in ~~DSM-IV, current edition~~ the clinical code list published by the
251.5 commissioner as "usually first evident in childhood or adolescence."

251.6 Sec. 5. Minnesota Statutes 2010, section 245.4932, subdivision 1, is amended to read:

251.7 Subdivision 1. **Collaborative responsibilities.** The children's mental health
251.8 collaborative shall have the following authority and responsibilities regarding federal
251.9 revenue enhancement:

251.10 (1) the collaborative must establish an integrated fund;

251.11 (2) the collaborative shall designate a lead county or other qualified entity as the
251.12 fiscal agency for reporting, claiming, and receiving payments;

251.13 (3) the collaborative or lead county may enter into subcontracts with other counties,
251.14 school districts, special education cooperatives, municipalities, and other public and
251.15 nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance
251.16 federal reimbursement;

251.17 (4) the collaborative shall use any enhanced revenue attributable to the activities of
251.18 the collaborative, including administrative and service revenue, solely to provide mental
251.19 health services or to expand the operational target population. The lead county or other
251.20 qualified entity may not use enhanced federal revenue for any other purpose;

251.21 ~~(5) the members of the collaborative must continue the base level of expenditures,~~
251.22 ~~as defined in section 245.492, subdivision 2, for services for children with emotional or~~
251.23 ~~behavioral disturbances and their families from any state, county, federal, or other public~~
251.24 ~~or private funding source which, in the absence of the new federal reimbursement earned~~
251.25 ~~under sections 245.491 to 245.495, would have been available for those services. The~~
251.26 ~~base year for purposes of this subdivision shall be the accounting period closest to state~~
251.27 ~~fiscal year 1993;~~

251.28 ~~(6)~~ (5) the collaborative or lead county must develop and maintain an accounting and
251.29 financial management system adequate to support all claims for federal reimbursement,
251.30 including a clear audit trail and any provisions specified in the contract with the
251.31 commissioner of human services;

251.32 ~~(7)~~ (6) the collaborative or its members may elect to pay the nonfederal share of the
251.33 medical assistance costs for services designated by the collaborative; and

252.1 ~~(8)~~ (7) the lead county or other qualified entity may not use federal funds or local
252.2 funds designated as matching for other federal funds to provide the nonfederal share of
252.3 medical assistance.

252.4 Sec. 6. Minnesota Statutes 2010, section 246.53, is amended by adding a subdivision
252.5 to read:

252.6 Subd. 4. **Exception from statute of limitations.** Any statute of limitations that
252.7 limits the commissioner in recovering the cost of care obligation incurred by a client or
252.8 former client shall not apply to any claim against an estate made under this section to
252.9 recover the cost of care.

252.10 Sec. 7. Minnesota Statutes 2011 Supplement, section 254B.04, subdivision 2a, is
252.11 amended to read:

252.12 Subd. 2a. **Eligibility for treatment in residential settings.** Notwithstanding
252.13 provisions of Minnesota Rules, part 9530.6622, subparts 5 and 6, related to an assessor's
252.14 discretion in making placements to residential treatment settings, a person eligible for
252.15 services under this section must score at level 4 on assessment dimensions related to
252.16 relapse, continued use, ~~and~~ or recovery environment in order to be assigned to services
252.17 with a room and board component reimbursed under this section.

252.18 Sec. 8. Minnesota Statutes 2010, section 256B.0625, subdivision 42, is amended to
252.19 read:

252.20 Subd. 42. **Mental health professional.** Notwithstanding Minnesota Rules, part
252.21 9505.0175, subpart 28, the definition of a mental health professional shall include a person
252.22 who is qualified as specified in section 245.462, subdivision 18, clauses ~~(5) and (1)~~ (6);
252.23 or 245.4871, subdivision 27, clauses ~~(5) and (1)~~ (6), for the purpose of this section and
252.24 Minnesota Rules, parts 9505.0170 to 9505.0475.

252.25 Sec. 9. Minnesota Statutes 2010, section 256F.13, subdivision 1, is amended to read:

252.26 Subdivision 1. **Federal revenue enhancement.** (a) The commissioner of human
252.27 services may enter into an agreement with one or more family services collaboratives
252.28 to enhance federal reimbursement under title IV-E of the Social Security Act and
252.29 federal administrative reimbursement under title XIX of the Social Security Act. The
252.30 commissioner may contract with the Department of Education for purposes of transferring
252.31 the federal reimbursement to the commissioner of education to be distributed to the

253.1 collaboratives according to clause (2). The commissioner shall have the following
253.2 authority and responsibilities regarding family services collaboratives:

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

253.5 (2) the commissioner shall pay the federal reimbursement earned under this
253.6 subdivision to each collaborative based on their earnings. Payments to collaboratives for
253.7 expenditures under this subdivision will only be made of federal earnings from services
253.8 provided by the collaborative;

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

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

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

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

253.22 ~~(iii) reduction in the number of children under age 19 in the county, collaborative~~
253.23 ~~service delivery area, subcontractor's district, or catchment area when compared to the~~
253.24 ~~number in the base year using the most recent data provided by the State Demographer's~~
253.25 ~~Office; or~~

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

253.28 ~~(5)~~ (4) the commissioner shall not use the federal reimbursement earned under this
253.29 subdivision in determining the allocation or distribution of other funds to counties or
253.30 collaboratives;

253.31 ~~(6)~~ (5) the commissioner may suspend, reduce, or terminate the federal
253.32 reimbursement to a provider that does not meet the reporting or other requirements
253.33 of this subdivision;

253.34 ~~(7)~~ (6) the commissioner shall recover from the family services collaborative any
253.35 federal fiscal disallowances or sanctions for audit exceptions directly attributable to the

254.1 family services collaborative's actions in the integrated fund, or the proportional share if
254.2 federal fiscal disallowances or sanctions are based on a statewide random sample; and
254.3 ~~(8)~~ (7) the commissioner shall establish criteria for the family services collaborative
254.4 for the accounting and financial management system that will support claims for federal
254.5 reimbursement.

254.6 (b) The family services collaborative shall have the following authority and
254.7 responsibilities regarding federal revenue enhancement:

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

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

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

254.20 (4) the family services collaborative must ensure that expenditures submitted for
254.21 federal reimbursement are not made from federal funds or funds used to match other
254.22 federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family
254.23 services collaborative expenditures under agreement with the department, the nonfederal
254.24 share of costs shall be provided by the family services collaborative from sources other
254.25 than federal funds or funds used to match other federal funds;

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

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

254.31 Sec. 10. **TERMINOLOGY AUDIT.**

254.32 The commissioner of human services shall collaborate with individuals with
254.33 disabilities, families, advocates, and other governmental agencies to solicit feedback and
254.34 identify inappropriate and insensitive terminology relating to individuals with disabilities,
254.35 conduct a comprehensive audit of the placement of this terminology in Minnesota Statutes

255.1 and Minnesota Rules, and make recommendations for changes to the 2013 legislature
255.2 on the repeal and replacement of this terminology with more appropriate and sensitive
255.3 terminology.

255.4 **ARTICLE 13**

255.5 **HEALTH CARE**

255.6 Section 1. Minnesota Statutes 2011 Supplement, section 125A.21, subdivision 7,
255.7 is amended to read:

255.8 Subd. 7. **District disclosure of information.** A school district may disclose
255.9 information contained in a student's individualized education program, consistent with
255.10 section 13.32, subdivision 3, paragraph (a), and Code of Federal Regulations, title 34,
255.11 parts 99 and 300; including records of the student's diagnosis and treatment, to a health
255.12 plan company only with the signed and dated consent of the student's parent, or other
255.13 legally authorized individual, ~~including consent that the parent or legal representative gave~~
255.14 ~~as part of the application process for MinnesotaCare or medical assistance under section~~
255.15 ~~256B.08, subdivision 1.~~ The school district shall disclose only that information necessary
255.16 for the health plan company to decide matters of coverage and payment. A health plan
255.17 company may use the information only for making decisions regarding coverage and
255.18 payment, and for any other use permitted by law.

255.19 Sec. 2. Minnesota Statutes 2010, section 256B.04, subdivision 14, is amended to read:

255.20 Subd. 14. **Competitive bidding.** (a) When determined to be effective, economical,
255.21 and feasible, the commissioner may utilize volume purchase through competitive bidding
255.22 and negotiation under the provisions of chapter 16C, to provide items under the medical
255.23 assistance program including but not limited to the following:

255.24 (1) eyeglasses;

255.25 (2) oxygen. The commissioner shall provide for oxygen needed in an emergency
255.26 situation on a short-term basis, until the vendor can obtain the necessary supply from
255.27 the contract dealer;

255.28 (3) hearing aids and supplies; and

255.29 (4) durable medical equipment, including but not limited to:

255.30 (i) hospital beds;

255.31 (ii) commodes;

255.32 (iii) glide-about chairs;

255.33 (iv) patient lift apparatus;

255.34 (v) wheelchairs and accessories;

- 256.1 (vi) oxygen administration equipment;
- 256.2 (vii) respiratory therapy equipment;
- 256.3 (viii) electronic diagnostic, therapeutic and life-support systems;
- 256.4 (5) nonemergency medical transportation level of need determinations, disbursement
- 256.5 of public transportation passes and tokens, and volunteer and recipient mileage and
- 256.6 parking reimbursements; and
- 256.7 (6) drugs.
- 256.8 (b) Rate changes and recipient cost-sharing under this chapter and chapters 256D and
- 256.9 256L do not affect contract payments under this subdivision unless specifically identified.
- 256.10 (c) The commissioner may not utilize volume purchase through competitive bidding
- 256.11 and negotiation for special transportation services under the provisions of chapter 16C.

256.12 Sec. 3. Minnesota Statutes 2011 Supplement, section 256B.056, subdivision 3, is

256.13 amended to read:

256.14 Subd. 3. **Asset limitations for individuals and families.** (a) To be eligible for

256.15 medical assistance, a person must not individually own more than \$3,000 in assets, or if a

256.16 member of a household with two family members, husband and wife, or parent and child,

256.17 the household must not own more than \$6,000 in assets, plus \$200 for each additional

256.18 legal dependent. In addition to these maximum amounts, an eligible individual or family

256.19 may accrue interest on these amounts, but they must be reduced to the maximum at the

256.20 time of an eligibility redetermination. The accumulation of the clothing and personal

256.21 needs allowance according to section 256B.35 must also be reduced to the maximum at

256.22 the time of the eligibility redetermination. The value of assets that are not considered in

256.23 determining eligibility for medical assistance is the value of those assets excluded under

256.24 the supplemental security income program for aged, blind, and disabled persons, with

256.25 the following exceptions:

- 256.26 (1) household goods and personal effects are not considered;
- 256.27 (2) capital and operating assets of a trade or business that the local agency determines
- 256.28 are necessary to the person's ability to earn an income are not considered;
- 256.29 (3) motor vehicles are excluded to the same extent excluded by the supplemental
- 256.30 security income program;
- 256.31 (4) assets designated as burial expenses are excluded to the same extent excluded by
- 256.32 the supplemental security income program. Burial expenses funded by annuity contracts
- 256.33 or life insurance policies must irrevocably designate the individual's estate as contingent
- 256.34 beneficiary to the extent proceeds are not used for payment of selected burial expenses; ~~and~~

257.1 (5) for a person who no longer qualifies as an employed person with a disability due
257.2 to loss of earnings, assets allowed while eligible for medical assistance under section
257.3 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month
257.4 of ineligibility as an employed person with a disability, to the extent that the person's total
257.5 assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph
257.6 (d); and

257.7 (6) effective July 1, 2009, certain assets owned by American Indians are excluded as
257.8 required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public
257.9 Law 111-5. For purposes of this clause, an American Indian is any person who meets the
257.10 definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

257.11 (b) No asset limit shall apply to persons eligible under section 256B.055, subdivision
257.12 15.

257.13 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2009.

257.14 Sec. 4. Minnesota Statutes 2010, section 256B.056, subdivision 3c, is amended to read:

257.15 Subd. 3c. **Asset limitations for families and children.** A household of two or more
257.16 persons must not own more than \$20,000 in total net assets, and a household of one
257.17 person must not own more than \$10,000 in total net assets. In addition to these maximum
257.18 amounts, an eligible individual or family may accrue interest on these amounts, but they
257.19 must be reduced to the maximum at the time of an eligibility redetermination. The value of
257.20 assets that are not considered in determining eligibility for medical assistance for families
257.21 and children is the value of those assets excluded under the AFDC state plan as of July 16,
257.22 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation
257.23 Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

257.24 (1) household goods and personal effects are not considered;

257.25 (2) capital and operating assets of a trade or business up to \$200,000 are not
257.26 considered, except that a bank account that contains personal income or assets, or is used to
257.27 pay personal expenses, is not considered a capital or operating asset of a trade or business;

257.28 (3) one motor vehicle is excluded for each person of legal driving age who is
257.29 employed or seeking employment;

257.30 (4) assets designated as burial expenses are excluded to the same extent they are
257.31 excluded by the Supplemental Security Income program;

257.32 (5) court-ordered settlements up to \$10,000 are not considered;

257.33 (6) individual retirement accounts and funds are not considered; ~~and~~

257.34 (7) assets owned by children are not considered; and

258.1 (8) effective July 1, 2009, certain assets owned by American Indians are excluded, as
258.2 required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public
258.3 Law 111-5. For purposes of this clause, an American Indian is any person who meets the
258.4 definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

258.5 The assets specified in clause (2) must be disclosed to the local agency at the time of
258.6 application and at the time of an eligibility redetermination, and must be verified upon
258.7 request of the local agency.

258.8 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2009.

258.9 Sec. 5. Minnesota Statutes 2011 Supplement, section 256B.057, subdivision 9, is
258.10 amended to read:

258.11 Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid
258.12 for a person who is employed and who:

258.13 (1) but for excess earnings or assets, meets the definition of disabled under the
258.14 Supplemental Security Income program;

258.15 (2) is at least 16 but less than 65 years of age;

258.16 (3) meets the asset limits in paragraph (d); and

258.17 (4) pays a premium and other obligations under paragraph (e).

258.18 (b) For purposes of eligibility, there is a \$65 earned income disregard. To be eligible
258.19 for medical assistance under this subdivision, a person must have more than \$65 of earned
258.20 income. Earned income must have Medicare, Social Security, and applicable state and
258.21 federal taxes withheld. The person must document earned income tax withholding. Any
258.22 spousal income or assets shall be disregarded for purposes of eligibility and premium
258.23 determinations.

258.24 (c) After the month of enrollment, a person enrolled in medical assistance under
258.25 this subdivision who:

258.26 (1) is temporarily unable to work and without receipt of earned income due to a
258.27 medical condition, as verified by a physician; or

258.28 (2) loses employment for reasons not attributable to the enrollee, and is without
258.29 receipt of earned income may retain eligibility for up to four consecutive months after the
258.30 month of job loss. To receive a four-month extension, enrollees must verify the medical
258.31 condition or provide notification of job loss. All other eligibility requirements must be met
258.32 and the enrollee must pay all calculated premium costs for continued eligibility.

258.33 (d) For purposes of determining eligibility under this subdivision, a person's assets
258.34 must not exceed \$20,000, excluding:

259.1 (1) all assets excluded under section 256B.056;

259.2 (2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans,
259.3 Keogh plans, and pension plans;

259.4 (3) medical expense accounts set up through the person's employer; and

259.5 (4) spousal assets, including spouse's share of jointly held assets.

259.6 (e) All enrollees must pay a premium to be eligible for medical assistance under this
259.7 subdivision, except as provided under ~~section 256.01, subdivision 18b~~ clause (5).

259.8 (1) An enrollee must pay the greater of a \$65 premium or the premium calculated
259.9 based on the person's gross earned and unearned income and the applicable family size
259.10 using a sliding fee scale established by the commissioner, which begins at one percent of
259.11 income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of
259.12 income for those with incomes at or above 300 percent of the federal poverty guidelines.

259.13 (2) Annual adjustments in the premium schedule based upon changes in the federal
259.14 poverty guidelines shall be effective for premiums due in July of each year.

259.15 (3) All enrollees who receive unearned income must pay five percent of unearned
259.16 income in addition to the premium amount, except as provided under ~~section 256.01,~~
259.17 ~~subdivision 18b~~ clause (5).

259.18 (4) Increases in benefits under title II of the Social Security Act shall not be counted
259.19 as income for purposes of this subdivision until July 1 of each year.

259.20 (5) Effective July 1, 2009, American Indians are exempt from paying premiums as
259.21 required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public
259.22 Law 111-5. For purposes of this clause, an American Indian is any person who meets the
259.23 definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

259.24 (f) A person's eligibility and premium shall be determined by the local county
259.25 agency. Premiums must be paid to the commissioner. All premiums are dedicated to
259.26 the commissioner.

259.27 (g) Any required premium shall be determined at application and redetermined at
259.28 the enrollee's six-month income review or when a change in income or household size is
259.29 reported. Enrollees must report any change in income or household size within ten days
259.30 of when the change occurs. A decreased premium resulting from a reported change in
259.31 income or household size shall be effective the first day of the next available billing month
259.32 after the change is reported. Except for changes occurring from annual cost-of-living
259.33 increases, a change resulting in an increased premium shall not affect the premium amount
259.34 until the next six-month review.

260.1 (h) Premium payment is due upon notification from the commissioner of the
260.2 premium amount required. Premiums may be paid in installments at the discretion of
260.3 the commissioner.

260.4 (i) Nonpayment of the premium shall result in denial or termination of medical
260.5 assistance unless the person demonstrates good cause for nonpayment. Good cause exists
260.6 if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to
260.7 D, are met. Except when an installment agreement is accepted by the commissioner,
260.8 all persons disenrolled for nonpayment of a premium must pay any past due premiums
260.9 as well as current premiums due prior to being reenrolled. Nonpayment shall include
260.10 payment with a returned, refused, or dishonored instrument. The commissioner may
260.11 require a guaranteed form of payment as the only means to replace a returned, refused,
260.12 or dishonored instrument.

260.13 (j) The commissioner shall notify enrollees annually beginning at least 24 months
260.14 before the person's 65th birthday of the medical assistance eligibility rules affecting
260.15 income, assets, and treatment of a spouse's income and assets that will be applied upon
260.16 reaching age 65.

260.17 (k) For enrollees whose income does not exceed 200 percent of the federal poverty
260.18 guidelines and who are also enrolled in Medicare, the commissioner shall reimburse
260.19 the enrollee for Medicare part B premiums under section 256B.0625, subdivision 15,
260.20 paragraph (a).

260.21 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2009.

260.22 Sec. 6. Minnesota Statutes 2010, section 256B.0595, subdivision 2, is amended to read:

260.23 Subd. 2. **Period of ineligibility for long-term care services.** (a) For any
260.24 uncompensated transfer occurring on or before August 10, 1993, the number of months
260.25 of ineligibility for long-term care services shall be the lesser of 30 months, or the
260.26 uncompensated transfer amount divided by the average medical assistance rate for nursing
260.27 facility services in the state in effect on the date of application. The amount used to
260.28 calculate the average medical assistance payment rate shall be adjusted each July 1 to
260.29 reflect payment rates for the previous calendar year. The period of ineligibility begins
260.30 with the month in which the assets were transferred. If the transfer was not reported to
260.31 the local agency at the time of application, and the applicant received long-term care
260.32 services during what would have been the period of ineligibility if the transfer had been
260.33 reported, a cause of action exists against the transferee for the cost of long-term care
260.34 services provided during the period of ineligibility, or for the uncompensated amount of
260.35 the transfer, whichever is less. The uncompensated transfer amount is the fair market

261.1 value of the asset at the time it was given away, sold, or disposed of, less the amount of
261.2 compensation received.

261.3 (b) For uncompensated transfers made after August 10, 1993, the number of months
261.4 of ineligibility for long-term care services shall be the total uncompensated value of the
261.5 resources transferred divided by the average medical assistance rate for nursing facility
261.6 services in the state in effect on the date of application. The amount used to calculate
261.7 the average medical assistance payment rate shall be adjusted each July 1 to reflect
261.8 payment rates for the previous calendar year. The period of ineligibility begins with the
261.9 first day of the month after the month in which the assets were transferred except that
261.10 if one or more uncompensated transfers are made during a period of ineligibility, the
261.11 total assets transferred during the ineligibility period shall be combined and a penalty
261.12 period calculated to begin on the first day of the month after the month in which the first
261.13 uncompensated transfer was made. If the transfer was reported to the local agency after
261.14 the date that advance notice of a period of ineligibility that affects the next month could
261.15 be provided to the recipient and the recipient received medical assistance services or the
261.16 transfer was not reported to the local agency, and the applicant or recipient received
261.17 medical assistance services during what would have been the period of ineligibility if
261.18 the transfer had been reported, a cause of action exists against the transferee for that
261.19 portion of long-term care services provided during the period of ineligibility, or for the
261.20 uncompensated amount of the transfer, whichever is less. The uncompensated transfer
261.21 amount is the fair market value of the asset at the time it was given away, sold, or disposed
261.22 of, less the amount of compensation received. Effective for transfers made on or after
261.23 March 1, 1996, involving persons who apply for medical assistance on or after April 13,
261.24 1996, no cause of action exists for a transfer unless:

261.25 (1) the transferee knew or should have known that the transfer was being made by a
261.26 person who was a resident of a long-term care facility or was receiving that level of care in
261.27 the community at the time of the transfer;

261.28 (2) the transferee knew or should have known that the transfer was being made to
261.29 assist the person to qualify for or retain medical assistance eligibility; or

261.30 (3) the transferee actively solicited the transfer with intent to assist the person to
261.31 qualify for or retain eligibility for medical assistance.

261.32 (c) For uncompensated transfers made on or after February 8, 2006, the period
261.33 of ineligibility:

261.34 (1) for uncompensated transfers by or on behalf of individuals receiving medical
261.35 assistance payment of long-term care services, begins the first day of the month following
261.36 advance notice of the period of ineligibility, but no later than the first day of the month

262.1 that follows three full calendar months from the date of the report or discovery of the
262.2 transfer; or

262.3 (2) for uncompensated transfers by individuals requesting medical assistance
262.4 payment of long-term care services, begins the date on which the individual is eligible
262.5 for medical assistance under the Medicaid state plan and would otherwise be receiving
262.6 long-term care services based on an approved application for such care but for the period
262.7 of ineligibility resulting from the uncompensated transfer; and

262.8 (3) cannot begin during any other period of ineligibility.

262.9 (d) If a calculation of a period of ineligibility results in a partial month, payments for
262.10 long-term care services shall be reduced in an amount equal to the fraction.

262.11 (e) In the case of multiple fractional transfers of assets in more than one month for
262.12 less than fair market value on or after February 8, 2006, the period of ineligibility is
262.13 calculated by treating the total, cumulative, uncompensated value of all assets transferred
262.14 during all months on or after February 8, 2006, as one transfer.

262.15 (f) A period of ineligibility established under paragraph (c) may be eliminated if
262.16 all of the assets transferred for less than fair market value used to calculate the period of
262.17 ineligibility, or cash equal to the value of the assets at the time of the transfer, are returned
262.18 ~~within 12 months after the date the period of ineligibility began.~~ A period of ineligibility
262.19 must not be adjusted if less than the full amount of the transferred assets or the full cash
262.20 value of the transferred assets are returned.

262.21 Sec. 7. Minnesota Statutes 2010, section 256B.0625, subdivision 13, is amended to
262.22 read:

262.23 Subd. 13. **Drugs.** (a) Medical assistance covers drugs, except for fertility drugs
262.24 when specifically used to enhance fertility, if prescribed by a licensed practitioner and
262.25 dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance
262.26 program as a dispensing physician, or by a physician, physician assistant, or a nurse
262.27 practitioner employed by or under contract with a community health board as defined in
262.28 section 145A.02, subdivision 5, for the purposes of communicable disease control.

262.29 (b) The dispensed quantity of a prescription drug must not exceed a 34-day supply,
262.30 unless authorized by the commissioner.

262.31 (c) For the purpose of this subdivision and subdivision 13d, an "active
262.32 pharmaceutical ingredient" is defined as a substance that is represented for use in a drug
262.33 and when used in the manufacturing, processing, or packaging of a drug, becomes an
262.34 active ingredient of the drug product. An "excipient" is defined as an inert substance
262.35 used as a diluent or vehicle for a drug. The commissioner shall establish a list of active

263.1 pharmaceutical ingredients and excipients which are included in the medical assistance
263.2 formulary. Medical assistance covers selected active pharmaceutical ingredients and
263.3 excipients used in compounded prescriptions when the compounded combination is
263.4 specifically approved by the commissioner or when a commercially available product:

263.5 (1) is not a therapeutic option for the patient;

263.6 (2) does not exist in the same combination of active ingredients in the same strengths
263.7 as the compounded prescription; and

263.8 (3) cannot be used in place of the active pharmaceutical ingredient in the
263.9 compounded prescription.

263.10 ~~(e)~~ (d) Medical assistance covers the following over-the-counter drugs when
263.11 prescribed by a licensed practitioner or by a licensed pharmacist who meets standards
263.12 established by the commissioner, in consultation with the board of pharmacy: antacids,
263.13 acetaminophen, family planning products, aspirin, insulin, products for the treatment of
263.14 lice, vitamins for adults with documented vitamin deficiencies, vitamins for children
263.15 under the age of seven and pregnant or nursing women, and any other over-the-counter
263.16 drug identified by the commissioner, in consultation with the formulary committee, as
263.17 necessary, appropriate, and cost-effective for the treatment of certain specified chronic
263.18 diseases, conditions, or disorders, and this determination shall not be subject to the
263.19 requirements of chapter 14. A pharmacist may prescribe over-the-counter medications as
263.20 provided under this paragraph for purposes of receiving reimbursement under Medicaid.
263.21 When prescribing over-the-counter drugs under this paragraph, licensed pharmacists must
263.22 consult with the recipient to determine necessity, provide drug counseling, review drug
263.23 therapy for potential adverse interactions, and make referrals as needed to other health care
263.24 professionals. Over-the-counter medications must be dispensed in a quantity that is the
263.25 lower of: (1) the number of dosage units contained in the manufacturer's original package;
263.26 and (2) the number of dosage units required to complete the patient's course of therapy.

263.27 ~~(d)~~ (e) Effective January 1, 2006, medical assistance shall not cover drugs that
263.28 are coverable under Medicare Part D as defined in the Medicare Prescription Drug,
263.29 Improvement, and Modernization Act of 2003, Public Law 108-173, section 1860D-2(e),
263.30 for individuals eligible for drug coverage as defined in the Medicare Prescription
263.31 Drug, Improvement, and Modernization Act of 2003, Public Law 108-173, section
263.32 1860D-1(a)(3)(A). For these individuals, medical assistance may cover drugs from the
263.33 drug classes listed in United States Code, title 42, section 1396r-8(d)(2), subject to this
263.34 subdivision and subdivisions 13a to 13g, except that drugs listed in United States Code,
263.35 title 42, section 1396r-8(d)(2)(E), shall not be covered.

264.1 Sec. 8. Minnesota Statutes 2010, section 256B.0625, subdivision 13d, is amended to
264.2 read:

264.3 Subd. 13d. **Drug formulary.** (a) The commissioner shall establish a drug
264.4 formulary. Its establishment and publication shall not be subject to the requirements of the
264.5 Administrative Procedure Act, but the Formulary Committee shall review and comment
264.6 on the formulary contents.

264.7 (b) The formulary shall not include:

264.8 (1) drugs, active pharmaceutical ingredients, or products for which there is no
264.9 federal funding;

264.10 (2) over-the-counter drugs, except as provided in subdivision 13;

264.11 (3) drugs or active pharmaceutical ingredients used for weight loss, except that
264.12 medically necessary lipase inhibitors may be covered for a recipient with type II diabetes;

264.13 (4) drugs or active pharmaceutical ingredients when used for the treatment of
264.14 impotence or erectile dysfunction;

264.15 (5) drugs or active pharmaceutical ingredients for which medical value has not
264.16 been established; and

264.17 (6) drugs from manufacturers who have not signed a rebate agreement with the
264.18 Department of Health and Human Services pursuant to section 1927 of title XIX of the
264.19 Social Security Act.

264.20 (c) If a single-source drug used by at least two percent of the fee-for-service
264.21 medical assistance recipients is removed from the formulary due to the failure of the
264.22 manufacturer to sign a rebate agreement with the Department of Health and Human
264.23 Services, the commissioner shall notify prescribing practitioners within 30 days of
264.24 receiving notification from the Centers for Medicare and Medicaid Services (CMS) that a
264.25 rebate agreement was not signed.

264.26 Sec. 9. Minnesota Statutes 2011 Supplement, section 256B.0625, subdivision 13e,
264.27 is amended to read:

264.28 Subd. 13e. **Payment rates.** (a) The basis for determining the amount of payment
264.29 shall be the lower of the actual acquisition costs of the drugs or the maximum allowable
264.30 cost by the commissioner plus the fixed dispensing fee; or the usual and customary price
264.31 charged to the public. The amount of payment basis must be reduced to reflect all discount
264.32 amounts applied to the charge by any provider/insurer agreement or contract for submitted
264.33 charges to medical assistance programs. The net submitted charge may not be greater
264.34 than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65,
264.35 except that the dispensing fee for intravenous solutions which must be compounded by the

265.1 pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30
265.2 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per
265.3 bag for total parenteral nutritional products dispensed in quantities greater than one liter.
265.4 Actual acquisition cost includes quantity and other special discounts except time and cash
265.5 discounts. The actual acquisition cost of a drug shall be estimated by the commissioner at
265.6 wholesale acquisition cost plus four percent for independently owned pharmacies located
265.7 in a designated rural area within Minnesota, and at wholesale acquisition cost plus two
265.8 percent for all other pharmacies. A pharmacy is "independently owned" if it is one
265.9 of four or fewer pharmacies under the same ownership nationally. A "designated rural
265.10 area" means an area defined as a small rural area or isolated rural area according to the
265.11 four-category classification of the Rural Urban Commuting Area system developed for the
265.12 United States Health Resources and Services Administration. Wholesale acquisition cost
265.13 is defined as the manufacturer's list price for a drug or biological to wholesalers or direct
265.14 purchasers in the United States, not including prompt pay or other discounts, rebates, or
265.15 reductions in price, for the most recent month for which information is available, as
265.16 reported in wholesale price guides or other publications of drug or biological pricing data.
265.17 The maximum allowable cost of a multisource drug may be set by the commissioner and it
265.18 shall be comparable to, but no higher than, the maximum amount paid by other third-party
265.19 payors in this state who have maximum allowable cost programs. Establishment of the
265.20 amount of payment for drugs shall not be subject to the requirements of the Administrative
265.21 Procedure Act.

265.22 (b) An additional dispensing fee of \$.30 may be added to the dispensing fee paid
265.23 to pharmacists for legend drug prescriptions dispensed to residents of long-term care
265.24 facilities when a unit dose blister card system, approved by the department, is used. Under
265.25 this type of dispensing system, the pharmacist must dispense a 30-day supply of drug.
265.26 The National Drug Code (NDC) from the drug container used to fill the blister card must
265.27 be identified on the claim to the department. The unit dose blister card containing the
265.28 drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700,
265.29 that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider
265.30 will be required to credit the department for the actual acquisition cost of all unused
265.31 drugs that are eligible for reuse. ~~Over-the-counter medications must be dispensed in the~~
265.32 ~~manufacturer's unopened package.~~ The commissioner may permit the drug clozapine to be
265.33 dispensed in a quantity that is less than a 30-day supply.

265.34 (c) Whenever a maximum allowable cost has been set for a multisource drug,
265.35 payment shall be the lower of the usual and customary price charged to the public or the
265.36 maximum allowable cost established by the commissioner unless prior authorization

266.1 for the brand name product has been granted according to the criteria established by
266.2 the Drug Formulary Committee as required by subdivision 13f, paragraph (a), and the
266.3 prescriber has indicated "dispense as written" on the prescription in a manner consistent
266.4 with section 151.21, subdivision 2.

266.5 (d) The basis for determining the amount of payment for drugs administered in an
266.6 outpatient setting shall be the lower of the usual and customary cost submitted by the
266.7 provider or 106 percent of the average sales price as determined by the United States
266.8 Department of Health and Human Services pursuant to title XVIII, section 1847a of the
266.9 federal Social Security Act. If average sales price is unavailable, the amount of payment
266.10 must be lower of the usual and customary cost submitted by the provider or the wholesale
266.11 acquisition cost.

266.12 (e) The commissioner may negotiate lower reimbursement rates for specialty
266.13 pharmacy products than the rates specified in paragraph (a). The commissioner may
266.14 require individuals enrolled in the health care programs administered by the department
266.15 to obtain specialty pharmacy products from providers with whom the commissioner has
266.16 negotiated lower reimbursement rates. Specialty pharmacy products are defined as those
266.17 used by a small number of recipients or recipients with complex and chronic diseases
266.18 that require expensive and challenging drug regimens. Examples of these conditions
266.19 include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis
266.20 C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms
266.21 of cancer. Specialty pharmaceutical products include injectable and infusion therapies,
266.22 biotechnology drugs, antihemophilic factor products, high-cost therapies, and therapies
266.23 that require complex care. The commissioner shall consult with the formulary committee
266.24 to develop a list of specialty pharmacy products subject to this paragraph. In consulting
266.25 with the formulary committee in developing this list, the commissioner shall take into
266.26 consideration the population served by specialty pharmacy products, the current delivery
266.27 system and standard of care in the state, and access to care issues. The commissioner shall
266.28 have the discretion to adjust the reimbursement rate to prevent access to care issues.

266.29 (f) Home infusion therapy services provided by home infusion therapy pharmacies
266.30 must be paid at rates according to subdivision 8d.

266.31 Sec. 10. Minnesota Statutes 2011 Supplement, section 256B.0625, subdivision 13h,
266.32 is amended to read:

266.33 Subd. 13h. **Medication therapy management services.** (a) Medical assistance
266.34 and general assistance medical care cover medication therapy management services for
266.35 a recipient taking three or more prescriptions to treat or prevent one or more chronic

267.1 medical conditions; a recipient with a drug therapy problem that is identified by the
267.2 commissioner or identified by a pharmacist and approved by the commissioner; or prior
267.3 authorized by the commissioner that has resulted or is likely to result in significant
267.4 nondrug program costs. The commissioner may cover medical therapy management
267.5 services under MinnesotaCare if the commissioner determines this is cost-effective. For
267.6 purposes of this subdivision, "medication therapy management" means the provision
267.7 of the following pharmaceutical care services by a licensed pharmacist to optimize the
267.8 therapeutic outcomes of the patient's medications:

- 267.9 (1) performing or obtaining necessary assessments of the patient's health status;
- 267.10 (2) formulating a medication treatment plan;
- 267.11 (3) monitoring and evaluating the patient's response to therapy, including safety
267.12 and effectiveness;
- 267.13 (4) performing a comprehensive medication review to identify, resolve, and prevent
267.14 medication-related problems, including adverse drug events;
- 267.15 (5) documenting the care delivered and communicating essential information to
267.16 the patient's other primary care providers;
- 267.17 (6) providing verbal education and training designed to enhance patient
267.18 understanding and appropriate use of the patient's medications;
- 267.19 (7) providing information, support services, and resources designed to enhance
267.20 patient adherence with the patient's therapeutic regimens; and
- 267.21 (8) coordinating and integrating medication therapy management services within the
267.22 broader health care management services being provided to the patient.

267.23 Nothing in this subdivision shall be construed to expand or modify the scope of practice of
267.24 the pharmacist as defined in section 151.01, subdivision 27.

267.25 (b) To be eligible for reimbursement for services under this subdivision, a pharmacist
267.26 must meet the following requirements:

- 267.27 (1) have a valid license issued ~~under chapter 151~~ by the Board of Pharmacy of the
267.28 state in which the medication therapy management service is being performed;
- 267.29 (2) have graduated from an accredited college of pharmacy on or after May 1996, or
267.30 completed a structured and comprehensive education program approved by the Board of
267.31 Pharmacy and the American Council of Pharmaceutical Education for the provision and
267.32 documentation of pharmaceutical care management services that has both clinical and
267.33 didactic elements;
- 267.34 (3) be practicing in an ambulatory care setting as part of a multidisciplinary team or
267.35 have developed a structured patient care process that is offered in a private or semiprivate
267.36 patient care area that is separate from the commercial business that also occurs in the

268.1 setting, or in home settings, including long-term care settings, group homes, and facilities
268.2 providing assisted living services, but excluding skilled nursing facilities; and

268.3 (4) make use of an electronic patient record system that meets state standards.

268.4 (c) For purposes of reimbursement for medication therapy management services,
268.5 the commissioner may enroll individual pharmacists as medical assistance and general
268.6 assistance medical care providers. The commissioner may also establish contact
268.7 requirements between the pharmacist and recipient, including limiting the number of
268.8 reimbursable consultations per recipient.

268.9 (d) If there are no pharmacists who meet the requirements of paragraph (b) practicing
268.10 within a reasonable geographic distance of the patient, a pharmacist who meets the
268.11 requirements may provide the services via two-way interactive video. Reimbursement
268.12 shall be at the same rates and under the same conditions that would otherwise apply to
268.13 the services provided. To qualify for reimbursement under this paragraph, the pharmacist
268.14 providing the services must meet the requirements of paragraph (b), and must be located
268.15 within an ambulatory care setting approved by the commissioner. The patient must also
268.16 be located within an ambulatory care setting approved by the commissioner. Services
268.17 provided under this paragraph may not be transmitted into the patient's residence.

268.18 (e) The commissioner shall establish a pilot project for an intensive medication
268.19 therapy management program for patients identified by the commissioner with multiple
268.20 chronic conditions and a high number of medications who are at high risk of preventable
268.21 hospitalizations, emergency room use, medication complications, and suboptimal
268.22 treatment outcomes due to medication-related problems. For purposes of the pilot
268.23 project, medication therapy management services may be provided in a patient's home
268.24 or community setting, in addition to other authorized settings. The commissioner may
268.25 waive existing payment policies and establish special payment rates for the pilot project.
268.26 The pilot project must be designed to produce a net savings to the state compared to the
268.27 estimated costs that would otherwise be incurred for similar patients without the program.
268.28 The pilot project must begin by January 1, 2010, and end June 30, 2012.

268.29 Sec. 11. Minnesota Statutes 2011 Supplement, section 256B.0625, subdivision 14,
268.30 is amended to read:

268.31 Subd. 14. **Diagnostic, screening, and preventive services.** (a) Medical assistance
268.32 covers diagnostic, screening, and preventive services.

268.33 (b) "Preventive services" include services related to pregnancy, including:

268.34 (1) services for those conditions which may complicate a pregnancy and which may
268.35 be available to a pregnant woman determined to be at risk of poor pregnancy outcome;

269.1 (2) prenatal HIV risk assessment, education, counseling, and testing; and
269.2 (3) alcohol abuse assessment, education, and counseling on the effects of alcohol
269.3 usage while pregnant. Preventive services available to a woman at risk of poor pregnancy
269.4 outcome may differ in an amount, duration, or scope from those available to other
269.5 individuals eligible for medical assistance.

269.6 (c) "Screening services" include, but are not limited to, blood lead tests.

269.7 (d) The commissioner shall encourage, at the time of the child and teen checkup or
269.8 at an episodic care visit, the primary care health care provider to perform primary caries
269.9 preventive services. Primary caries preventive services include, at a minimum:

269.10 (1) a general visual examination of the child's mouth without using probes or other
269.11 dental equipment or taking radiographs;

269.12 (2) a risk assessment using the factors established by the American Academies
269.13 of Pediatrics and Pediatric Dentistry; and

269.14 (3) the application of a fluoride varnish beginning at age one to those children
269.15 assessed by the provider as being high risk in accordance with best practices as defined by
269.16 the Department of Human Services. The provider must obtain parental or legal guardian
269.17 consent before a fluoride ~~treatment~~ varnish is applied to a minor child's teeth.

269.18 At each checkup, if primary caries preventive services are provided, the provider must
269.19 provide to the child's parent or legal guardian: information on caries etiology and
269.20 prevention; and information on the importance of finding a dental home for their child
269.21 by the age of one. The provider must also advise the parent or legal guardian to contact
269.22 the child's managed care plan or the Department of Human Services in order to secure a
269.23 dental appointment with a dentist. The provider must indicate in the child's medical record
269.24 that the parent or legal guardian was provided with this information and document any
269.25 primary caries prevention services provided to the child.

269.26 Sec. 12. Minnesota Statutes 2011 Supplement, section 256B.0631, subdivision 1,
269.27 is amended to read:

269.28 Subdivision 1. **Cost-sharing.** (a) Except as provided in subdivision 2, the medical
269.29 assistance benefit plan shall include the following cost-sharing for all recipients, effective
269.30 for services provided on or after September 1, 2011:

269.31 (1) \$3 per nonpreventive visit, except as provided in paragraph (b). For purposes
269.32 of this subdivision, a visit means an episode of service which is required because of
269.33 a recipient's symptoms, diagnosis, or established illness, and which is delivered in an
269.34 ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse
269.35 midwife, advanced practice nurse, audiologist, optician, or optometrist;

270.1 ~~(2) \$3 for eyeglasses;~~
270.2 ~~(3)~~ (2) \$3.50 for nonemergency visits to a hospital-based emergency room, except
270.3 that this co-payment shall be increased to \$20 upon federal approval;
270.4 ~~(4)~~ (3) \$3 per brand-name drug prescription and \$1 per generic drug prescription,
270.5 subject to a \$12 per month maximum for prescription drug co-payments. No co-payments
270.6 shall apply to antipsychotic drugs when used for the treatment of mental illness;
270.7 ~~(5)~~ (4) effective January 1, 2012, a family deductible equal to the maximum amount
270.8 allowed under Code of Federal Regulations, title 42, part 447.54; and
270.9 ~~(6)~~ (5) for individuals identified by the commissioner with income at or below 100
270.10 percent of the federal poverty guidelines, total monthly cost-sharing must not exceed five
270.11 percent of family income. For purposes of this paragraph, family income is the total
270.12 earned and unearned income of the individual and the individual's spouse, if the spouse is
270.13 enrolled in medical assistance and also subject to the five percent limit on cost-sharing.
270.14 (b) Recipients of medical assistance are responsible for all co-payments and
270.15 deductibles in this subdivision.

270.16 Sec. 13. Minnesota Statutes 2011 Supplement, section 256B.0631, subdivision 2,
270.17 is amended to read:

270.18 Subd. 2. **Exceptions.** Co-payments and deductibles shall be subject to the following
270.19 exceptions:

- 270.20 (1) children under the age of 21;
- 270.21 (2) pregnant women for services that relate to the pregnancy or any other medical
270.22 condition that may complicate the pregnancy;
- 270.23 (3) recipients expected to reside for at least 30 days in a hospital, nursing home, or
270.24 intermediate care facility for the developmentally disabled;
- 270.25 (4) recipients receiving hospice care;
- 270.26 (5) 100 percent federally funded services provided by an Indian health service;
- 270.27 (6) emergency services;
- 270.28 (7) family planning services;
- 270.29 (8) services that are paid by Medicare, resulting in the medical assistance program
270.30 paying for the coinsurance and deductible; ~~and~~
- 270.31 (9) co-payments that exceed one per day per provider for nonpreventive visits,
270.32 eyeglasses, and nonemergency visits to a hospital-based emergency room; and
- 270.33 (10) services, fee-for-service payments subject to volume purchase through
270.34 competitive bidding.

271.1 Sec. 14. Minnesota Statutes 2010, section 256B.19, subdivision 1c, is amended to read:

271.2 Subd. 1c. **Additional portion of nonfederal share.** (a) Hennepin County shall
271.3 be responsible for a monthly transfer payment of \$1,500,000, due before noon on the
271.4 15th of each month and the University of Minnesota shall be responsible for a monthly
271.5 transfer payment of \$500,000 due before noon on the 15th of each month, beginning July
271.6 15, 1995. These sums shall be part of the designated governmental unit's portion of the
271.7 nonfederal share of medical assistance costs.

271.8 (b) Beginning July 1, 2001, Hennepin County's payment under paragraph (a) shall
271.9 be \$2,066,000 each month.

271.10 (c) Beginning July 1, 2001, the commissioner shall increase annual capitation
271.11 payments to ~~the metropolitan health plan~~ a demonstration provider serving eligible
271.12 individuals in Hennepin County under section 256B.69 for the prepaid medical assistance
271.13 program by approximately \$6,800,000 to recognize higher than average medical education
271.14 costs.

271.15 (d) Effective August 1, 2005, Hennepin County's payment under paragraphs (a)
271.16 and (b) shall be reduced to \$566,000, and the University of Minnesota's payment under
271.17 paragraph (a) shall be reduced to zero. Effective October 1, 2008, to December 31, 2010,
271.18 Hennepin County's payment under paragraphs (a) and (b) shall be \$434,688. Effective
271.19 January 1, 2011, Hennepin County's payment under paragraphs (a) and (b) shall be
271.20 \$566,000.

271.21 (e) Notwithstanding paragraph (d), upon federal enactment of an extension to June
271.22 30, 2011, of the enhanced federal medical assistance percentage (FMAP) originally
271.23 provided under Public Law 111-5, for the six-month period from January 1, 2011, to June
271.24 30, 2011, Hennepin County's payment under paragraphs (a) and (b) shall be \$434,688.

271.25 Sec. 15. Minnesota Statutes 2010, section 256B.69, subdivision 5, is amended to read:

271.26 Subd. 5. **Prospective per capita payment.** The commissioner shall establish the
271.27 method and amount of payments for services. The commissioner shall annually contract
271.28 with demonstration providers to provide services consistent with these established
271.29 methods and amounts for payment.

271.30 If allowed by the commissioner, a demonstration provider may contract with
271.31 an insurer, health care provider, nonprofit health service plan corporation, or the
271.32 commissioner, to provide insurance or similar protection against the cost of care provided
271.33 by the demonstration provider or to provide coverage against the risks incurred by
271.34 demonstration providers under this section. The recipients enrolled with a demonstration
271.35 provider are a permissible group under group insurance laws and chapter 62C, the

272.1 Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer
272.2 or corporation may make benefit payments to a demonstration provider for services
272.3 rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan
272.4 corporation licensed to do business in this state is authorized to provide this insurance or
272.5 similar protection.

272.6 Payments to providers participating in the project are exempt from the requirements
272.7 of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete
272.8 development of capitation rates for payments before delivery of services under this section
272.9 is begun. For payments made during calendar year 1990 and later years, the commissioner
272.10 shall contract with an independent actuary to establish prepayment rates.

272.11 By January 15, 1996, the commissioner shall report to the legislature on the
272.12 methodology used to allocate to participating counties available administrative
272.13 reimbursement for advocacy and enrollment costs. The report shall reflect the
272.14 commissioner's judgment as to the adequacy of the funds made available and of the
272.15 methodology for equitable distribution of the funds. The commissioner must involve
272.16 participating counties in the development of the report.

272.17 Beginning July 1, 2004, the commissioner may include payments for elderly waiver
272.18 services and 180 days of nursing home care in capitation payments for the prepaid medical
272.19 assistance program for recipients age 65 and older. ~~Payments for elderly waiver services~~
272.20 ~~shall be made no earlier than the month following the month in which services were~~
272.21 ~~received.~~

272.22 Sec. 16. Minnesota Statutes 2011 Supplement, section 256B.69, subdivision 5a,
272.23 is amended to read:

272.24 Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section
272.25 and section 256L.12 shall be entered into or renewed on a calendar year basis beginning
272.26 January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to
272.27 renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December
272.28 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may
272.29 issue separate contracts with requirements specific to services to medical assistance
272.30 recipients age 65 and older.

272.31 (b) A prepaid health plan providing covered health services for eligible persons
272.32 pursuant to chapters 256B and 256L is responsible for complying with the terms of its
272.33 contract with the commissioner. Requirements applicable to managed care programs
272.34 under chapters 256B and 256L established after the effective date of a contract with the
272.35 commissioner take effect when the contract is next issued or renewed.

273.1 (c) Effective for services rendered on or after January 1, 2003, the commissioner
273.2 shall withhold five percent of managed care plan payments under this section and
273.3 county-based purchasing plan payments under section 256B.692 for the prepaid medical
273.4 assistance program pending completion of performance targets. Each performance target
273.5 must be quantifiable, objective, measurable, and reasonably attainable, except in the case
273.6 of a performance target based on a federal or state law or rule. Criteria for assessment
273.7 of each performance target must be outlined in writing prior to the contract effective
273.8 date. Clinical or utilization performance targets and their related criteria must consider
273.9 evidence-based research and reasonable interventions when available or applicable to
273.10 the population served, and must be developed with input from external clinical experts
273.11 and stakeholders, including managed care plans and providers. The managed care plan
273.12 must demonstrate, to the commissioner's satisfaction, that the data submitted regarding
273.13 attainment of the performance target is accurate. The commissioner shall periodically
273.14 change the administrative measures used as performance targets in order to improve plan
273.15 performance across a broader range of administrative services. The performance targets
273.16 must include measurement of plan efforts to contain spending on health care services and
273.17 administrative activities. The commissioner may adopt plan-specific performance targets
273.18 that take into account factors affecting only one plan, including characteristics of the
273.19 plan's enrollee population. The withheld funds must be returned no sooner than July of the
273.20 following year if performance targets in the contract are achieved. The commissioner may
273.21 exclude special demonstration projects under subdivision 23.

273.22 (d) Effective for services rendered on or after January 1, 2009, through December
273.23 31, 2009, the commissioner shall withhold three percent of managed care plan payments
273.24 under this section and county-based purchasing plan payments under section 256B.692
273.25 for the prepaid medical assistance program. The withheld funds must be returned no
273.26 sooner than July 1 and no later than July 31 of the following year. The commissioner may
273.27 exclude special demonstration projects under subdivision 23.

273.28 (e) Effective for services provided on or after January 1, 2010, the commissioner
273.29 shall require that managed care plans use the assessment and authorization processes,
273.30 forms, timelines, standards, documentation, and data reporting requirements, protocols,
273.31 billing processes, and policies consistent with medical assistance fee-for-service or the
273.32 Department of Human Services contract requirements consistent with medical assistance
273.33 fee-for-service or the Department of Human Services contract requirements for all
273.34 personal care assistance services under section 256B.0659.

273.35 (f) Effective for services rendered on or after January 1, 2010, through December
273.36 31, 2010, the commissioner shall withhold 4.5 percent of managed care plan payments

274.1 under this section and county-based purchasing plan payments under section 256B.692
274.2 for the prepaid medical assistance program. The withheld funds must be returned no
274.3 sooner than July 1 and no later than July 31 of the following year. The commissioner may
274.4 exclude special demonstration projects under subdivision 23.

274.5 (g) Effective for services rendered on or after January 1, 2011, through December
274.6 31, 2011, the commissioner shall include as part of the performance targets described
274.7 in paragraph (c) a reduction in the health plan's emergency room utilization rate for
274.8 state health care program enrollees by a measurable rate of five percent from the plan's
274.9 utilization rate for state health care program enrollees for the previous calendar year.
274.10 Effective for services rendered on or after January 1, 2012, the commissioner shall include
274.11 as part of the performance targets described in paragraph (c) a reduction in the health plan's
274.12 emergency department utilization rate for medical assistance and MinnesotaCare enrollees,
274.13 as determined by the commissioner. For 2012, the reduction shall be based on the health
274.14 plan's utilization in 2009. To earn the return of the withhold each subsequent year, the
274.15 managed care plan or county-based purchasing plan must achieve a qualifying reduction
274.16 of no less than ten percent of the plan's emergency department utilization rate for medical
274.17 assistance and MinnesotaCare enrollees, excluding ~~Medicare~~ enrollees in programs
274.18 described in subdivisions 23 and 28, compared to the previous ~~calendar~~ measurement
274.19 year, until the final performance target is reached. When measuring performance, the
274.20 commissioner must consider the difference in health risk in a plan's membership in the
274.21 baseline year compared to the measurement year and work with the managed care or
274.22 county-based purchasing plan to account for differences that they agree are significant.

274.23 The withheld funds must be returned no sooner than July 1 and no later than July 31
274.24 of the following calendar year if the managed care plan or county-based purchasing plan
274.25 demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate
274.26 was achieved. The commissioner shall structure the withhold so that the commissioner
274.27 returns a portion of the withheld funds in amounts commensurate with achieved reductions
274.28 in utilization less than the targeted amount.

274.29 The withhold described in this paragraph shall continue for each consecutive
274.30 contract period until the plan's emergency room utilization rate for state health care
274.31 program enrollees is reduced by 25 percent of the plan's emergency room utilization
274.32 rate for medical assistance and MinnesotaCare enrollees for calendar year ~~2011~~ 2009.
274.33 Hospitals shall cooperate with the health plans in meeting this performance target and
274.34 shall accept payment withholds that may be returned to the hospitals if the performance
274.35 target is achieved.

275.1 (h) Effective for services rendered on or after January 1, 2012, the commissioner
275.2 shall include as part of the performance targets described in paragraph (c) a reduction
275.3 in the plan's hospitalization admission rate for medical assistance and MinnesotaCare
275.4 enrollees, as determined by the commissioner. To earn the return of the withhold each
275.5 year, the managed care plan or county-based purchasing plan must achieve a qualifying
275.6 reduction of no less than five percent of the plan's hospital admission rate for medical
275.7 assistance and MinnesotaCare enrollees, excluding ~~Medicare~~ enrollees in programs
275.8 described in subdivisions 23 and 28, compared to the previous calendar year until the final
275.9 performance target is reached. When measuring performance, the commissioner must
275.10 consider the difference in health risk in a plan's membership in the baseline year compared
275.11 to the measurement year, and work with the managed care or county-based purchasing
275.12 plan to account for differences that they agree are significant.

275.13 The withheld funds must be returned no sooner than July 1 and no later than July
275.14 31 of the following calendar year if the managed care plan or county-based purchasing
275.15 plan demonstrates to the satisfaction of the commissioner that this reduction in the
275.16 hospitalization rate was achieved. The commissioner shall structure the withhold so that
275.17 the commissioner returns a portion of the withheld funds in amounts commensurate with
275.18 achieved reductions in utilization less than the targeted amount.

275.19 The withhold described in this paragraph shall continue until there is a 25 percent
275.20 reduction in the hospital admission rate compared to the hospital admission rates in
275.21 calendar year 2011, as determined by the commissioner. The hospital admissions in this
275.22 performance target do not include the admissions applicable to the subsequent hospital
275.23 admission performance target under paragraph (i). Hospitals shall cooperate with the
275.24 plans in meeting this performance target and shall accept payment withholds that may be
275.25 returned to the hospitals if the performance target is achieved.

275.26 (i) Effective for services rendered on or after January 1, 2012, the commissioner
275.27 shall include as part of the performance targets described in paragraph (c) a reduction in
275.28 the plan's hospitalization admission rates for subsequent hospitalizations within 30 days
275.29 of a previous hospitalization of a patient regardless of the reason, for medical assistance
275.30 and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of
275.31 the withhold each year, the managed care plan or county-based purchasing plan must
275.32 achieve a qualifying reduction of the subsequent hospitalization rate for medical assistance
275.33 and MinnesotaCare enrollees, excluding ~~Medicare~~ enrollees in programs described in
275.34 subdivisions 23 and 28, of no less than five percent compared to the previous calendar
275.35 year until the final performance target is reached.

276.1 The withheld funds must be returned no sooner than July 1 and no later than July
276.2 31 of the following calendar year if the managed care plan or county-based purchasing
276.3 plan demonstrates to the satisfaction of the commissioner that a qualifying reduction in
276.4 the subsequent hospitalization rate was achieved. The commissioner shall structure the
276.5 withhold so that the commissioner returns a portion of the withheld funds in amounts
276.6 commensurate with achieved reductions in utilization less than the targeted amount.

276.7 The withhold described in this paragraph must continue for each consecutive
276.8 contract period until the plan's subsequent hospitalization rate for medical assistance
276.9 and MinnesotaCare enrollees, excluding ~~Medicare~~ enrollees in programs described in
276.10 subdivisions 23 and 28, is reduced by 25 percent of the plan's subsequent hospitalization
276.11 rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this
276.12 performance target and shall accept payment withholds that must be returned to the
276.13 hospitals if the performance target is achieved.

276.14 (j) Effective for services rendered on or after January 1, 2011, through December 31,
276.15 2011, the commissioner shall withhold 4.5 percent of managed care plan payments under
276.16 this section and county-based purchasing plan payments under section 256B.692 for the
276.17 prepaid medical assistance program. The withheld funds must be returned no sooner than
276.18 July 1 and no later than July 31 of the following year. The commissioner may exclude
276.19 special demonstration projects under subdivision 23.

276.20 (k) Effective for services rendered on or after January 1, 2012, through December
276.21 31, 2012, the commissioner shall withhold 4.5 percent of managed care plan payments
276.22 under this section and county-based purchasing plan payments under section 256B.692
276.23 for the prepaid medical assistance program. The withheld funds must be returned no
276.24 sooner than July 1 and no later than July 31 of the following year. The commissioner may
276.25 exclude special demonstration projects under subdivision 23.

276.26 (l) Effective for services rendered on or after January 1, 2013, through December 31,
276.27 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under
276.28 this section and county-based purchasing plan payments under section 256B.692 for the
276.29 prepaid medical assistance program. The withheld funds must be returned no sooner than
276.30 July 1 and no later than July 31 of the following year. The commissioner may exclude
276.31 special demonstration projects under subdivision 23.

276.32 (m) Effective for services rendered on or after January 1, 2014, the commissioner
276.33 shall withhold three percent of managed care plan payments under this section and
276.34 county-based purchasing plan payments under section 256B.692 for the prepaid medical
276.35 assistance program. The withheld funds must be returned no sooner than July 1 and

277.1 no later than July 31 of the following year. The commissioner may exclude special
277.2 demonstration projects under subdivision 23.

277.3 (n) A managed care plan or a county-based purchasing plan under section 256B.692
277.4 may include as admitted assets under section 62D.044 any amount withheld under this
277.5 section that is reasonably expected to be returned.

277.6 (o) Contracts between the commissioner and a prepaid health plan are exempt from
277.7 the set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph
277.8 (a), and 7.

277.9 (p) The return of the withhold under paragraphs (d), (f), and (j) to (m) is not subject
277.10 to the requirements of paragraph (c).

277.11 Sec. 17. Minnesota Statutes 2011 Supplement, section 256B.69, subdivision 28,
277.12 is amended to read:

277.13 Subd. 28. **Medicare special needs plans; medical assistance basic health**
277.14 **care.** (a) The commissioner may contract with demonstration providers and current or
277.15 former sponsors of qualified Medicare-approved special needs plans₂ to provide medical
277.16 assistance basic health care services to persons with disabilities, including those with
277.17 developmental disabilities. Basic health care services include:

277.18 (1) those services covered by the medical assistance state plan except for ICF/MR
277.19 services, home and community-based waiver services, case management for persons with
277.20 developmental disabilities under section 256B.0625, subdivision 20a, and personal care
277.21 and certain home care services defined by the commissioner in consultation with the
277.22 stakeholder group established under paragraph (d); and

277.23 (2) basic health care services may also include risk for up to 100 days of nursing
277.24 facility services for persons who reside in a noninstitutional setting and home health
277.25 services related to rehabilitation as defined by the commissioner after consultation with
277.26 the stakeholder group.

277.27 The commissioner may exclude other medical assistance services from the basic
277.28 health care benefit set. Enrollees in these plans can access any excluded services on the
277.29 same basis as other medical assistance recipients who have not enrolled.

277.30 (b) Beginning January 1, 2007, the commissioner may contract with demonstration
277.31 providers and current and former sponsors of qualified Medicare special needs plans₂ to
277.32 provide basic health care services under medical assistance to persons who are dually
277.33 eligible for both Medicare and Medicaid and those Social Security beneficiaries eligible
277.34 for Medicaid but in the waiting period for Medicare. The commissioner shall consult with
277.35 the stakeholder group under paragraph (d) in developing program specifications for these

278.1 services. The commissioner shall report to the chairs of the house of representatives and
278.2 senate committees with jurisdiction over health and human services policy and finance by
278.3 February 1, 2007, on implementation of these programs and the need for increased funding
278.4 for the ombudsman for managed care and other consumer assistance and protections
278.5 needed due to enrollment in managed care of persons with disabilities. Payment for
278.6 Medicaid services provided under this subdivision for the months of May and June will
278.7 be made no earlier than July 1 of the same calendar year.

278.8 (c) Notwithstanding subdivision 4, beginning January 1, 2012, the commissioner
278.9 shall enroll persons with disabilities in managed care under this section, unless the
278.10 individual chooses to opt out of enrollment. The commissioner shall establish enrollment
278.11 and opt out procedures consistent with applicable enrollment procedures under this
278.12 ~~subdivision~~ section.

278.13 (d) The commissioner shall establish a state-level stakeholder group to provide
278.14 advice on managed care programs for persons with disabilities, including both MnDHO
278.15 and contracts with special needs plans that provide basic health care services as described
278.16 in paragraphs (a) and (b). The stakeholder group shall provide advice on program
278.17 expansions under this subdivision and subdivision 23, including:

278.18 (1) implementation efforts;

278.19 (2) consumer protections; and

278.20 (3) program specifications such as quality assurance measures, data collection and
278.21 reporting, and evaluation of costs, quality, and results.

278.22 (e) Each plan under contract to provide medical assistance basic health care services
278.23 shall establish a local or regional stakeholder group, including representatives of the
278.24 counties covered by the plan, members, consumer advocates, and providers, for advice on
278.25 issues that arise in the local or regional area.

278.26 (f) The commissioner is prohibited from providing the names of potential enrollees
278.27 to health plans for marketing purposes. The commissioner shall mail no more than
278.28 two sets of marketing materials per contract year to potential enrollees on behalf of
278.29 health plans, at the health plan's request. The marketing materials shall be mailed by the
278.30 commissioner within 30 days of receipt of these materials from the health plan. The health
278.31 plans shall cover any costs incurred by the commissioner for mailing marketing materials.

278.32 Sec. 18. Minnesota Statutes 2010, section 256L.05, subdivision 3, is amended to read:

278.33 Subd. 3. **Effective date of coverage.** (a) The effective date of coverage is the
278.34 first day of the month following the month in which eligibility is approved and the first
278.35 premium payment has been received. As provided in section 256B.057, coverage for

279.1 newborns is automatic from the date of birth and must be coordinated with other health
279.2 coverage. The effective date of coverage for eligible newly adoptive children added to a
279.3 family receiving covered health services is the month of placement. The effective date
279.4 of coverage for other new members added to the family is the first day of the month
279.5 following the month in which the change is reported. All eligibility criteria must be met
279.6 by the family at the time the new family member is added. The income of the new family
279.7 member is included with the family's gross income and the adjusted premium begins in
279.8 the month the new family member is added.

279.9 (b) The initial premium must be received by the last working day of the month for
279.10 coverage to begin the first day of the following month.

279.11 (c) Benefits are not available until the day following discharge if an enrollee is
279.12 hospitalized on the first day of coverage.

279.13 (d) Notwithstanding any other law to the contrary, benefits under sections 256L.01 to
279.14 256L.18 are secondary to a plan of insurance or benefit program under which an eligible
279.15 person may have coverage and the commissioner shall use cost avoidance techniques to
279.16 ensure coordination of any other health coverage for eligible persons. The commissioner
279.17 shall identify eligible persons who may have coverage or benefits under other plans of
279.18 insurance or who become eligible for medical assistance.

279.19 (e) The effective date of coverage for individuals or families who are exempt from
279.20 paying premiums under section 256L.15, subdivision 1, paragraph (d), is the first day of
279.21 the month following the month in which verification of American Indian status is received
279.22 or eligibility is approved, whichever is later.

279.23 Sec. 19. Minnesota Statutes 2011 Supplement, section 256L.12, subdivision 9, is
279.24 amended to read:

279.25 Subd. 9. **Rate setting; performance withholds.** (a) Rates will be prospective,
279.26 per capita, where possible. The commissioner may allow health plans to arrange for
279.27 inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with
279.28 an independent actuary to determine appropriate rates.

279.29 (b) For services rendered on or after January 1, 2004, the commissioner shall
279.30 withhold five percent of managed care plan payments and county-based purchasing
279.31 plan payments under this section pending completion of performance targets. Each
279.32 performance target must be quantifiable, objective, measurable, and reasonably attainable,
279.33 except in the case of a performance target based on a federal or state law or rule. Criteria
279.34 for assessment of each performance target must be outlined in writing prior to the contract
279.35 effective date. Clinical or utilization performance targets and their related criteria must

280.1 consider evidence-based research and reasonable interventions, when available or
280.2 applicable to the populations served, and must be developed with input from external
280.3 clinical experts and stakeholders, including managed care plans and providers. The
280.4 managed care plan must demonstrate, to the commissioner's satisfaction, that the data
280.5 submitted regarding attainment of the performance target is accurate. The commissioner
280.6 shall periodically change the administrative measures used as performance targets in
280.7 order to improve plan performance across a broader range of administrative services.
280.8 The performance targets must include measurement of plan efforts to contain spending
280.9 on health care services and administrative activities. The commissioner may adopt
280.10 plan-specific performance targets that take into account factors affecting only one plan,
280.11 such as characteristics of the plan's enrollee population. The withheld funds must be
280.12 returned no sooner than July 1 and no later than July 31 of the following calendar year if
280.13 performance targets in the contract are achieved.

280.14 (c) For services rendered on or after January 1, 2011, the commissioner shall
280.15 withhold an additional three percent of managed care plan or county-based purchasing
280.16 plan payments under this section. The withheld funds must be returned no sooner than
280.17 July 1 and no later than July 31 of the following calendar year. The return of the withhold
280.18 under this paragraph is not subject to the requirements of paragraph (b).

280.19 (d) Effective for services rendered on or after January 1, 2011, through December
280.20 31, 2011, the commissioner shall include as part of the performance targets described in
280.21 paragraph (b) a reduction in the plan's emergency room utilization rate for state health
280.22 care program enrollees by a measurable rate of five percent from the plan's utilization
280.23 rate for the previous calendar year. Effective for services rendered on or after January
280.24 1, 2012, the commissioner shall include as part of the performance targets described in
280.25 paragraph (b) a reduction in the health plan's emergency department utilization rate for
280.26 medical assistance and MinnesotaCare enrollees, as determined by the commissioner.
280.27 For 2012, the reduction shall be based on the health plan's utilization in 2009. To earn
280.28 the return of the withhold each subsequent year, the managed care plan or county-based
280.29 purchasing plan must achieve a qualifying reduction of no less than ten percent of the
280.30 plan's utilization rate for medical assistance and MinnesotaCare enrollees, excluding
280.31 ~~Medicare~~ enrollees in programs described in section 256B.69, subdivisions 23 and 28,
280.32 compared to the previous calendar measurement year, until the final performance target is
280.33 reached. When measuring performance, the commissioner must consider the difference
280.34 in health risk in a plan's membership in the baseline year compared to the measurement
280.35 year, and work with the managed care or county-based purchasing plan to account for
280.36 differences that they agree are significant.

281.1 The withheld funds must be returned no sooner than July 1 and no later than July 31
281.2 of the following calendar year if the managed care plan or county-based purchasing plan
281.3 demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate
281.4 was achieved. The commissioner shall structure the withhold so that the commissioner
281.5 returns a portion of the withheld funds in amounts commensurate with achieved reductions
281.6 in utilization less than the targeted amount.

281.7 The withhold described in this paragraph shall continue for each consecutive
281.8 contract period until the plan's emergency room utilization rate for state health care
281.9 program enrollees is reduced by 25 percent of the plan's emergency room utilization
281.10 rate for medical assistance and MinnesotaCare enrollees for calendar year ~~2011~~ 2009.
281.11 Hospitals shall cooperate with the health plans in meeting this performance target and
281.12 shall accept payment withholds that may be returned to the hospitals if the performance
281.13 target is achieved.

281.14 (e) Effective for services rendered on or after January 1, 2012, the commissioner
281.15 shall include as part of the performance targets described in paragraph (b) a reduction
281.16 in the plan's hospitalization admission rate for medical assistance and MinnesotaCare
281.17 enrollees, as determined by the commissioner. To earn the return of the withhold each
281.18 year, the managed care plan or county-based purchasing plan must achieve a qualifying
281.19 reduction of no less than five percent of the plan's hospital admission rate for medical
281.20 assistance and MinnesotaCare enrollees, excluding ~~Medicare~~ enrollees in programs
281.21 described in section 256B.69, subdivisions 23 and 28, compared to the previous calendar
281.22 year, until the final performance target is reached. When measuring performance, the
281.23 commissioner must consider the difference in health risk in a plan's membership in the
281.24 baseline year compared to the measurement year, and work with the managed care or
281.25 county-based purchasing plan to account for differences that they agree are significant.

281.26 The withheld funds must be returned no sooner than July 1 and no later than July
281.27 31 of the following calendar year if the managed care plan or county-based purchasing
281.28 plan demonstrates to the satisfaction of the commissioner that this reduction in the
281.29 hospitalization rate was achieved. The commissioner shall structure the withhold so that
281.30 the commissioner returns a portion of the withheld funds in amounts commensurate with
281.31 achieved reductions in utilization less than the targeted amount.

281.32 The withhold described in this paragraph shall continue until there is a 25 percent
281.33 reduction in the hospitals admission rate compared to the hospital admission rate for
281.34 calendar year 2011 as determined by the commissioner. Hospitals shall cooperate with the
281.35 plans in meeting this performance target and shall accept payment withholds that may be
281.36 returned to the hospitals if the performance target is achieved. The hospital admissions

282.1 in this performance target do not include the admissions applicable to the subsequent
282.2 hospital admission performance target under paragraph (f).

282.3 (f) Effective for services provided on or after January 1, 2012, the commissioner
282.4 shall include as part of the performance targets described in paragraph (b) a reduction
282.5 in the plan's hospitalization rate for a subsequent hospitalization within 30 days of a
282.6 previous hospitalization of a patient regardless of the reason, for medical assistance and
282.7 MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the
282.8 withhold each year, the managed care plan or county-based purchasing plan must achieve
282.9 a qualifying reduction of the subsequent hospital admissions rate for medical assistance
282.10 and MinnesotaCare enrollees, excluding ~~Medicare~~ enrollees in programs described in
282.11 section 256B.69, subdivisions 23 and 28, of no less than five percent compared to the
282.12 previous calendar year until the final performance target is reached.

282.13 The withheld funds must be returned no sooner than July 1 and no later than July 31
282.14 of the following calendar year if the managed care plan or county-based purchasing plan
282.15 demonstrates to the satisfaction of the commissioner that a reduction in the subsequent
282.16 hospitalization rate was achieved. The commissioner shall structure the withhold so that
282.17 the commissioner returns a portion of the withheld funds in amounts commensurate with
282.18 achieved reductions in utilization less than the targeted amount.

282.19 The withhold described in this paragraph must continue for each consecutive
282.20 contract period until the plan's subsequent hospitalization rate for medical assistance and
282.21 MinnesotaCare enrollees is reduced by 25 percent of the plan's subsequent hospitalization
282.22 rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this
282.23 performance target and shall accept payment withholds that must be returned to the
282.24 hospitals if the performance target is achieved.

282.25 (g) A managed care plan or a county-based purchasing plan under section 256B.692
282.26 may include as admitted assets under section 62D.044 any amount withheld under this
282.27 section that is reasonably expected to be returned.

282.28 Sec. 20. Minnesota Statutes 2011 Supplement, section 256L.15, subdivision 1, is
282.29 amended to read:

282.30 Subdivision 1. **Premium determination.** (a) Families with children and individuals
282.31 shall pay a premium determined according to subdivision 2.

282.32 (b) Pregnant women and children under age two are exempt from the provisions
282.33 of section 256L.06, subdivision 3, paragraph (b), clause (3), requiring disenrollment
282.34 for failure to pay premiums. For pregnant women, this exemption continues until the
282.35 first day of the month following the 60th day postpartum. Women who remain enrolled

283.1 during pregnancy or the postpartum period, despite nonpayment of premiums, shall be
283.2 disenrolled on the first of the month following the 60th day postpartum for the penalty
283.3 period that otherwise applies under section 256L.06, unless they begin paying premiums.

283.4 (c) Members of the military and their families who meet the eligibility criteria
283.5 for MinnesotaCare upon eligibility approval made within 24 months following the end
283.6 of the member's tour of active duty shall have their premiums paid by the commissioner.
283.7 The effective date of coverage for an individual or family who meets the criteria of this
283.8 paragraph shall be the first day of the month following the month in which eligibility is
283.9 approved. This exemption applies for 12 months.

283.10 (d) Beginning July 1, 2009, American Indians enrolled in MinnesotaCare and their
283.11 families shall have their premiums waived by the commissioner in accordance with
283.12 section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.
283.13 An individual must document status as an American Indian, as defined under Code of
283.14 Federal Regulations, title 42, section 447.50, to qualify for the waiver of premiums.

283.15 **EFFECTIVE DATE.** This section is effective retroactively from July 1, 2009.

283.16 Sec. 21. Minnesota Statutes 2010, section 514.982, subdivision 1, is amended to read:

283.17 Subdivision 1. **Contents.** A medical assistance lien notice must be dated and
283.18 must contain:

283.19 (1) the full name, last known address, and last four digits of the Social Security
283.20 number of the medical assistance recipient;

283.21 (2) a statement that medical assistance payments have been made to or for the
283.22 benefit of the medical assistance recipient named in the notice, specifying the first date
283.23 of eligibility for benefits;

283.24 (3) a statement that all interests in real property owned by the persons named in the
283.25 notice may be subject to or affected by the rights of the agency to be reimbursed for
283.26 medical assistance benefits; and

283.27 (4) the legal description of the real property upon which the lien attaches, and
283.28 whether the property is registered property.

283.29 Sec. 22. **HEALTH SERVICES ADVISORY COUNCIL.**

283.30 The Health Services Advisory Council shall review currently available literature
283.31 regarding the efficacy of various treatments for autism spectrum disorder, including
283.32 an evaluation of age-based variation in the appropriateness of existing medical and
283.33 behavioral interventions. The council shall recommend to the commissioner of human
283.34 services authorization criteria for services based on existing evidence. The council may

284.1 recommend coverage with ongoing collection of outcomes evidence in circumstances
284.2 where evidence is currently unavailable, or where the strength of the evidence is low. The
284.3 council shall make this recommendation by December 31, 2012.

284.4 Sec. 23. **REPEALER.**

284.5 Minnesota Statutes 2010, section 256.01, subdivision 18b, is repealed.

284.6 **ARTICLE 14**

284.7 **TECHNICAL**

284.8 Section 1. Minnesota Statutes 2010, section 144A.071, subdivision 5a, is amended to
284.9 read:

284.10 Subd. 5a. **Cost estimate of a moratorium exception project.** (a) For the
284.11 purposes of this section and section 144A.073, the cost estimate of a moratorium
284.12 exception project shall include the effects of the proposed project on the costs of the state
284.13 subsidy for community-based services, nursing services, and housing in institutional
284.14 and noninstitutional settings. The commissioner of health, in cooperation with the
284.15 commissioner of human services, shall define the method for estimating these costs in the
284.16 permanent rule implementing section 144A.073. The commissioner of human services
284.17 shall prepare an estimate of the total state annual long-term costs of each moratorium
284.18 exception proposal.

284.19 (b) The interest rate to be used for estimating the cost of each moratorium exception
284.20 project proposal shall be the lesser of either the prime rate plus two percentage points, or
284.21 the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan
284.22 Mortgage Corporation plus two percentage points as published in the Wall Street Journal
284.23 and in effect 56 days prior to the application deadline. If the applicant's proposal uses this
284.24 interest rate, the commissioner of human services, in determining the facility's actual
284.25 property-related payment rate to be established upon completion of the project must use
284.26 the actual interest rate obtained by the facility for the project's permanent financing up to
284.27 the maximum permitted under ~~subdivision 6~~ Minnesota Rules, part 9549.0060, subpart 6.

284.28 The applicant may choose an alternate interest rate for estimating the project's cost.
284.29 If the applicant makes this election, the commissioner of human services, in determining
284.30 the facility's actual property-related payment rate to be established upon completion of the
284.31 project, must use the lesser of the actual interest rate obtained for the project's permanent
284.32 financing or the interest rate which was used to estimate the proposal's project cost. For
284.33 succeeding rate years, the applicant is at risk for financing costs in excess of the interest
284.34 rate selected.

286.1 of revenue to the commissioner of human services for the purposes described in this clause
286.2 are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include,
286.3 but are not limited to, the dependent care credit under section 290.067, the Minnesota
286.4 working family credit under section 290.0671, the property tax refund and rental credit
286.5 under section 290A.04, and the Minnesota education credit under section 290.0674;

286.6 (9) between the Department of Human Services, the Department of Employment
286.7 and Economic Development, and when applicable, the Department of Education, for
286.8 the following purposes:

286.9 (i) to monitor the eligibility of the data subject for unemployment benefits, for any
286.10 employment or training program administered, supervised, or certified by that agency;

286.11 (ii) to administer any rehabilitation program or child care assistance program,
286.12 whether alone or in conjunction with the welfare system;

286.13 (iii) to monitor and evaluate the Minnesota family investment program or the child
286.14 care assistance program by exchanging data on recipients and former recipients of food
286.15 support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance
286.16 under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

286.17 (iv) to analyze public assistance employment services and program utilization,
286.18 cost, effectiveness, and outcomes as implemented under the authority established in Title
286.19 II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of
286.20 1999. Health records governed by sections 144.291 to 144.298 and "protected health
286.21 information" as defined in Code of Federal Regulations, title 45, section 160.103, and
286.22 governed by Code of Federal Regulations, title 45, parts 160-164, including health care
286.23 claims utilization information, must not be exchanged under this clause;

286.24 (10) to appropriate parties in connection with an emergency if knowledge of
286.25 the information is necessary to protect the health or safety of the individual or other
286.26 individuals or persons;

286.27 (11) data maintained by residential programs as defined in section 245A.02 may
286.28 be disclosed to the protection and advocacy system established in this state according
286.29 to Part C of Public Law 98-527 to protect the legal and human rights of persons with
286.30 developmental disabilities or other related conditions who live in residential facilities for
286.31 these persons if the protection and advocacy system receives a complaint by or on behalf
286.32 of that person and the person does not have a legal guardian or the state or a designee of
286.33 the state is the legal guardian of the person;

286.34 (12) to the county medical examiner or the county coroner for identifying or locating
286.35 relatives or friends of a deceased person;

287.1 (13) data on a child support obligor who makes payments to the public agency
287.2 may be disclosed to the Minnesota Office of Higher Education to the extent necessary to
287.3 determine eligibility under section 136A.121, subdivision 2, clause (5);

287.4 (14) participant Social Security numbers and names collected by the telephone
287.5 assistance program may be disclosed to the Department of Revenue to conduct an
287.6 electronic data match with the property tax refund database to determine eligibility under
287.7 section 237.70, subdivision 4a;

287.8 (15) the current address of a Minnesota family investment program participant
287.9 may be disclosed to law enforcement officers who provide the name of the participant
287.10 and notify the agency that:

287.11 (i) the participant:

287.12 (A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after
287.13 conviction, for a crime or attempt to commit a crime that is a felony under the laws of the
287.14 jurisdiction from which the individual is fleeing; or

287.15 (B) is violating a condition of probation or parole imposed under state or federal law;

287.16 (ii) the location or apprehension of the felon is within the law enforcement officer's
287.17 official duties; and

287.18 (iii) the request is made in writing and in the proper exercise of those duties;

287.19 (16) the current address of a recipient of general assistance or general assistance
287.20 medical care may be disclosed to probation officers and corrections agents who are
287.21 supervising the recipient and to law enforcement officers who are investigating the
287.22 recipient in connection with a felony level offense;

287.23 (17) information obtained from food support applicant or recipient households may
287.24 be disclosed to local, state, or federal law enforcement officials, upon their written request,
287.25 for the purpose of investigating an alleged violation of the Food Stamp Act, according
287.26 to Code of Federal Regulations, title 7, section 272.1 (c);

287.27 (18) the address, Social Security number, and, if available, photograph of any
287.28 member of a household receiving food support shall be made available, on request, to a
287.29 local, state, or federal law enforcement officer if the officer furnishes the agency with the
287.30 name of the member and notifies the agency that:

287.31 (i) the member:

287.32 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
287.33 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

287.34 (B) is violating a condition of probation or parole imposed under state or federal
287.35 law; or

288.1 (C) has information that is necessary for the officer to conduct an official duty related
288.2 to conduct described in subitem (A) or (B);

288.3 (ii) locating or apprehending the member is within the officer's official duties; and

288.4 (iii) the request is made in writing and in the proper exercise of the officer's official
288.5 duty;

288.6 (19) the current address of a recipient of Minnesota family investment program,
288.7 general assistance, general assistance medical care, or food support may be disclosed to
288.8 law enforcement officers who, in writing, provide the name of the recipient and notify the
288.9 agency that the recipient is a person required to register under section 243.166, but is not
288.10 residing at the address at which the recipient is registered under section 243.166;

288.11 (20) certain information regarding child support obligors who are in arrears may be
288.12 made public according to section 518A.74;

288.13 (21) data on child support payments made by a child support obligor and data on
288.14 the distribution of those payments excluding identifying information on obligees may be
288.15 disclosed to all obligees to whom the obligor owes support, and data on the enforcement
288.16 actions undertaken by the public authority, the status of those actions, and data on the
288.17 income of the obligor or obligee may be disclosed to the other party;

288.18 (22) data in the work reporting system may be disclosed under section 256.998,
288.19 subdivision 7;

288.20 (23) to the Department of Education for the purpose of matching Department of
288.21 Education student data with public assistance data to determine students eligible for free
288.22 and reduced-price meals, meal supplements, and free milk according to United States
288.23 Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and
288.24 state funds that are distributed based on income of the student's family; and to verify
288.25 receipt of energy assistance for the telephone assistance plan;

288.26 (24) the current address and telephone number of program recipients and emergency
288.27 contacts may be released to the commissioner of health or a local board of health as
288.28 defined in section 145A.02, subdivision 2, when the commissioner or local board of health
288.29 has reason to believe that a program recipient is a disease case, carrier, suspect case, or at
288.30 risk of illness, and the data are necessary to locate the person;

288.31 (25) to other state agencies, statewide systems, and political subdivisions of this
288.32 state, including the attorney general, and agencies of other states, interstate information
288.33 networks, federal agencies, and other entities as required by federal regulation or law for
288.34 the administration of the child support enforcement program;

289.1 (26) to personnel of public assistance programs as defined in section 256.741, for
289.2 access to the child support system database for the purpose of administration, including
289.3 monitoring and evaluation of those public assistance programs;

289.4 (27) to monitor and evaluate the Minnesota family investment program by
289.5 exchanging data between the Departments of Human Services and Education, on
289.6 recipients and former recipients of food support, cash assistance under chapter 256, 256D,
289.7 256J, or 256K, child care assistance under chapter 119B, or medical programs under
289.8 chapter 256B, 256D, or 256L;

289.9 (28) to evaluate child support program performance and to identify and prevent
289.10 fraud in the child support program by exchanging data between the Department of Human
289.11 Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a)
289.12 and (b), without regard to the limitation of use in paragraph (c), Department of Health,
289.13 Department of Employment and Economic Development, and other state agencies as is
289.14 reasonably necessary to perform these functions;

289.15 (29) counties operating child care assistance programs under chapter 119B may
289.16 disseminate data on program participants, applicants, and providers to the commissioner
289.17 of education; or

289.18 (30) child support data on the parents and the child may be disclosed to agencies
289.19 administering programs under titles IV-B and IV-E of the Social Security Act, as provided
289.20 by federal law. Data may be disclosed only to the extent necessary for the purpose of
289.21 establishing parentage or for determining who has or may have parental rights with respect
289.22 to a child, which could be related to permanency planning.

289.23 (b) Information on persons who have been treated for drug or alcohol abuse may
289.24 only be disclosed according to the requirements of Code of Federal Regulations, title
289.25 42, sections 2.1 to 2.67.

289.26 (c) Data provided to law enforcement agencies under paragraph (a), clause (15),
289.27 (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected
289.28 nonpublic while the investigation is active. The data are private after the investigation
289.29 becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

289.30 (d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is
289.31 not subject to the access provisions of subdivision 10, paragraph (b).

289.32 For the purposes of this subdivision, a request will be deemed to be made in writing
289.33 if made through a computer interface system.

289.34 Sec. 2. Minnesota Statutes 2010, section 13.46, subdivision 3, is amended to read:

290.1 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of
290.2 services, licensees, and applicants that is collected, maintained, used, or disseminated
290.3 by the welfare system in an investigation, authorized by statute, and relating to the
290.4 enforcement of rules or law is confidential data on individuals pursuant to section 13.02,
290.5 subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02,
290.6 subdivision 13, and shall not be disclosed except:

290.7 (1) pursuant to section 13.05;

290.8 (2) pursuant to statute or valid court order;

290.9 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for
290.10 preparation of defense; or

290.11 (4) to provide notices required or permitted by statute.

290.12 The data referred to in this subdivision shall be classified as public data upon
290.13 its submission to an administrative law judge or court in an administrative or judicial
290.14 proceeding. Inactive welfare investigative data shall be treated as provided in section
290.15 13.39, subdivision 3.

290.16 (b) Notwithstanding any other provision in law, the commissioner of human services
290.17 shall provide all active and inactive investigative data, including the name of the reporter
290.18 of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental
290.19 health and developmental disabilities upon the request of the ombudsman.

290.20 (c) Notwithstanding paragraph (a) and section 13.39, the existence and status of an
290.21 investigation by the commissioner of possible overpayments of public funds to a service
290.22 provider are public data during an investigation.

290.23 Sec. 3. Minnesota Statutes 2010, section 13.46, subdivision 4, is amended to read:

290.24 Subd. 4. **Licensing data.** (a) As used in this subdivision:

290.25 (1) "licensing data" means all data collected, maintained, used, or disseminated by
290.26 the welfare system pertaining to persons licensed or registered or who apply for licensure
290.27 or registration or who formerly were licensed or registered under the authority of the
290.28 commissioner of human services;

290.29 (2) "client" means a person who is receiving services from a licensee or from an
290.30 applicant for licensure; and

290.31 (3) "personal and personal financial data" means Social Security numbers, identity
290.32 of and letters of reference, insurance information, reports from the Bureau of Criminal
290.33 Apprehension, health examination reports, and social/home studies.

290.34 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants,
290.35 license holders, and former licensees are public: name, address, telephone number of

291.1 licensees, date of receipt of a completed application, dates of licensure, licensed capacity,
291.2 type of client preferred, variances granted, record of training and education in child care
291.3 and child development, type of dwelling, name and relationship of other family members,
291.4 previous license history, class of license, the existence and status of complaints, and the
291.5 number of serious injuries to or deaths of individuals in the licensed program as reported
291.6 to the commissioner of human services, the local social services agency, or any other
291.7 county welfare agency. For purposes of this clause, a serious injury is one that is treated
291.8 by a physician.

291.9 (ii) When a correction order, an order to forfeit a fine, an order of license suspension,
291.10 an order of temporary immediate suspension, an order of license revocation, an order
291.11 of license denial, or an order of conditional license has been issued, or a complaint is
291.12 resolved, the following data on current and former licensees and applicants are public: the
291.13 substance and investigative findings of the licensing or maltreatment complaint, licensing
291.14 violation, or substantiated maltreatment; the record of informal resolution of a licensing
291.15 violation; orders of hearing; findings of fact; conclusions of law; specifications of the final
291.16 correction order, fine, suspension, temporary immediate suspension, revocation, denial, or
291.17 conditional license contained in the record of licensing action; whether a fine has been
291.18 paid; and the status of any appeal of these actions. ~~If a licensing sanction under section~~
291.19 ~~245A.07, or a license denial under section 245A.05, is based on a determination that the~~
291.20 ~~license holder or applicant is responsible for maltreatment or is disqualified under chapter~~
291.21 ~~245C, the identity of the license holder or applicant as the individual responsible for~~
291.22 ~~maltreatment or as the disqualified individual is public data at the time of the issuance of~~
291.23 ~~the licensing sanction or denial.~~

291.24 (iii) When a license denial under section 245A.05 or a sanction under section
291.25 245A.07 is based on a determination that the license holder or applicant is responsible for
291.26 maltreatment under section 626.556 or 626.557, the identity of the applicant or license
291.27 holder as the individual responsible for maltreatment is public data at the time of the
291.28 issuance of the license denial or sanction.

291.29 (iv) When a license denial under section 245A.05 or a sanction under section
291.30 245A.07 is based on a determination that the license holder or applicant is disqualified
291.31 under chapter 245C, the identity of the license holder or applicant as the disqualified
291.32 individual and the reason for the disqualification are public data at the time of the
291.33 issuance of the licensing sanction or denial. If the applicant or license holder requests
291.34 reconsideration of the disqualification and the disqualification is affirmed, the reason for
291.35 the disqualification and the reason to not set aside the disqualification are public data.

292.1 (2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b,
292.2 when any person subject to disqualification under section 245C.14 in connection with a
292.3 license to provide family day care for children, child care center services, foster care
292.4 for children in the provider's home, or foster care or day care services for adults in the
292.5 provider's home is a substantiated perpetrator of maltreatment, and the substantiated
292.6 maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator
292.7 of maltreatment is public data. For purposes of this clause, a person is a substantiated
292.8 perpetrator if the maltreatment determination has been upheld under section 256.045;
292.9 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or
292.10 facility has not timely exercised appeal rights under these sections, except as provided
292.11 under clause (1).

292.12 (3) For applicants who withdraw their application prior to licensure or denial of a
292.13 license, the following data are public: the name of the applicant, the city and county in
292.14 which the applicant was seeking licensure, the dates of the commissioner's receipt of the
292.15 initial application and completed application, the type of license sought, and the date
292.16 of withdrawal of the application.

292.17 (4) For applicants who are denied a license, the following data are public: the name
292.18 and address of the applicant, the city and county in which the applicant was seeking
292.19 licensure, the dates of the commissioner's receipt of the initial application and completed
292.20 application, the type of license sought, the date of denial of the application, the nature of
292.21 the basis for the denial, the record of informal resolution of a denial, orders of hearings,
292.22 findings of fact, conclusions of law, specifications of the final order of denial, and the
292.23 status of any appeal of the denial.

292.24 (5) The following data on persons subject to disqualification under section 245C.14
292.25 in connection with a license to provide family day care for children, child care center
292.26 services, foster care for children in the provider's home, or foster care or day care
292.27 services for adults in the provider's home, are public: the nature of any disqualification
292.28 set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside
292.29 the disqualification; the nature of any disqualification for which a variance was granted
292.30 under sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any
292.31 variance under section 245A.04, subdivision 9; and, if applicable, the disclosure that
292.32 any person subject to a background study under section 245C.03, subdivision 1, has
292.33 successfully passed a background study. If a licensing sanction under section 245A.07,
292.34 or a license denial under section 245A.05, is based on a determination that an individual
292.35 subject to disqualification under chapter 245C is disqualified, the disqualification as a
292.36 basis for the licensing sanction or denial is public data. As specified in clause (1), item

293.1 (iv), if the disqualified individual is the license holder or applicant, the identity of the
293.2 license holder or applicant is and the reason for the disqualification are public data; and, if
293.3 the license holder or applicant requested reconsideration of the disqualification and the
293.4 disqualification is affirmed, the reason for the disqualification and the reason to not set
293.5 aside the disqualification are public data. If the disqualified individual is an individual
293.6 other than the license holder or applicant, the identity of the disqualified individual shall
293.7 remain private data.

293.8 (6) When maltreatment is substantiated under section 626.556 or 626.557 and the
293.9 victim and the substantiated perpetrator are affiliated with a program licensed under
293.10 chapter 245A, the commissioner of human services, local social services agency, or
293.11 county welfare agency may inform the license holder where the maltreatment occurred of
293.12 the identity of the substantiated perpetrator and the victim.

293.13 (7) Notwithstanding clause (1), for child foster care, only the name of the license
293.14 holder and the status of the license are public if the county attorney has requested that data
293.15 otherwise classified as public data under clause (1) be considered private data based on the
293.16 best interests of a child in placement in a licensed program.

293.17 (c) The following are private data on individuals under section 13.02, subdivision
293.18 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial
293.19 data on family day care program and family foster care program applicants and licensees
293.20 and their family members who provide services under the license.

293.21 (d) The following are private data on individuals: the identity of persons who have
293.22 made reports concerning licensees or applicants that appear in inactive investigative data,
293.23 and the records of clients or employees of the licensee or applicant for licensure whose
293.24 records are received by the licensing agency for purposes of review or in anticipation of a
293.25 contested matter. The names of reporters of complaints or alleged violations of licensing
293.26 standards under chapters 245A, 245B, 245C, and applicable rules and alleged maltreatment
293.27 under sections 626.556 and 626.557, are confidential data and may be disclosed only as
293.28 provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

293.29 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under
293.30 this subdivision become public data if submitted to a court or administrative law judge as
293.31 part of a disciplinary proceeding in which there is a public hearing concerning a license
293.32 which has been suspended, immediately suspended, revoked, or denied.

293.33 (f) Data generated in the course of licensing investigations that relate to an alleged
293.34 violation of law are investigative data under subdivision 3.

293.35 (g) Data that are not public data collected, maintained, used, or disseminated under
293.36 this subdivision that relate to or are derived from a report as defined in section 626.556,

294.1 subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of
294.2 sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

294.3 (h) Upon request, not public data collected, maintained, used, or disseminated under
294.4 this subdivision that relate to or are derived from a report of substantiated maltreatment as
294.5 defined in section 626.556 or 626.557 may be exchanged with the Department of Health
294.6 for purposes of completing background studies pursuant to section 144.057 and with
294.7 the Department of Corrections for purposes of completing background studies pursuant
294.8 to section 241.021.

294.9 (i) Data on individuals collected according to licensing activities under chapters
294.10 245A and 245C, ~~and~~ data on individuals collected by the commissioner of human
294.11 services according to ~~maltreatment~~ investigations under chapters 245A and 245C, and
294.12 sections 626.556 and 626.557; may be shared with the Department of Human Rights, the
294.13 Department of Health, the Department of Corrections, the ombudsman for mental health
294.14 and developmental disabilities, and the individual's professional regulatory board when
294.15 there is reason to believe that laws or standards under the jurisdiction of those agencies
294.16 may have been violated; or the information may otherwise be relevant to the board's
294.17 regulatory jurisdiction. Background study data on an individual who is the subject of a
294.18 background study under chapter 245C for a licensed service for which the commissioner
294.19 of human services is the license holder may be shared with the commissioner and the
294.20 commissioner's delegate by the licensing division. Unless otherwise specified in this
294.21 chapter, the identity of a reporter of alleged maltreatment or licensing violations may not
294.22 be disclosed.

294.23 (j) In addition to the notice of determinations required under section 626.556,
294.24 subdivision 10f, if the commissioner or the local social services agency has determined
294.25 that an individual is a substantiated perpetrator of maltreatment of a child based on sexual
294.26 abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social
294.27 services agency knows that the individual is a person responsible for a child's care in
294.28 another facility, the commissioner or local social services agency shall notify the head
294.29 of that facility of this determination. The notification must include an explanation of the
294.30 individual's available appeal rights and the status of any appeal. If a notice is given under
294.31 this paragraph, the government entity making the notification shall provide a copy of the
294.32 notice to the individual who is the subject of the notice.

294.33 (k) All not public data collected, maintained, used, or disseminated under this
294.34 subdivision and subdivision 3 may be exchanged between the Department of Human
294.35 Services, Licensing Division, and the Department of Corrections for purposes of

295.1 regulating services for which the Department of Human Services and the Department
295.2 of Corrections have regulatory authority.

295.3 Sec. 4. Minnesota Statutes 2010, section 13.82, subdivision 1, is amended to read:

295.4 Subdivision 1. **Application.** This section shall apply to agencies which carry on
295.5 a law enforcement function, including but not limited to municipal police departments,
295.6 county sheriff departments, fire departments, the Bureau of Criminal Apprehension,
295.7 the Minnesota State Patrol, the Board of Peace Officer Standards and Training, the
295.8 Department of Commerce, ~~and the program integrity section of, and~~ county human service
295.9 agency client and provider fraud investigation, prevention, and control units operated or
295.10 supervised by the Department of Human Services.

295.11 **ARTICLE 16**

295.12 **LICENSING**

295.13 Section 1. Minnesota Statutes 2010, section 245A.03, is amended by adding a
295.14 subdivision to read:

295.15 Subd. 2c. **School-age child care licensing moratorium.** A school-age program
295.16 whose sole purpose is to provide only services to school-age children during out-of-school
295.17 times is exempt from the human services licensing requirements in this chapter until July
295.18 1, 2014. Nothing in this section prohibits an already licensed school-age-only program
295.19 from continuing its license or a school-age program from seeking licensure.

295.20 Sec. 2. Minnesota Statutes 2010, section 245A.04, subdivision 1, is amended to read:

295.21 Subdivision 1. **Application for licensure.** (a) An individual, corporation,
295.22 partnership, voluntary association, other organization or controlling individual that is
295.23 subject to licensure under section 245A.03 must apply for a license. The application
295.24 must be made on the forms and in the manner prescribed by the commissioner. The
295.25 commissioner shall provide the applicant with instruction in completing the application
295.26 and provide information about the rules and requirements of other state agencies that affect
295.27 the applicant. An applicant seeking licensure in Minnesota with headquarters outside of
295.28 Minnesota must have a program office located within the state.

295.29 The commissioner shall act on the application within 90 working days after a
295.30 complete application and any required reports have been received from other state
295.31 agencies or departments, counties, municipalities, or other political subdivisions. The
295.32 commissioner shall not consider an application to be complete until the commissioner
295.33 receives all of the information required under section 245C.05.

296.1 When the commissioner receives an application for initial licensure that is incomplete
296.2 because the applicant failed to submit required documents or that is substantially
296.3 deficient because the documents submitted do not meet licensing requirements, the
296.4 commissioner shall provide the applicant written notice that the application is incomplete
296.5 or substantially deficient. In the written notice to the applicant the commissioner shall
296.6 identify documents that are missing or deficient and give the applicant 45 days to resubmit
296.7 a second application that is substantially complete. An applicant's failure to submit a
296.8 substantially complete application after receiving notice from the commissioner is a basis
296.9 for license denial under section 245A.05.

296.10 (b) An application for licensure must ~~specify one or more~~ identify all controlling
296.11 individuals ~~as~~ and must specify an agent who is responsible for dealing with the
296.12 commissioner of human services on all matters provided for in this chapter and on whom
296.13 service of all notices and orders must be made. The agent must be authorized to accept
296.14 service on behalf of all of the controlling individuals of the program. Service on the agent
296.15 is service on all of the controlling individuals of the program. It is not a defense to any
296.16 action arising under this chapter that service was not made on each controlling individual
296.17 of the program. The designation of one or more controlling individuals as agents under
296.18 this paragraph does not affect the legal responsibility of any other controlling individual
296.19 under this chapter.

296.20 (c) An applicant or license holder must have a policy that prohibits license holders,
296.21 employees, subcontractors, and volunteers, when directly responsible for persons served
296.22 by the program, from abusing prescription medication or being in any manner under
296.23 the influence of a chemical that impairs the individual's ability to provide services or
296.24 care. The license holder must train employees, subcontractors, and volunteers about the
296.25 program's drug and alcohol policy.

296.26 (d) An applicant and license holder must have a program grievance procedure that
296.27 permits persons served by the program and their authorized representatives to bring a
296.28 grievance to the highest level of authority in the program.

296.29 (e) The applicant must be able to demonstrate competent knowledge of the
296.30 applicable requirements of this chapter and chapter 245C, and the requirements of
296.31 other licensing statutes and rules applicable to the program or services for which the
296.32 applicant is seeking to be licensed. Effective January 1, 2013, the commissioner may
296.33 require the applicant, except for child foster care, to demonstrate competence in the
296.34 applicable licensing requirements by successfully completing a written examination. The
296.35 commissioner may develop a prescribed written examination format.

297.1 (f) When an applicant is an individual, the individual must provide the applicant's
297.2 Social Security number and a photocopy of a Minnesota driver's license, Minnesota
297.3 identification card, or valid United States passport.

297.4 (g) When an applicant is a nonindividual, the applicant must provide the applicant's
297.5 Minnesota tax identification number, the name, and address, and the date that the
297.6 background study was initiated by the applicant for each controlling individual, and:

297.7 (1) if the agent authorized to accept service on behalf of all the controlling
297.8 individuals resides in Minnesota, the agent must provide a photocopy of the agent's
297.9 Minnesota driver's license, Minnesota identification card, or United States passport; or

297.10 (2) if the agent authorized to accept service on behalf of all the controlling
297.11 individuals resides outside Minnesota, the agent must provide a photocopy of the agent's
297.12 driver's license or identification card from the state where the agent resides or a photocopy
297.13 of the agent's United States passport.

297.14 Sec. 3. Minnesota Statutes 2010, section 245A.04, subdivision 7, is amended to read:

297.15 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines
297.16 that the program complies with all applicable rules and laws, the commissioner shall issue
297.17 a license. At minimum, the license shall state:

297.18 (1) the name of the license holder;

297.19 (2) the address of the program;

297.20 (3) the effective date and expiration date of the license;

297.21 (4) the type of license;

297.22 (5) the maximum number and ages of persons that may receive services from the
297.23 program; and

297.24 (6) any special conditions of licensure.

297.25 (b) The commissioner may issue an initial license for a period not to exceed two
297.26 years if:

297.27 (1) the commissioner is unable to conduct the evaluation or observation required
297.28 by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet
297.29 operational;

297.30 (2) certain records and documents are not available because persons are not yet
297.31 receiving services from the program; and

297.32 (3) the applicant complies with applicable laws and rules in all other respects.

297.33 (c) A decision by the commissioner to issue a license does not guarantee that any
297.34 person or persons will be placed or cared for in the licensed program. A license shall not

298.1 be transferable to another individual, corporation, partnership, voluntary association, other
298.2 organization, or controlling individual or to another location.

298.3 (d) A license holder must notify the commissioner and obtain the commissioner's
298.4 approval before making any changes that would alter the license information listed under
298.5 paragraph (a).

298.6 (e) Except as provided in paragraphs (g) and (h), the commissioner shall not issue or
298.7 reissue a license if the applicant, license holder, or controlling individual has:

298.8 (1) been disqualified and the disqualification was not set aside and no variance has
298.9 been granted;

298.10 (2) ~~has~~ been denied a license within the past two years;

298.11 (3) had a license revoked within the past five years; ~~or~~

298.12 (4) ~~has~~ an outstanding debt related to a license fee, licensing fine, or settlement
298.13 agreement for which payment is delinquent; or

298.14 (5) failed to submit the information required of an applicant under section 245A.04,
298.15 subdivision 1, paragraph (f) or (g), after being requested by the commissioner.

298.16 When a license is revoked under clause (1) or (3), the license holder and controlling
298.17 individual may not hold any license under chapter 245A or 245B for five years following
298.18 the revocation, and other licenses held by the applicant, license holder, or controlling
298.19 individual shall also be revoked.

298.20 (f) The commissioner shall not issue or reissue a license if an individual living in
298.21 the household where the licensed services will be provided as specified under section
298.22 245C.03, subdivision 1, has been disqualified and the disqualification has not been set
298.23 aside and no variance has been granted.

298.24 (g) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license has
298.25 been suspended or revoked and the suspension or revocation is under appeal, the program
298.26 may continue to operate pending a final order from the commissioner. If the license under
298.27 suspension or revocation will expire before a final order is issued, a temporary provisional
298.28 license may be issued provided any applicable license fee is paid before the temporary
298.29 provisional license is issued.

298.30 (h) Notwithstanding paragraph (g), when a revocation is based on the disqualification
298.31 of a controlling individual or license holder, and the controlling individual or license holder
298.32 is ordered under section 245C.17 to be immediately removed from direct contact with
298.33 persons receiving services or is ordered to be under continuous, direct supervision when
298.34 providing direct contact services, the program may continue to operate only if the program
298.35 complies with the order and submits documentation demonstrating compliance with the
298.36 order. If the disqualified individual fails to submit a timely request for reconsideration, or

299.1 if the disqualification is not set aside and no variance is granted, the order to immediately
299.2 remove the individual from direct contact or to be under continuous, direct supervision
299.3 remains in effect pending the outcome of a hearing and final order from the commissioner.

299.4 (i) For purposes of reimbursement for meals only, under the Child and Adult Care
299.5 Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A,
299.6 part 226, relocation within the same county by a licensed family day care provider, shall
299.7 be considered an extension of the license for a period of no more than 30 calendar days or
299.8 until the new license is issued, whichever occurs first, provided the county agency has
299.9 determined the family day care provider meets licensure requirements at the new location.

299.10 (j) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the
299.11 day after the expiration date stated on the license. A license holder must apply for and
299.12 be granted a new license to operate the program or the program must not be operated
299.13 after the expiration date.

299.14 (k) The commissioner shall not issue or reissue a license if it has been determined that
299.15 a tribal licensing authority has established jurisdiction to license the program or service.

299.16 Sec. 4. Minnesota Statutes 2010, section 245A.04, subdivision 11, is amended to read:

299.17 Subd. 11. **Education program; permitted ages, additional requirement.** (a) ~~The~~
299.18 ~~education program offered in a residential or nonresidential program, except for child care,~~
299.19 ~~foster care, or services for adults, must be approved by the commissioner of education~~
299.20 ~~before the commissioner of human services may grant a license to the program. Except for~~
299.21 ~~foster care, the commissioner of human services may not grant a license to a residential~~
299.22 ~~facility for the placement of children before the commissioner has received documentation~~
299.23 ~~of approval of the educational program from the commissioner of education according to~~
299.24 ~~section 125A.515.~~

299.25 (b) ~~A residential program licensed by the commissioner of human services under~~
299.26 ~~Minnesota Rules, parts 2960.0010 to 2960.0710, may serve persons through the age of~~
299.27 ~~19 when:~~

299.28 (1) ~~the admission or continued stay is necessary for a person to complete a secondary~~
299.29 ~~school program or its equivalent, or it is necessary to facilitate a transition period after~~
299.30 ~~completing the secondary school program or its equivalent for up to four months in order~~
299.31 ~~for the resident to obtain other living arrangements;~~

299.32 (2) ~~the facility develops policies, procedures, and plans required under section~~
299.33 ~~245A.65;~~

300.1 ~~(3) the facility documents an assessment of the 18- or 19-year-old person's risk~~
 300.2 ~~of victimizing children residing in the facility, and develops necessary risk reduction~~
 300.3 ~~measures, including sleeping arrangements, to minimize any risk of harm to children; and~~

300.4 ~~(4) notwithstanding the license holder's target population age range, whenever~~
 300.5 ~~persons age 18 or 19 years old are receiving residential services, the age difference among~~
 300.6 ~~residents may not exceed five years.~~

300.7 ~~(e)(b)~~ A child foster care program licensed by the commissioner under Minnesota
 300.8 Rules, chapter 2960, may serve persons who are over the age of 18 but under the age
 300.9 of 21 when the person is:

300.10 (1) completing secondary education or a program leading to an equivalent credential;

300.11 (2) enrolled in an institution which provides postsecondary or vocational education;

300.12 (3) participating in a program or activity designed to promote, or remove barriers to,
 300.13 employment;

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

300.15 (5) incapable of doing any of the activities described in clauses (1) to (4) due to a
 300.16 medical condition, which incapability is supported by regularly updated information in the
 300.17 case plan of the person.

300.18 (c) In addition to the requirements in paragraph (b), a residential program licensed
 300.19 by the commissioner of human services under Minnesota Rules, parts 2960.0010 to
 300.20 2960.0710, may serve persons under the age of 21 provided the facility complies with the
 300.21 following requirements:

300.22 (1) for each person age 18 and older served at the program, the program must assess
 300.23 and document the person's risk of victimizing other residents residing in the facility, and
 300.24 based on the assessment, the facility must develop and implement necessary measures
 300.25 to minimize any risk of harm to other residents, including making arrangements for
 300.26 appropriate sleeping arrangements; and

300.27 (2) the program must assure that the services and living arrangements provided to all
 300.28 residents are suitable to the age and functioning of the residents, including separation of
 300.29 services, staff supervision, and other program operations as appropriate.

300.30 (d) Nothing in this ~~paragraph~~ subdivision precludes the license holder from seeking
 300.31 other variances under subdivision 9.

300.32 Sec. 5. Minnesota Statutes 2010, section 245A.04, is amended by adding a subdivision
 300.33 to read:

300.34 Subd. 16. **Program policy; reporting a death in the program.** Unless such
 300.35 reporting is otherwise already required under statute or rule, programs licensed under this

301.1 chapter must have a written policy for reporting the death of an individual served by the
301.2 program to the commissioner of human services. Within 24 hours of receiving knowledge
301.3 of the death of an individual served by the program, the license holder shall notify the
301.4 commissioner of the death. If the license holder has reason to know that the death has
301.5 been reported to the commissioner, a subsequent report is not required.

301.6 Sec. 6. Minnesota Statutes 2010, section 245A.04, is amended by adding a subdivision
301.7 to read:

301.8 Subd. 17. **Child care education plan.** Child care providers are not required to
301.9 provide an education plan or curriculum that has been approved by the Department of
301.10 Education as a condition for initial or renewed licensure under this chapter.

301.11 Sec. 7. Minnesota Statutes 2010, section 245A.05, is amended to read:

301.12 **245A.05 DENIAL OF APPLICATION.**

301.13 (a) The commissioner may deny a license if an applicant or controlling individual:

301.14 (1) fails to submit a substantially complete application after receiving notice from
301.15 the commissioner under section 245A.04, subdivision 1;

301.16 ~~(1)~~ (2) fails to comply with applicable laws or rules;

301.17 ~~(2)~~ (3) knowingly withholds relevant information from or gives false or misleading
301.18 information to the commissioner in connection with an application for a license or during
301.19 an investigation;

301.20 ~~(3)~~ (4) has a disqualification that has not been set aside under section 245C.22
301.21 and no variance has been granted;

301.22 ~~(4)~~ (5) has an individual living in the household who received a background study
301.23 under section 245C.03, subdivision 1, paragraph (a), clause (2), who has a disqualification
301.24 that has not been set aside under section 245C.22, and no variance has been granted; ~~or~~

301.25 ~~(5)~~ (6) is associated with an individual who received a background study under
301.26 section 245C.03, subdivision 1, paragraph (a), clause (6), who may have unsupervised
301.27 access to children or vulnerable adults, and who has a disqualification that has not been set
301.28 aside under section 245C.22, and no variance has been granted; or

301.29 (7) fails to comply with section 245A.04, subdivision 1, paragraph (f) or (g).

301.30 (b) An applicant whose application has been denied by the commissioner must be
301.31 given notice of the denial. Notice must be given by certified mail or personal service.

301.32 The notice must state the reasons the application was denied and must inform the
301.33 applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules,
301.34 parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying the

302.1 commissioner in writing by certified mail or personal service. If mailed, the appeal must
302.2 be postmarked and sent to the commissioner within 20 calendar days after the applicant
302.3 received the notice of denial. If an appeal request is made by personal service, it must
302.4 be received by the commissioner within 20 calendar days after the applicant received the
302.5 notice of denial. Section 245A.08 applies to hearings held to appeal the commissioner's
302.6 denial of an application.

302.7 Sec. 8. Minnesota Statutes 2010, section 245A.07, subdivision 3, is amended to read:

302.8 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may
302.9 suspend or revoke a license, or impose a fine if:

302.10 (1) a license holder fails to comply fully with applicable laws or rules;~~if;~~

302.11 (2) a license holder, a controlling individual, or an individual living in the household
302.12 where the licensed services are provided or is otherwise subject to a background study has
302.13 a disqualification which has not been set aside under section 245C.22;~~or if;~~

302.14 (3) a license holder knowingly withholds relevant information from or gives false
302.15 or misleading information to the commissioner in connection with an application for
302.16 a license, in connection with the background study status of an individual, during an
302.17 investigation, or regarding compliance with applicable laws or rules;~~or~~

302.18 (4) after July 1, 2012, and upon request by the commissioner, a license holder fails
302.19 to submit the information required of an applicant under section 245A.04, subdivision 1,
302.20 paragraph (f) or (g).

302.21 A license holder who has had a license suspended, revoked, or has been ordered
302.22 to pay a fine must be given notice of the action by certified mail or personal service. If
302.23 mailed, the notice must be mailed to the address shown on the application or the last
302.24 known address of the license holder. The notice must state the reasons the license was
302.25 suspended, revoked, or a fine was ordered.

302.26 (b) If the license was suspended or revoked, the notice must inform the license
302.27 holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
302.28 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
302.29 a license. The appeal of an order suspending or revoking a license must be made in writing
302.30 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
302.31 the commissioner within ten calendar days after the license holder receives notice that the
302.32 license has been suspended or revoked. If a request is made by personal service, it must be
302.33 received by the commissioner within ten calendar days after the license holder received
302.34 the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits
302.35 a timely appeal of an order suspending or revoking a license, the license holder may

303.1 continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs
303.2 (g) and (h), until the commissioner issues a final order on the suspension or revocation.

303.3 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the
303.4 license holder of the responsibility for payment of fines and the right to a contested case
303.5 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal
303.6 of an order to pay a fine must be made in writing by certified mail or personal service. If
303.7 mailed, the appeal must be postmarked and sent to the commissioner within ten calendar
303.8 days after the license holder receives notice that the fine has been ordered. If a request is
303.9 made by personal service, it must be received by the commissioner within ten calendar
303.10 days after the license holder received the order.

303.11 (2) The license holder shall pay the fines assessed on or before the payment date
303.12 specified. If the license holder fails to fully comply with the order, the commissioner
303.13 may issue a second fine or suspend the license until the license holder complies. If the
303.14 license holder receives state funds, the state, county, or municipal agencies or departments
303.15 responsible for administering the funds shall withhold payments and recover any payments
303.16 made while the license is suspended for failure to pay a fine. A timely appeal shall stay
303.17 payment of the fine until the commissioner issues a final order.

303.18 (3) A license holder shall promptly notify the commissioner of human services,
303.19 in writing, when a violation specified in the order to forfeit a fine is corrected. If upon
303.20 reinspection the commissioner determines that a violation has not been corrected as
303.21 indicated by the order to forfeit a fine, the commissioner may issue a second fine. The
303.22 commissioner shall notify the license holder by certified mail or personal service that a
303.23 second fine has been assessed. The license holder may appeal the second fine as provided
303.24 under this subdivision.

303.25 (4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for
303.26 each determination of maltreatment of a child under section 626.556 or the maltreatment
303.27 of a vulnerable adult under section 626.557 for which the license holder is determined
303.28 responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i),
303.29 or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each
303.30 occurrence of a violation of law or rule governing matters of health, safety, or supervision,
303.31 including but not limited to the provision of adequate staff-to-child or adult ratios, and
303.32 failure to comply with background study requirements under chapter 245C; and the license
303.33 holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those
303.34 subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means
303.35 each violation identified in the commissioner's fine order. Fines assessed against a license
303.36 holder that holds a license to provide the residential-based habilitation services, as defined

304.1 under section 245B.02, subdivision 20, and a license to provide foster care, may be
304.2 assessed against both licenses for the same occurrence, but the combined amount of the
304.3 fines shall not exceed the amount specified in this clause for that occurrence.

304.4 (5) When a fine has been assessed, the license holder may not avoid payment by
304.5 closing, selling, or otherwise transferring the licensed program to a third party. In such an
304.6 event, the license holder will be personally liable for payment. In the case of a corporation,
304.7 each controlling individual is personally and jointly liable for payment.

304.8 (d) Except for background study violations involving the failure to comply with an
304.9 order to immediately remove an individual or an order to provide continuous, direct
304.10 supervision, the commissioner shall not issue a fine under paragraph (c) relating to a
304.11 background study violation to a license holder who self-corrects a background study
304.12 violation before the commissioner discovers the violation. A license holder who has
304.13 previously exercised the provisions of this paragraph to avoid a fine for a background
304.14 study violation may not avoid a fine for a subsequent background study violation unless at
304.15 least 365 days have passed since the license holder self-corrected the earlier background
304.16 study violation.

304.17 Sec. 9. Minnesota Statutes 2010, section 245A.14, subdivision 11, is amended to read:

304.18 Subd. 11. **Swimming pools; family day care and group family day care**
304.19 **providers.** (a) This subdivision governs swimming pools located at family day care
304.20 or group family day care homes licensed under Minnesota Rules, chapter 9502. This
304.21 subdivision does not apply to portable wading pools or whirlpools located at family day
304.22 care or group family day care homes licensed under Minnesota Rules, chapter 9502. For a
304.23 provider to be eligible to allow a child cared for at the family day care or group family day
304.24 care home to use the swimming pool located at the home, the provider must not have had
304.25 a licensing sanction under section 245A.07 or a correction order or conditional license
304.26 under section 245A.06 relating to the supervision or health and safety of children during
304.27 the prior 24 months, and must satisfy the following requirements:

304.28 (1) notify the county agency before initial use of the swimming pool and annually,
304.29 thereafter;

304.30 (2) obtain written consent from a child's parent or legal guardian allowing the child
304.31 to use the swimming pool and renew the parent or legal guardian's written consent at least
304.32 annually. The written consent must include a statement that the parent or legal guardian
304.33 has received and read materials provided by the Department of Health to the Department
304.34 of Human Services for distribution to all family day care or group family day care homes
304.35 and the general public on the human services Internet Web site related to the risk of disease

305.1 transmission as well as other health risks associated with swimming pools. The written
305.2 consent must also include a statement that the Department of Health, Department of
305.3 Human Services, and county agency will not monitor or inspect the provider's swimming
305.4 pool to ensure compliance with the requirements in this subdivision;

305.5 (3) enter into a written contract with a child's parent or legal guardian and renew the
305.6 written contract annually. The terms of the written contract must specify that the provider
305.7 agrees to perform all of the requirements in this subdivision;

305.8 (4) attend and successfully complete a swimming pool operator training course once
305.9 every five years. Acceptable training courses are:

305.10 (i) the National Swimming Pool Foundation Certified Pool Operator course;

305.11 (ii) the National Spa and Pool Institute Tech I and Tech II courses (both required); or

305.12 (iii) the National Recreation and Park Association Aquatic Facility Operator course;

305.13 (5) require a caregiver trained in first aid and adult and child cardiopulmonary
305.14 resuscitation to supervise and be present at the swimming pool with any children in the
305.15 pool;

305.16 (6) toilet all potty-trained children before they enter the swimming pool;

305.17 (7) require all children who are not potty-trained to wear swim diapers while in
305.18 the swimming pool;

305.19 (8) if fecal material enters the swimming pool water, add three times the normal
305.20 shock treatment to the pool water to raise the chlorine level to at least 20 parts per million,
305.21 and close the pool to swimming for the 24 hours following the entrance of fecal material
305.22 into the water or until the water pH and disinfectant concentration levels have returned to
305.23 the standards specified in clause (10), whichever is later;

305.24 (9) prevent any person from entering the swimming pool who has an open wound or
305.25 any person who has or is suspected of having a communicable disease;

305.26 (10) maintain the swimming pool water at a pH of not less than 7.2 and not more
305.27 than 8.0, maintain the disinfectant concentration between two and five parts per million for
305.28 chlorine or between 2.3 and 4.5 parts per million for bromine, and maintain a daily record
305.29 of the swimming pool's operation with pH and disinfectant concentration readings on days
305.30 when children cared for at the family day care or group family day care home are present;

305.31 (11) have a disinfectant feeder or feeders;

305.32 (12) have a recirculation system that will clarify and disinfect the swimming pool
305.33 volume of water in ten hours or less;

305.34 (13) maintain the swimming pool's water clarity so that an object on the pool floor at
305.35 the pool's deepest point is easily visible;

306.1 (14) ~~have two or more suction lines in the swimming pool~~ comply with the provisions
306.2 of the Abigail Taylor Pool Safety Act in section 144.1222, subdivisions 1c and 1d;

306.3 (15) have in place and enforce written safety rules and swimming pool policies;

306.4 (16) have in place at all times a safety rope that divides the shallow and deep
306.5 portions of the swimming pool;

306.6 (17) satisfy any existing local ordinances regarding swimming pool installation,
306.7 decks, and fencing;

306.8 (18) maintain a water temperature of not more than 104 degrees Fahrenheit and
306.9 not less than 70 degrees Fahrenheit; and

306.10 (19) for lifesaving equipment, have a United States Coast Guard-approved life
306.11 ring attached to a rope, an exit ladder, and a shepherd's hook available at all times to the
306.12 caregiver supervising the swimming pool.

306.13 The requirements of clauses (5), (16), and (18) only apply at times when children
306.14 cared for at the family day care or group family day care home are present.

306.15 (b) A violation of paragraph (a), clauses (1) to (3), is grounds for a sanction under
306.16 section 245A.07 or a correction order or conditional license under section 245A.06.

306.17 (c) If a provider under this subdivision receives a licensing sanction under section
306.18 245A.07 or a correction order or a conditional license under section 245A.06 relating to
306.19 the supervision or health and safety of children, the provider is prohibited from allowing a
306.20 child cared for at the family day care or group family day care home to continue to use
306.21 the swimming pool located at the home.

306.22 Sec. 10. Minnesota Statutes 2010, section 245A.146, subdivision 2, is amended to read:

306.23 Subd. 2. **Documentation requirement for license holders.** (a) ~~Effective January~~
306.24 ~~1, 2006,~~ All licensed child care providers, children's residential facilities, chemical
306.25 dependency treatment programs with children in care, and residential habilitation
306.26 programs serving children with developmental disabilities must maintain the following
306.27 documentation for every crib used by or that is accessible to any child in care:

306.28 (1) the crib's brand name; and

306.29 (2) the crib's model number.

306.30 (b) Any crib for which the license holder does not have the documentation required
306.31 under paragraph (a) must not be used by or be accessible to children in care.

306.32 (c) Effective December 28, 2012, the licensed program must maintain documentation
306.33 that meets federal documentation requirements to show that every full-size and
306.34 non-full-size crib that is used by or is accessible to any child in care is compliant with

307.1 federal crib standards under Code of Federal Regulations, title 16, part 1219, for full-size
307.2 baby cribs, or Code of Federal Regulations, title 16, part 1220, for non-full-size baby cribs.

307.3 Sec. 11. Minnesota Statutes 2010, section 245A.146, subdivision 3, is amended to read:

307.4 Subd. 3. **License holder documentation of cribs.** (a) Annually, from the date
307.5 printed on the license, all license holders shall check all their cribs' brand names and
307.6 model numbers against the United States Consumer Product Safety Commission Web
307.7 site listing of unsafe cribs.

307.8 (b) The license holder shall maintain written documentation to be reviewed on site
307.9 for each crib showing that the review required in paragraph (a) has been completed, and
307.10 which of the following conditions applies:

307.11 (1) the crib was not identified as unsafe on the United States Consumer Product
307.12 Safety Commission Web site;

307.13 (2) the crib was identified as unsafe on the United States Consumer Product Safety
307.14 Commission Web site, but the license holder has taken the action directed by the United
307.15 States Consumer Product Safety Commission to make the crib safe; or

307.16 (3) the crib was identified as unsafe on the United States Consumer Product Safety
307.17 Commission Web site, and the license holder has removed the crib so that it is no longer
307.18 used by or accessible to children in care.

307.19 (c) Documentation of the review completed under this subdivision shall be
307.20 maintained by the license holder on site and made available to parents or guardians of
307.21 children in care and the commissioner.

307.22 (d) Notwithstanding Minnesota Rules, part 9502.0425, a family child care provider
307.23 that complies with this section may use a mesh-sided playpen or crib that has not been
307.24 identified as unsafe on the United States Consumer Product Safety Commission Web site
307.25 for the care or sleeping of infants.

307.26 Sec. 12. Minnesota Statutes 2010, section 245A.18, subdivision 1, is amended to read:

307.27 Subdivision 1. **Seat belt and child passenger restraint system use.** When a child
307.28 is transported, a license holder must comply with all seat belt and child passenger restraint
307.29 system requirements under ~~section~~ sections 169.685 and 169.686.

307.30 Sec. 13. **[245A.191] PROVIDER ELIGIBILITY FOR PAYMENTS FROM THE**
307.31 **CHEMICAL DEPENDENCY CONSOLIDATED TREATMENT FUND.**

307.32 (a) When a chemical dependency treatment provider licensed under Minnesota
307.33 Rules, parts 2960.0430 to 2960.0490 or 9530.6405 to 9530.6505, agrees to meet the

308.1 applicable requirements under section 254B.05, subdivision 5, paragraphs (b), clauses
308.2 (1) to (4) and (6), (c), and (d), to be eligible for enhanced funding from the chemical
308.3 dependency consolidated treatment fund, the applicable requirements under section
308.4 254B.05 are also licensing requirements that may be monitored for compliance through
308.5 licensing investigations and licensing inspections.

308.6 (b) Noncompliance with the requirements identified under paragraph (a) may
308.7 result in:

308.8 (1) a correction order or a conditional license under section 245A.06, or sanctions
308.9 under section 245A.07;

308.10 (2) nonpayment of claims submitted by the license holder for public program
308.11 reimbursement;

308.12 (3) recovery of payments made for the service;

308.13 (4) disenrollment in the public payment program; or

308.14 (5) other administrative, civil, or criminal penalties as provided by law.

308.15 Sec. 14. Minnesota Statutes 2010, section 245A.22, subdivision 2, is amended to read:

308.16 Subd. 2. **Admission.** (a) The license holder shall accept as clients in the independent
308.17 living assistance program only youth ages 16 to 21 who are in out-of-home placement,
308.18 leaving out-of-home placement, at risk of becoming homeless, or homeless.

308.19 (b) Youth who have current drug or alcohol problems, a recent history of violent
308.20 behaviors, or a mental health disorder or issue that is not being resolved through
308.21 counseling or treatment are not eligible to receive the services described in subdivision 1.

308.22 (c) Youth who are not employed, participating in employment training, or enrolled
308.23 in an academic program are not eligible to receive transitional housing or independent
308.24 living assistance.

308.25 (d) The commissioner may grant a variance under section 245A.04, subdivision 9,
308.26 to requirements in this section.

308.27 Sec. 15. Minnesota Statutes 2010, section 245A.66, subdivision 2, is amended to read:

308.28 Subd. 2. **Child care centers; risk reduction plan.** (a) Child care centers licensed
308.29 under this chapter and Minnesota Rules, chapter 9503, must develop a risk reduction plan
308.30 that ~~assesses~~ identifies the general risks to children served by the child care center. The
308.31 license holder must establish procedures to minimize identified risks, train staff on the
308.32 procedures, and annually review the procedures.

309.1 (b) The risk reduction plan must include an assessment of risk to children the
309.2 center serves or intends to serve and identify specific risks based on the outcome of the
309.3 assessment. The assessment of risk must be based on the following:

309.4 ~~(1) an assessment of the risk presented by the vulnerability of the children served,~~
309.5 ~~including an evaluation of the following factors: age, developmental functioning, and the~~
309.6 ~~physical and emotional health of children the program serves or intends to serve;~~

309.7 ~~(2) an assessment of the risks presented by the physical plant where the licensed~~
309.8 ~~services are provided, including an evaluation of the following factors: the condition and~~
309.9 ~~design of the facility and its outdoor space, bathrooms, storage areas, and accessibility~~
309.10 ~~of medications and cleaning products that are harmful to children when children are not~~
309.11 ~~supervised, doors where finger pinching may occur, and the existence of areas that are~~
309.12 ~~difficult to supervise; and~~

309.13 ~~(3)~~ (2) an assessment of the risks presented by the environment for each facility and
309.14 for each site, including an evaluation of the following factors: the type of grounds and
309.15 terrain surrounding the building and the proximity to hazards, busy roads, and publicly
309.16 accessed businesses.

309.17 (c) The risk reduction plan must include a statement of measures that will be
309.18 taken to minimize the risk of harm presented to children for each risk identified in the
309.19 assessment required under paragraph (b) related to the physical plant and environment. At
309.20 a minimum, the risk reduction plan stated measures must address the following: include

309.21 ~~(1) a general description of supervision, programming, and the development and~~
309.22 ~~implementation of specific policies and procedures or reference to the existing policies~~
309.23 ~~and procedures developed and implemented to address that minimize the risks identified~~
309.24 ~~in the assessment required under paragraph (b) related to the general population served,~~
309.25 ~~the physical plant, and environment;~~

309.26 ~~(2)~~ (d) In addition to any program-specific risks identified in paragraph (b), the plan
309.27 must include development and implementation of specific policies and procedures or refer
309.28 to existing policies and procedures developed and implemented to that minimize the risk
309.29 of harm or injury to children, including:

309.30 ~~(i)~~ (1) closing children's fingers in doors, including cabinet doors;

309.31 ~~(ii)~~ (2) leaving children in the community without supervision;

309.32 ~~(iii)~~ (3) children leaving the facility without supervision;

309.33 ~~(iv)~~ (4) caregiver dislocation of children's elbows;

309.34 ~~(v)~~ (5) burns from hot food or beverages, whether served to children or being
309.35 consumed by caregivers, and the devices used to warm food and beverages;

309.36 ~~(vi)~~ (6) injuries from equipment, such as scissors and glue guns;

- 310.1 ~~(vii)~~ (7) sunburn;
- 310.2 ~~(viii)~~ (8) feeding children foods to which they are allergic;
- 310.3 ~~(ix)~~ (9) children falling from changing tables; and
- 310.4 ~~(x)~~ (10) children accessing dangerous items or chemicals or coming into contact
- 310.5 with residue from harmful cleaning products; ~~and~~.
- 310.6 ~~(3)~~ (e) The plan shall prohibit the accessibility of hazardous items to children.
- 310.7 (f) The plan must include specific policies and procedures to ensure adequate
- 310.8 supervision of children at all times as defined under section 245A.02, subdivision 18, with
- 310.9 particular emphasis on:
- 310.10 (1) times when children are transitioned from one area within the facility to another;
- 310.11 (2) nap-time supervision, including infant crib rooms as specified under section
- 310.12 245A.02, subdivision 18, which requires that when an infant is placed in a crib to sleep,
- 310.13 supervision occurs when a staff person is within sight or hearing of the infant. When
- 310.14 supervision of a crib room is provided by sight or hearing, the center must have a plan to
- 310.15 address the other supervision components;
- 310.16 (3) child drop-off and pick-up times;
- 310.17 (4) supervision during outdoor play and on community activities, including but not
- 310.18 limited to field trips and neighborhood walks; and
- 310.19 (5) supervision of children in hallways.

310.20 Sec. 16. Minnesota Statutes 2010, section 245A.66, subdivision 3, is amended to read:

310.21 Subd. 3. **Orientation to risk reduction plan and annual review of plan.** (a) The

310.22 license holder shall ensure that all mandated reporters, as defined in section 626.556,

310.23 subdivision 3, who are under the control of the license holder, receive an orientation to

310.24 the risk reduction plan prior to first providing unsupervised direct contact services, as

310.25 defined in section 245C.02, subdivision 11, to children, not to exceed 14 days from the

310.26 first supervised direct contact, and annually thereafter. The license holder must document

310.27 the orientation to the risk reduction plan in the mandated reporter's personnel records.

310.28 (b) The license holder must review the risk reduction plan annually and document

310.29 the annual review. When conducting the review, the license holder must consider incidents

310.30 that have occurred in the center since the last review, including:

- 310.31 (1) the assessment factors in the plan;
- 310.32 (2) the internal reviews conducted under this section, if any;
- 310.33 (3) substantiated maltreatment findings, if any; and
- 310.34 (4) incidents that caused injury or harm to a child, if any, that occurred since the
- 310.35 last review.

311.1 Following any change to the risk reduction plan, the license holder must inform mandated
311.2 reporters, under the control of the license holder, of the changes in the risk reduction plan,
311.3 and document that the mandated reporters were informed of the changes.

311.4 Sec. 17. Minnesota Statutes 2010, section 245C.03, subdivision 1, is amended to read:

311.5 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a
311.6 background study on:

311.7 (1) the person or persons applying for a license;

311.8 (2) an individual age 13 and over living in the household where the licensed program
311.9 will be provided who is not receiving licensed services from the program;

311.10 (3) current or prospective employees or contractors of the applicant who will have
311.11 direct contact with persons served by the facility, agency, or program;

311.12 (4) volunteers or student volunteers who will have direct contact with persons served
311.13 by the program to provide program services if the contact is not under the continuous,
311.14 direct supervision by an individual listed in clause (1) or (3);

311.15 (5) an individual age ten to 12 living in the household where the licensed services
311.16 will be provided when the commissioner has reasonable cause;

311.17 (6) an individual who, without providing direct contact services at a licensed
311.18 program, may have unsupervised access to children or vulnerable adults receiving services
311.19 from a program, when the commissioner has reasonable cause; and

311.20 (7) all managerial officials as defined under section 245A.02, subdivision 5a.

311.21 (b) For family child foster care settings, a short-term substitute caregiver providing
311.22 direct contact services for a child for less than 72 hours of continuous care is not required
311.23 to receive a background study under this chapter.

311.24 Sec. 18. Minnesota Statutes 2010, section 245C.04, subdivision 1, is amended to read:

311.25 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a
311.26 background study of an individual required to be studied under section 245C.03,
311.27 subdivision 1, at least upon application for initial license for all license types.

311.28 (b) The commissioner shall conduct a background study of an individual required
311.29 to be studied under section 245C.03, subdivision 1, at reapplication for a license for
311.30 family child care.

311.31 (c) The commissioner is not required to conduct a study of an individual at the time
311.32 of reapplication for a license if the individual's background study was completed by the
311.33 commissioner of human services for an adult foster care license holder that is also:

311.34 (1) registered under chapter 144D; or

312.1 (2) licensed to provide home and community-based services to people with
312.2 disabilities at the foster care location and the license holder does not reside in the foster
312.3 care residence; and

312.4 (3) the following conditions are met:

312.5 (i) a study of the individual was conducted either at the time of initial licensure or
312.6 when the individual became affiliated with the license holder;

312.7 (ii) the individual has been continuously affiliated with the license holder since
312.8 the last study was conducted; and

312.9 (iii) the last study of the individual was conducted on or after October 1, 1995.

312.10 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall
312.11 conduct a study of an individual required to be studied under section 245C.03, at the
312.12 time of reapplication for a child foster care license. The county or private agency shall
312.13 collect and forward to the commissioner the information required under section 245C.05,
312.14 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background
312.15 study conducted by the commissioner of human services under this paragraph must
312.16 include a review of the information required under section 245C.08, subdivisions 1,
312.17 paragraph (a), clauses (1) to (5), 3, and 4.

312.18 (e) The commissioner of human services shall conduct a background study of an
312.19 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2)
312.20 to (6), who is newly affiliated with a child foster care license holder. The county or
312.21 private agency shall collect and forward to the commissioner the information required
312.22 under section 245C.05, subdivisions 1 and 5. The background study conducted by the
312.23 commissioner of human services under this paragraph must include a review of the
312.24 information required under section 245C.08, subdivisions 1, 3, and 4.

312.25 (f) From January 1, 2010, to December 31, 2012, unless otherwise specified in
312.26 paragraph (c), the commissioner shall conduct a study of an individual required to
312.27 be studied under section 245C.03 at the time of reapplication for an adult foster care
312.28 or family adult day services license: (1) the county shall collect and forward to the
312.29 commissioner the information required under section 245C.05, subdivision 1, paragraphs
312.30 (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted
312.31 by the commissioner for all family adult day services and for adult foster care when
312.32 the adult foster care license holder resides in the adult foster care or family adult day
312.33 services residence; (2) the license holder shall collect and forward to the commissioner
312.34 the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b);
312.35 and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for
312.36 adult foster care when the license holder does not reside in the adult foster care residence;

313.1 and (3) the background study conducted by the commissioner under this paragraph must
313.2 include a review of the information required under section 245C.08, subdivision 1,
313.3 paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

313.4 (g) The commissioner shall conduct a background study of an individual specified
313.5 under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly
313.6 affiliated with an adult foster care or family adult day services license holder: (1) the
313.7 county shall collect and forward to the commissioner the information required under
313.8 section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a)
313.9 and (b), for background studies conducted by the commissioner for all family adult day
313.10 services and for adult foster care when the adult foster care license holder resides in
313.11 the adult foster care residence; (2) the license holder shall collect and forward to the
313.12 commissioner the information required under section 245C.05, subdivisions 1, paragraphs
313.13 (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the
313.14 commissioner for adult foster care when the license holder does not reside in the adult
313.15 foster care residence; and (3) the background study conducted by the commissioner under
313.16 this paragraph must include a review of the information required under section 245C.08,
313.17 subdivision 1, paragraph (a), and subdivisions 3 and 4.

313.18 (h) Applicants for licensure, license holders, and other entities as provided in this
313.19 chapter must submit completed background study forms to the commissioner before
313.20 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct
313.21 contact in any licensed program.

313.22 (i) A license holder must ~~provide the commissioner notice~~ initiate a new background
313.23 study through the commissioner's online background study system ~~or through a letter~~
313.24 ~~mailed to the commissioner~~ when:

313.25 (1) an individual returns to a position requiring a background study following an
313.26 absence of ~~45~~ 180 or more consecutive days; or

313.27 (2) a program that discontinued providing licensed direct contact services for ~~45~~ 180
313.28 or more consecutive days begins to provide direct contact licensed services again.

313.29 The license holder shall maintain a copy of the notification provided to
313.30 the commissioner under this paragraph in the program's files. If the individual's
313.31 disqualification was previously set aside for the license holder's program and the new
313.32 background study results in no new information that indicates the individual may pose a
313.33 risk of harm to persons receiving services from the license holder, the previous set-aside
313.34 shall remain in effect.

314.1 (j) For purposes of this section, a physician licensed under chapter 147 is considered
314.2 to be continuously affiliated upon the license holder's receipt from the commissioner of
314.3 health or human services of the physician's background study results.

314.4 (k) For purposes of family child care, a substitute caregiver must receive repeat
314.5 background studies at the time of each license renewal.

314.6 Sec. 19. Minnesota Statutes 2010, section 245C.05, subdivision 2, is amended to read:

314.7 Subd. 2. **Applicant, license holder, or other entity.** The applicant, license holder,
314.8 or other entities as provided in this chapter shall ~~provide~~ verify that the information
314.9 collected under subdivision 1 about an individual who is the subject of the background
314.10 study is correct and must provide the information on forms or in a format prescribed by
314.11 the commissioner.

314.12 Sec. 20. Minnesota Statutes 2010, section 245C.05, is amended by adding a
314.13 subdivision to read:

314.14 Subd. 2c. **Privacy notice to background study subject.** (a) For every background
314.15 study, the commissioner's notice to the background study subject required under
314.16 section 13.04, subdivision 2, that is provided through the commissioner's electronic
314.17 NETStudy system or through the commissioner's background study forms shall include
314.18 the information in paragraph (b).

314.19 (b) The background study subject shall be informed that any previous background
314.20 studies that received a set-aside will be reviewed, and without further contact with the
314.21 background study subject, the commissioner may notify the agency that initiated the
314.22 subsequent background study:

314.23 (1) that the individual has a disqualification that has been set aside for the program
314.24 or agency that initiated the study;

314.25 (2) the reason for the disqualification; and

314.26 (3) information about the decision to set aside the disqualification will be available
314.27 to the license holder upon request without the consent of the background study subject.

314.28 Sec. 21. Minnesota Statutes 2010, section 245C.05, subdivision 4, is amended to read:

314.29 Subd. 4. **Electronic transmission.** (a) For background studies conducted by the
314.30 Department of Human Services, the commissioner shall implement a system for the
314.31 electronic transmission of:

314.32 (1) background study information to the commissioner;

314.33 (2) background study results to the license holder;

315.1 (3) background study results to county and private agencies for background studies
315.2 conducted by the commissioner for child foster care; and

315.3 (4) background study results to county agencies for background studies conducted
315.4 by the commissioner for adult foster care and family adult day services.

315.5 (b) Unless the commissioner has granted a hardship variance under paragraph (c), a
315.6 license holder or an applicant must use the electronic transmission system known as
315.7 NETStudy to submit all requests for background studies to the commissioner as required
315.8 by this chapter.

315.9 (c) A license holder or applicant whose program is located in an area in which
315.10 high-speed Internet is inaccessible may request the commissioner to grant a variance to
315.11 the electronic transmission requirement.

315.12 Sec. 22. Minnesota Statutes 2010, section 245C.05, subdivision 7, is amended to read:

315.13 Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or
315.14 corrections agent shall notify the commissioner of an individual's conviction if the
315.15 individual ~~is~~:

315.16 (1) has been affiliated with a program or facility regulated by the Department of
315.17 Human Services or Department of Health, a facility serving children or youth licensed by
315.18 the Department of Corrections, or any type of home care agency or provider of personal
315.19 care assistance services within the preceding year; and

315.20 (2) has been convicted of a crime constituting a disqualification under section
315.21 245C.14.

315.22 (b) For the purpose of this subdivision, "conviction" has the meaning given it
315.23 in section 609.02, subdivision 5.

315.24 (c) The commissioner, in consultation with the commissioner of corrections, shall
315.25 develop forms and information necessary to implement this subdivision and shall provide
315.26 the forms and information to the commissioner of corrections for distribution to local
315.27 probation officers and corrections agents.

315.28 (d) The commissioner shall inform individuals subject to a background study that
315.29 criminal convictions for disqualifying crimes will be reported to the commissioner by the
315.30 corrections system.

315.31 (e) A probation officer, corrections agent, or corrections agency is not civilly or
315.32 criminally liable for disclosing or failing to disclose the information required by this
315.33 subdivision.

315.34 (f) Upon receipt of disqualifying information, the commissioner shall provide the
315.35 notice required under section 245C.17, as appropriate, to agencies on record as having

316.1 initiated a background study or making a request for documentation of the background
316.2 study status of the individual.

316.3 (g) This subdivision does not apply to family child care programs.

316.4 Sec. 23. Minnesota Statutes 2010, section 245C.07, is amended to read:

316.5 **245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

316.6 (a) ~~Except for child foster care and adoption agencies,~~ Subject to the conditions in
316.7 paragraph (d), when a license holder, applicant, or other entity owns multiple programs or
316.8 services that are licensed by the Department of Human Services, Department of Health, or
316.9 Department of Corrections, only one background study is required for an individual who
316.10 provides direct contact services in one or more of the licensed programs or services if:

316.11 (1) the license holder designates one individual with one address and telephone
316.12 number as the person to receive sensitive background study information for the multiple
316.13 licensed programs or services that depend on the same background study; and

316.14 (2) the individual designated to receive the sensitive background study information
316.15 is capable of determining, upon request of the department, whether a background study
316.16 subject is providing direct contact services in one or more of the license holder's programs
316.17 or services and, if so, at which location or locations.

316.18 (b) When a license holder maintains background study compliance for multiple
316.19 licensed programs according to paragraph (a), and one or more of the licensed programs
316.20 closes, the license holder shall immediately notify the commissioner which staff must be
316.21 transferred to an active license so that the background studies can be electronically paired
316.22 with the license holder's active program.

316.23 (c) When a background study is being initiated by a licensed program or service or a
316.24 foster care provider that is also registered under chapter 144D, a study subject affiliated
316.25 with multiple licensed programs or services may attach to the background study form a
316.26 cover letter indicating the additional names of the programs or services, addresses, and
316.27 background study identification numbers.

316.28 When the commissioner receives a notice, the commissioner shall notify each
316.29 program or service identified by the background study subject of the study results.

316.30 The background study notice the commissioner sends to the subsequent agencies
316.31 shall satisfy those programs' or services' responsibilities for initiating a background study
316.32 on that individual.

316.33 (d) If a background study was conducted on an individual related to child foster care
316.34 and the requirements under paragraph (a) are met, the background study is transferable
316.35 across all licensed programs. If a background study was conducted on an individual under

317.1 a license other than child foster care and the requirements under paragraph (a) are met, the
317.2 background study is transferable to all licensed programs except child foster care.

317.3 (e) The provisions of this section that allow a single background study in one
317.4 or more licensed programs or services do not apply to background studies submitted
317.5 by adoption agencies, supplemental nursing services agencies, personnel agencies,
317.6 educational programs, professional services agencies, and unlicensed personal care
317.7 provider organizations.

317.8 Sec. 24. Minnesota Statutes 2010, section 245C.08, subdivision 1, is amended to read:

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

317.12 (1) information related to names of substantiated perpetrators of maltreatment of
317.13 vulnerable adults that has been received by the commissioner as required under section
317.14 626.557, subdivision 9c, paragraph (j);

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

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

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

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

317.24 (6) for a background study related to a child foster care application for licensure or
317.25 adoptions, the commissioner shall also review:

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

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

317.30 (b) Notwithstanding expungement by a court, the commissioner may consider
317.31 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner
317.32 received notice of the petition for expungement and the court order for expungement is
317.33 directed specifically to the commissioner. When the commissioner has reasonable cause to
317.34 believe that the identity of a background study subject is uncertain, the commissioner shall

318.1 require the subject to provide a set of classifiable fingerprints and may review the subject's
318.2 national criminal history record information.

318.3 Sec. 25. Minnesota Statutes 2010, section 245C.14, subdivision 2, is amended to read:

318.4 Subd. 2. **Disqualification from access.** (a) If an individual who is studied under
318.5 section 245C.03, subdivision 1, paragraph (a), ~~clauses (2), (5), and (6)~~, is disqualified from
318.6 direct contact under subdivision 1, the commissioner shall also disqualify the individual
318.7 from access to a person receiving services from the license holder.

318.8 (b) No individual who is disqualified following a background study under section
318.9 245C.03, subdivision 1, paragraph (a), ~~clauses (2), (5), and (6)~~, or as provided elsewhere
318.10 in statute who is disqualified as a result of this section, may be allowed access to persons
318.11 served by the program unless the commissioner has provided written notice under section
318.12 245C.17 stating that:

318.13 (1) the individual may remain in direct contact during the period in which the
318.14 individual may request reconsideration as provided in section 245C.21, subdivision 2;

318.15 (2) the commissioner has set aside the individual's disqualification for that
318.16 licensed program or entity identified in section 245C.03 as provided in section 245C.22,
318.17 subdivision 4; or

318.18 (3) the license holder has been granted a variance for the disqualified individual
318.19 under section 245C.30.

318.20 Sec. 26. Minnesota Statutes 2010, section 245C.16, subdivision 1, is amended to read:

318.21 Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner
318.22 determines that the individual studied has a disqualifying characteristic, the commissioner
318.23 shall review the information immediately available and make a determination as to the
318.24 subject's immediate risk of harm to persons served by the program where the individual
318.25 studied will have direct contact with, or access to, people receiving services.

318.26 (b) The commissioner shall consider all relevant information available, including the
318.27 following factors in determining the immediate risk of harm:

318.28 (1) the recency of the disqualifying characteristic;

318.29 (2) the recency of discharge from probation for the crimes;

318.30 (3) the number of disqualifying characteristics;

318.31 (4) the intrusiveness or violence of the disqualifying characteristic;

318.32 (5) the vulnerability of the victim involved in the disqualifying characteristic;

318.33 (6) the similarity of the victim to the persons served by the program where the
318.34 individual studied will have direct contact;

319.1 (7) whether the individual has a disqualification from a previous background study
319.2 that has not been set aside; and

319.3 (8) if the individual has a disqualification which may not be set aside because it is
319.4 a permanent bar under section 245C.24, subdivision 1, the commissioner may order the
319.5 immediate removal of the individual from any position allowing direct contact with, or
319.6 access to, persons receiving services from the program.

319.7 (c) This section does not apply when the subject of a background study is regulated
319.8 by a health-related licensing board as defined in chapter 214, and the subject is determined
319.9 to be responsible for substantiated maltreatment under section 626.556 or 626.557.

319.10 (d) This section does not apply to a background study related to an initial application
319.11 for a child foster care license.

319.12 (e) This section does not apply to a background study that is also subject to the
319.13 requirements under section 256B.0659, subdivisions 11 and 13, for a personal care
319.14 assistant or a qualified professional as defined in section 256B.0659, subdivision 1.

319.15 ~~(e)~~ (f) If the commissioner has reason to believe, based on arrest information or an
319.16 active maltreatment investigation, that an individual poses an imminent risk of harm to
319.17 persons receiving services, the commissioner may order that the person be continuously
319.18 supervised or immediately removed pending the conclusion of the maltreatment
319.19 investigation or criminal proceedings.

319.20 Sec. 27. Minnesota Statutes 2010, section 245C.17, subdivision 2, is amended to read:

319.21 Subd. 2. **Disqualification notice sent to subject.** (a) If the information in the study
319.22 indicates the individual is disqualified from direct contact with, or from access to, persons
319.23 served by the program, the commissioner shall disclose to the individual studied:

319.24 (1) the information causing disqualification;

319.25 (2) instructions on how to request a reconsideration of the disqualification;

319.26 (3) an explanation of any restrictions on the commissioner's discretion to set aside
319.27 the disqualification under section 245C.24, when applicable to the individual;

319.28 (4) a statement that, if the individual's disqualification is set aside under section
319.29 245C.22, the applicant, license holder, or other entity that initiated the background study
319.30 will be provided with the reason for the individual's disqualification and an explanation
319.31 that the factors under section 245C.22, subdivision 4, which were the basis of the decision
319.32 to set aside the disqualification shall be made available to the license holder upon request
319.33 without the consent of the subject of the background study;

319.34 ~~(4)~~ (5) a statement indicating that if the individual's disqualification is set aside or
319.35 the facility is granted a variance under section 245C.30, the individual's identity and the

320.1 reason for the individual's disqualification will become public data under section 245C.22,
320.2 subdivision 7, when applicable to the individual; ~~and~~

320.3 (6) a statement that when a subsequent background study is initiated on the
320.4 individual following a set-aside of the individual's disqualification, and the commissioner
320.5 makes a determination under section 245C.22, subdivision 5, paragraph (b), that the
320.6 previous set-aside applies to the subsequent background study, the applicant, license
320.7 holder, or other entity that initiated the background study will be informed in the notice
320.8 under section 245C.22, subdivision 5, paragraph (c):

320.9 (i) of the reason for the individual's disqualification;

320.10 (ii) that the individual's disqualification is set aside for that program or agency; and

320.11 (iii) that information about the factors under section 245C.22, subdivision 4, that
320.12 were the basis of the decision to set aside the disqualification are available to the license
320.13 holder upon request without the consent of the background study subject; and

320.14 ~~(5)~~ (7) the commissioner's determination of the individual's immediate risk of harm
320.15 under section 245C.16.

320.16 (b) If the commissioner determines under section 245C.16 that an individual poses
320.17 an imminent risk of harm to persons served by the program where the individual will have
320.18 direct contact with, or access to, people receiving services, the commissioner's notice must
320.19 include an explanation of the basis of this determination.

320.20 (c) If the commissioner determines under section 245C.16 that an individual studied
320.21 does not pose a risk of harm that requires immediate removal, the individual shall be
320.22 informed of the conditions under which the agency that initiated the background study
320.23 may allow the individual to have direct contact with, or access to, people receiving
320.24 services, as provided under subdivision 3.

320.25 Sec. 28. Minnesota Statutes 2010, section 245C.22, subdivision 5, is amended to read:

320.26 Subd. 5. **Scope of set-aside.** (a) If the commissioner sets aside a disqualification
320.27 under this section, the disqualified individual remains disqualified, but may hold a license
320.28 and have direct contact with or access to persons receiving services. Except as provided
320.29 in paragraph (b), the commissioner's set-aside of a disqualification is limited solely
320.30 to the licensed program, applicant, or agency specified in the set aside notice under
320.31 section 245C.23, unless otherwise specified in the notice. For personal care provider
320.32 organizations, the commissioner's set-aside may further be limited to a specific individual
320.33 who is receiving services. For new background studies required under section 245C.04,
320.34 subdivision 1, paragraph (i), if an individual's disqualification was previously set aside for
320.35 the license holder's program and the new background study results in no new information

321.1 that indicates the individual may pose a risk of harm to persons receiving services from
321.2 the license holder, the previous set-aside shall remain in effect.

321.3 (b) If the commissioner has previously set aside an individual's disqualification
321.4 for one or more programs or agencies, and the individual is the subject of a subsequent
321.5 background study for a different program or agency, the commissioner shall determine
321.6 whether the disqualification is set aside for the program or agency that initiated the
321.7 subsequent background study. A notice of a set-aside under paragraph (c) shall be issued
321.8 within 15 working days if all of the following criteria are met:

321.9 (1) the subsequent background study was initiated in connection with a program
321.10 licensed or regulated under the same provisions of law and rule for at least one program
321.11 for which the individual's disqualification was previously set aside by the commissioner;

321.12 (2) the individual is not disqualified for an offense specified in section 245C.15,
321.13 subdivision 1 or 2;

321.14 (3) the commissioner has received no new information to indicate that the individual
321.15 may pose a risk of harm to any person served by the program; and

321.16 (4) the previous set-aside was not limited to a specific person receiving services.

321.17 (c) When a disqualification is set aside under paragraph (b), the notice of background
321.18 study results issued under section 245C.17, in addition to the requirements under section
321.19 245C.17, shall state that the disqualification is set aside for the program or agency that
321.20 initiated the subsequent background study. The notice must inform the individual that the
321.21 individual may request reconsideration of the disqualification under section 245C.21 on
321.22 the basis that the information used to disqualify the individual is incorrect.

321.23 Sec. 29. Minnesota Statutes 2010, section 245C.23, subdivision 2, is amended to read:

321.24 Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The
321.25 commissioner shall notify the license holder of the disqualification and order the license
321.26 holder to immediately remove the individual from any position allowing direct contact
321.27 with persons receiving services from the license holder if:

321.28 (1) the individual studied does not submit a timely request for reconsideration
321.29 under section 245C.21;

321.30 (2) the individual submits a timely request for reconsideration, but the commissioner
321.31 does not set aside the disqualification for that license holder under section 245C.22;

321.32 (3) an individual who has a right to request a hearing under sections 245C.27 and
321.33 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does
321.34 not request a hearing within the specified time; or

322.1 (4) an individual submitted a timely request for a hearing under sections 245C.27
322.2 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the
322.3 disqualification under section 245A.08, subdivision 5, or 256.045.

322.4 (b) If the commissioner does not set aside the disqualification under section 245C.22,
322.5 and the license holder was previously ordered under section 245C.17 to immediately
322.6 remove the disqualified individual from direct contact with persons receiving services or
322.7 to ensure that the individual is under continuous, direct supervision when providing direct
322.8 contact services, the order remains in effect pending the outcome of a hearing under
322.9 sections 245C.27 and 256.045, or 245C.28 and chapter 14.

322.10 (c) If the commissioner does not set aside the disqualification under section
322.11 245C.22, and the license holder was not previously ordered to immediately remove the
322.12 individual from any position allowing direct contact with persons receiving services from
322.13 the program or to ensure that the individual is under continuous, direct supervision when
322.14 providing direct contact services, the commissioner shall order the license holder to ensure
322.15 that the individual remains under continuous, direct supervision when providing direct
322.16 contact services pending the outcome of a hearing under sections 245C.27 and 256.045, or
322.17 245C.28 and chapter 14.

322.18 ~~(e)~~ (d) For background studies related to child foster care, the commissioner shall
322.19 also notify the county or private agency that initiated the study of the results of the
322.20 reconsideration.

322.21 ~~(d)~~ (e) For background studies related to adult foster care and family adult day
322.22 services, the commissioner shall also notify the county that initiated the study of the
322.23 results of the reconsideration.

322.24 Sec. 30. Minnesota Statutes 2010, section 471.709, is amended to read:

322.25 **471.709 LICENSE; PERMIT.**

322.26 Notwithstanding any law to the contrary, a municipality shall not require a massage
322.27 therapist to obtain a license or permit when the therapist ~~is working for or an employee of~~
322.28 is hired or employed by, and exclusively provides treatment on the premises of, a medical
322.29 professional licensed under chapter 147 or 148 or a dental professional licensed under
322.30 chapter 150A. A massage therapist is not limited to providing treatment to patients of the
322.31 medical or dental professional.

322.32 Sec. 31. **REVISOR'S INSTRUCTION.**

323.1 The revisor shall renumber Minnesota Statutes, section 245B.05, subdivision 4, as
323.2 Minnesota Statutes, section 245A.04, subdivision 2a. The revisor shall make necessary
323.3 cross-reference changes to effectuate this renumbering.

323.4 **ARTICLE 17**

323.5 **PROGRAM INTEGRITY**

323.6 Section 1. Minnesota Statutes 2010, section 245A.04, subdivision 1, is amended to
323.7 read:

323.8 Subdivision 1. **Application for licensure.** (a) An individual, corporation,
323.9 partnership, voluntary association, other organization or controlling individual that is
323.10 subject to licensure under section 245A.03 must apply for a license. The application
323.11 must be made on the forms and in the manner prescribed by the commissioner. The
323.12 commissioner shall provide the applicant with instruction in completing the application
323.13 and provide information about the rules and requirements of other state agencies that affect
323.14 the applicant. An applicant seeking licensure in Minnesota with headquarters outside of
323.15 Minnesota must have a program office located within the state.

323.16 The commissioner shall act on the application within 90 working days after a
323.17 complete application and any required reports have been received from other state
323.18 agencies or departments, counties, municipalities, or other political subdivisions. The
323.19 commissioner shall not consider an application to be complete until the commissioner
323.20 receives all of the information required under section 245C.05.

323.21 (b) An application for licensure must specify one or more controlling individuals as
323.22 an agent who is responsible for dealing with the commissioner of human services on all
323.23 matters provided for in this chapter and on whom service of all notices and orders must be
323.24 made. The agent must be authorized to accept service on behalf of all of the controlling
323.25 individuals of the program. Service on the agent is service on all of the controlling
323.26 individuals of the program. It is not a defense to any action arising under this chapter that
323.27 service was not made on each controlling individual of the program. The designation of
323.28 one or more controlling individuals as agents under this paragraph does not affect the legal
323.29 responsibility of any other controlling individual under this chapter.

323.30 (c) An applicant or license holder must have a policy that prohibits license holders,
323.31 employees, subcontractors, and volunteers, when directly responsible for persons served
323.32 by the program, from abusing prescription medication or being in any manner under
323.33 the influence of a chemical that impairs the individual's ability to provide services or
323.34 care. The license holder must train employees, subcontractors, and volunteers about the
323.35 program's drug and alcohol policy.

324.1 (d) An applicant and license holder must have a program grievance procedure that
324.2 permits persons served by the program and their authorized representatives to bring a
324.3 grievance to the highest level of authority in the program.

324.4 (e) At the time of application for licensure or renewal of a license, the applicant
324.5 or license holder must acknowledge on the form provided by the commissioner if the
324.6 applicant or license holder elects to receive any public funding reimbursement from the
324.7 commissioner for services provided under the license that:

324.8 (1) the applicant's or license holder's compliance with the provider enrollment
324.9 agreement or registration requirements for receipt of public funding may be monitored by
324.10 the commissioner as part of a licensing investigation or licensing inspection; and

324.11 (2) noncompliance with the provider enrollment agreement or registration
324.12 requirements for receipt of public funding that is identified through a licensing
324.13 investigation or licensing inspection, or noncompliance with a licensing requirement that
324.14 is a basis of enrollment for reimbursement for a service, may result in:

324.15 (i) a correction order or a conditional license under section 245A.06, or sanctions
324.16 under section 245A.07;

324.17 (ii) nonpayment of claims submitted by the license holder for public program
324.18 reimbursement;

324.19 (iii) recovery of payments made for the service;

324.20 (iv) disenrollment in the public payment program; or

324.21 (v) other administrative, civil, or criminal penalties as provided by law.

324.22 Sec. 2. Minnesota Statutes 2010, section 245A.14, is amended by adding a subdivision
324.23 to read:

324.24 Subd. 14. **Attendance records for publicly funded services.** (a) A child care
324.25 center licensed under this chapter and according to Minnesota Rules, chapter 9503, must
324.26 maintain documentation of actual attendance for each child receiving care for which the
324.27 license holder is reimbursed by a governmental program. The records must be accessible
324.28 to the commissioner during the program's hours of operation, they must be completed on
324.29 the actual day of attendance, and they must include:

324.30 (1) the first and last name of the child;

324.31 (2) the time of day that the child was dropped off; and

324.32 (3) the time of day that the child was picked up.

324.33 (b) A family child care provider licensed under this chapter and according to
324.34 Minnesota Rules, chapter 9502, must maintain documentation of actual attendance for
324.35 each child receiving care for which the license holder is reimbursed by a governmental

325.1 program. The records must be accessible to the commissioner during the program's
325.2 hours of operation, they must be completed on the actual day of attendance, and they
325.3 must include:

325.4 (1) the first and last name of the child;

325.5 (2) the time of day that the child was dropped off; and

325.6 (3) the time of day that the child was picked up.

325.7 (c) An adult day services program licensed under this chapter and according to

325.8 Minnesota Rules, parts 9555.5105 to 9555.6265, must maintain documentation of actual

325.9 attendance for each adult day service recipient for which the license holder is reimbursed

325.10 by a governmental program. The records must be accessible to the commissioner during

325.11 the program's hours of operation, they must be completed on the actual day of attendance,

325.12 and they must include:

325.13 (1) the first, middle, and last name of the recipient;

325.14 (2) the time of day that the recipient was dropped off; and

325.15 (3) the time of day that the recipient was picked up.

325.16 (d) The commissioner shall not issue a correction for attendance record errors that

325.17 occur before August 1, 2013.

325.18 **Sec. 3. [245A.167] PUBLIC FUNDS PROGRAM INTEGRITY MONITORING.**

325.19 (a) An applicant or a license holder that has enrolled to receive public funding

325.20 reimbursement for services is required to comply with the registration or enrollment

325.21 requirements as licensing standards.

325.22 (b) Compliance with the licensing standards established under paragraph (a) may

325.23 be monitored during a licensing investigation or inspection. Noncompliance with these

325.24 licensure standards may result in:

325.25 (i) a correction order or a conditional license under section 245A.06, or sanctions

325.26 under section 245A.07;

325.27 (ii) nonpayment of claims submitted by the license holder for public program

325.28 reimbursement according to the statute applicable to that program;

325.29 (iii) recovery of payments made for the service according to the statute applicable to

325.30 that program;

325.31 (iv) disenrollment in the public payment program according to the statute applicable

325.32 to that program; or

325.33 (v) a referral for other administrative, civil, or criminal penalties as provided by law.

326.1 Sec. 4. Minnesota Statutes 2011 Supplement, section 256B.04, subdivision 21, is
326.2 amended to read:

326.3 Subd. 21. **Provider enrollment.** (a) If the commissioner or the Centers for
326.4 Medicare and Medicaid Services determines that a provider is designated "high-risk," the
326.5 commissioner may withhold payment from providers within that category upon initial
326.6 enrollment for a 90-day period. The withholding for each provider must begin on the date
326.7 of the first submission of a claim.

326.8 (b) An enrolled provider that is also licensed by the commissioner under chapter
326.9 245A must designate an individual as the entity's compliance officer. The compliance
326.10 officer must:

326.11 (1) develop policies and procedures to assure adherence to medical assistance laws
326.12 and regulations and to prevent inappropriate claims submissions;

326.13 (2) train the employees of the provider entity, and any agents or subcontractors of
326.14 the provider entity including billers, on the policies and procedures under clause (1);

326.15 (3) respond to allegations of improper conduct related to the provision or billing of
326.16 medical assistance services, and implement action to remediate any resulting problems;

326.17 (4) use evaluation techniques to monitor compliance with medical assistance laws
326.18 and regulations;

326.19 (5) promptly report to the commissioner any identified violations of medical
326.20 assistance laws or regulations; and

326.21 (6) within 60 days of discovery by the provider of a medical assistance
326.22 reimbursement overpayment, report the overpayment to the commissioner and make
326.23 arrangements with the commissioner for the commissioner's recovery of the overpayment.

326.24 The commissioner may require, as a condition of enrollment in medical assistance, that a
326.25 provider within a particular industry sector or category establish a compliance program that
326.26 contains the core elements established by the Centers for Medicare and Medicaid Services.

326.27 (c) The commissioner may revoke the enrollment of an ordering or rendering
326.28 provider for a period of not more than one year, if the provider fails to maintain and, upon
326.29 request from the commissioner, provide access to documentation relating to written orders
326.30 or requests for payment for durable medical equipment, certifications for home health
326.31 services, or referrals for other items or services written or ordered by such provider, when
326.32 the commissioner has identified a pattern of a lack of documentation. A pattern means a
326.33 failure to maintain documentation or provide access to documentation on more than one
326.34 occasion. Nothing in this paragraph limits the authority of the commissioner to sanction a
326.35 provider under the provisions of section 256B.064.

327.1 (d) The commissioner shall terminate or deny the enrollment of any individual or
327.2 entity if the individual or entity has been terminated from participation in Medicare or
327.3 under the Medicaid program or Children's Health Insurance Program of any other state.

327.4 (e) As a condition of enrollment in medical assistance, the commissioner shall
327.5 require that a provider designated "moderate" or "high-risk" by the Centers for Medicare
327.6 and Medicaid Services or the Minnesota Department of Human Services permit the
327.7 Centers for Medicare and Medicaid Services, its agents, or its designated contractors and
327.8 the state agency, its agents, or its designated contractors to conduct unannounced on-site
327.9 inspections of any provider location.

327.10 (f) As a condition of enrollment in medical assistance, the commissioner shall
327.11 require that a high-risk provider, or a person with a direct or indirect ownership interest in
327.12 the provider of five percent or higher, consent to criminal background checks, including
327.13 fingerprinting, when required to do so under state law or by a determination by the
327.14 commissioner or the Centers for Medicare and Medicaid Services that a provider is
327.15 designated high-risk for fraud, waste, or abuse.

327.16 ARTICLE 18

327.17 STATEWIDE PROVIDER ENROLLMENT, PERFORMANCE STANDARDS, 327.18 AND PAYMENT METHODOLOGY DEVELOPMENT

327.19 Section 1. Minnesota Statutes 2010, section 245A.03, subdivision 2, is amended to
327.20 read:

327.21 Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

327.22 (1) residential or nonresidential programs that are provided to a person by an
327.23 individual who is related unless the residential program is a child foster care placement
327.24 made by a local social services agency or a licensed child-placing agency, except as
327.25 provided in subdivision 2a;

327.26 (2) nonresidential programs that are provided by an unrelated individual to persons
327.27 from a single related family;

327.28 (3) residential or nonresidential programs that are provided to adults who do
327.29 not abuse chemicals or who do not have a chemical dependency, a mental illness, a
327.30 developmental disability, a functional impairment, or a physical disability;

327.31 (4) sheltered workshops or work activity programs that are certified by the
327.32 commissioner of employment and economic development;

327.33 (5) programs operated by a public school for children 33 months or older;

327.34 (6) nonresidential programs primarily for children that provide care or supervision
327.35 for periods of less than three hours a day while the child's parent or legal guardian is in

328.1 the same building as the nonresidential program or present within another building that is
328.2 directly contiguous to the building in which the nonresidential program is located;

328.3 (7) nursing homes or hospitals licensed by the commissioner of health except as
328.4 specified under section 245A.02;

328.5 (8) board and lodge facilities licensed by the commissioner of health that do not
328.6 provide children's residential services under Minnesota Rules, chapter 2960, mental health
328.7 or chemical dependency treatment;

328.8 (9) homes providing programs for persons placed by a county or a licensed agency
328.9 for legal adoption, unless the adoption is not completed within two years;

328.10 (10) programs licensed by the commissioner of corrections;

328.11 (11) recreation programs for children or adults that are operated or approved by a
328.12 park and recreation board whose primary purpose is to provide social and recreational
328.13 activities;

328.14 (12) programs operated by a school as defined in section 120A.22, subdivision 4;
328.15 YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as
328.16 defined in section 315.51, whose primary purpose is to provide child care or services to
328.17 school-age children;

328.18 (13) Head Start nonresidential programs which operate for less than 45 days in
328.19 each calendar year;

328.20 (14) noncertified boarding care homes unless they provide services for five or more
328.21 persons whose primary diagnosis is mental illness or a developmental disability;

328.22 (15) programs for children such as scouting, boys clubs, girls clubs, and sports and
328.23 art programs, and nonresidential programs for children provided for a cumulative total of
328.24 less than 30 days in any 12-month period;

328.25 (16) residential programs for persons with mental illness, that are located in hospitals;

328.26 (17) the religious instruction of school-age children; Sabbath or Sunday schools; or
328.27 the congregate care of children by a church, congregation, or religious society during the
328.28 period used by the church, congregation, or religious society for its regular worship;

328.29 (18) camps licensed by the commissioner of health under Minnesota Rules, chapter
328.30 4630;

328.31 (19) mental health outpatient services for adults with mental illness or children
328.32 with emotional disturbance;

328.33 (20) residential programs serving school-age children whose sole purpose is cultural
328.34 or educational exchange, until the commissioner adopts appropriate rules;

328.35 ~~(21) unrelated individuals who provide out-of-home respite care services to persons~~
328.36 ~~with developmental disabilities from a single related family for no more than 90 days in a~~

329.1 ~~12-month period and the respite care services are for the temporary relief of the person's~~
329.2 ~~family or legal representative;~~

329.3 ~~(22) respite care services provided as a home and community-based service to a~~
329.4 ~~person with a developmental disability, in the person's primary residence;~~

329.5 ~~(23)~~ (21) community support services programs as defined in section 245.462,
329.6 subdivision 6, and family community support services as defined in section 245.4871,
329.7 subdivision 17;

329.8 ~~(24)~~ (22) the placement of a child by a birth parent or legal guardian in a preadoptive
329.9 home for purposes of adoption as authorized by section 259.47;

329.10 ~~(25)~~ (23) settings registered under chapter 144D which provide home care services
329.11 licensed by the commissioner of health to fewer than seven adults;

329.12 ~~(26)~~ (24) chemical dependency or substance abuse treatment activities of licensed
329.13 professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart
329.14 15, when the treatment activities are not paid for by the consolidated chemical dependency
329.15 treatment fund;

329.16 ~~(27)~~ (25) consumer-directed community support service funded under the Medicaid
329.17 waiver for persons with developmental disabilities when the individual who provided
329.18 the service is:

329.19 (i) the same individual who is the direct payee of these specific waiver funds or paid
329.20 by a fiscal agent, fiscal intermediary, or employer of record; and

329.21 (ii) not otherwise under the control of a residential or nonresidential program that is
329.22 required to be licensed under this chapter when providing the service; or

329.23 ~~(28)~~ (26) a program serving only children who are age 33 months or older, that is
329.24 operated by a nonpublic school, for no more than four hours per day per child, with no
329.25 more than 20 children at any one time, and that is accredited by:

329.26 (i) an accrediting agency that is formally recognized by the commissioner of
329.27 education as a nonpublic school accrediting organization; or

329.28 (ii) an accrediting agency that requires background studies and that receives and
329.29 investigates complaints about the services provided.

329.30 A program that asserts its exemption from licensure under item (ii) shall, upon
329.31 request from the commissioner, provide the commissioner with documentation from the
329.32 accrediting agency that verifies: that the accreditation is current; that the accrediting
329.33 agency investigates complaints about services; and that the accrediting agency's standards
329.34 require background studies on all people providing direct contact services.

329.35 (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a
329.36 building in which a nonresidential program is located if it shares a common wall with the

330.1 building in which the nonresidential program is located or is attached to that building by
330.2 skyway, tunnel, atrium, or common roof.

330.3 (c) Except for the home and community-based services identified in section
330.4 245D.03, subdivision 1, nothing in this chapter shall be construed to require licensure for
330.5 any services provided and funded according to an approved federal waiver plan where
330.6 licensure is specifically identified as not being a condition for the services and funding.

330.7 Sec. 2. Minnesota Statutes 2010, section 245A.041, is amended by adding a
330.8 subdivision to read:

330.9 Subd. 3. **Record retention; license holder requirements.** (a) A license holder must
330.10 maintain and store records in a manner that will allow for review by the commissioner as
330.11 identified in section 245A.04, subdivision 5. The following records must be maintained as
330.12 specified and in accordance with applicable state or federal law, regulation, or rule:

330.13 (1) service recipient records, including verification of service delivery, must be
330.14 maintained for a minimum of five years following discharge or termination of service;

330.15 (2) personnel records must be maintained for a minimum of five years following
330.16 termination of employment; and

330.17 (3) program administration and financial records must be maintained for a minimum
330.18 of five years from the date the program closes.

330.19 (b) A license holder who ceases to provide services must maintain all records related
330.20 to the licensed program for five years from the date the program closes. The license holder
330.21 must notify the commissioner of the location where the licensing records will be stored
330.22 and the name of the person responsible for maintaining the stored records.

330.23 (c) If the ownership of a licensed program or service changes, the transferor, unless
330.24 otherwise provided by law or written agreement with the transferee, is responsible for
330.25 maintaining, preserving, and making available to the commissioner on demand the license
330.26 records generated before the date of the transfer.

330.27 (d) In the event of a contested case, the license holder must retain records as required
330.28 in paragraph (a) or until the final agency decision is issued and the conclusion of any
330.29 related appeal, whichever period is longer.

330.30 Sec. 3. Minnesota Statutes 2010, section 245A.041, is amended by adding a
330.31 subdivision to read:

330.32 Subd. 4. **Electronic records; license holder use.** A license holder's use of
330.33 electronic record keeping or electronic signatures must meet the following requirements:

331.1 (1) use of electronic record keeping or electronic signatures does not alter the license
331.2 holder's obligations under state or federal law, regulation, or rule;

331.3 (2) the license holder must ensure that the use of electronic record keeping does not
331.4 limit the commissioner's access to records as specified under section 245A.04, subdivision
331.5 5;

331.6 (3) upon request, the license holder must assist the commissioner in accessing and
331.7 copying all records, including encrypted records and electronic signatures; and

331.8 (4) the license holder must establish a mechanism or procedure to ensure that:

331.9 (i) the act of creating the electronic record or signature is attributable to the license
331.10 holder, according to section 325L.09;

331.11 (ii) the electronic records and signatures are maintained in a form capable of being
331.12 retained and accurately reproduced;

331.13 (iii) the commissioner has access to information that establishes the date and time
331.14 that data and signatures were entered into the electronic record; and

331.15 (iv) the license holder's use of electronic record keeping or electronic signatures does
331.16 not compromise the security of the records.

331.17 Sec. 4. **[245A.042] HOME AND COMMUNITY-BASED SERVICES;**
331.18 **ADDITIONAL STANDARDS AND PROCEDURES.**

331.19 **Subdivision 1. Standards governing the provision of home and community-based**
331.20 **services. Residential and nonresidential programs for persons with disabilities or**
331.21 **age 65 and older must obtain a license according to this chapter to provide home and**
331.22 **community-based services defined in the federal waiver plans governed by United States**
331.23 **Code, title 42, sections 1396 et seq., or the state's alternative care program according to**
331.24 **section 256B.0913, and identified in section 245D.03, subdivision 1. As a condition**
331.25 **of licensure, an applicant or license holder must demonstrate and maintain verification**
331.26 **of compliance with:**

331.27 (1) licensing requirements under this chapter and chapter 245D;

331.28 (2) applicable health care program requirements under Minnesota Rules, parts
331.29 9505.0170 to 9505.0475 and 9505.2160 to 9505.2245; and

331.30 (3) provider standards and qualifications identified in the federal waiver plans or the
331.31 alternative care program.

331.32 **Subd. 2. Modified application procedures. (a) Applicants seeking chapter 245D**
331.33 **licensure who meet the following criteria are subject to modified application procedures:**

331.34 (1) the applicant holds a chapter 245B license issued on or before December 31,
331.35 2012, at the time of application;

332.1 (2) the applicant's chapter 245B license or licenses are in substantial compliance
332.2 according to the licensing standards in this chapter and chapter 245B; and

332.3 (3) the commissioner has conducted at least one on-site inspection of the chapter
332.4 245B license or licenses within the two-year period before submitting the chapter 245D
332.5 license application.

332.6 For purposes of this subdivision, substantial compliance means the commissioner
332.7 has not issued a sanction according to section 245A.07 against any chapter 245B license
332.8 held by the applicant or made the chapter 245B license or licenses conditional according
332.9 to section 245A.06 within the 12-month period before submitting the application for
332.10 chapter 245D licensure.

332.11 (b) The modified application procedures mean the commissioner must accept
332.12 the applicant's attestation of compliance with certain requirements in lieu of providing
332.13 information to the commissioner for evaluation that is otherwise required when seeking
332.14 chapter 245D licensure.

332.15 Subd. 3. **Implementation.** (a) Licensure of home and community-based services
332.16 according to this section will be implemented upon authorization for the commissioner
332.17 to collect fees according to section 245A.10, subdivisions 3 and 4, necessary to support
332.18 licensing functions. License applications will be received on a phased in schedule as
332.19 determined by the commissioner. Licenses will be issued on or after January 1, 2013,
332.20 according to section 245A.04.

332.21 (b) Implementation of compliance monitoring must be phased in after January
332.22 1, 2013.

332.23 (1) Applicants who do not currently hold a license issued under this chapter must
332.24 receive an initial compliance monitoring visit within 12 months of the effective date of
332.25 the initial license for the purpose of providing technical assistance on how to achieve and
332.26 maintain compliance with the applicable law or rules governing the provision of home and
332.27 community-based services under chapter 245D. If during the review the commissioner
332.28 finds that the license holder has failed to achieve compliance with an applicable law or
332.29 rule and this failure does not imminently endanger the health, safety, or rights of the
332.30 persons served by the program, the commissioner may issue a licensing review report with
332.31 recommendations for achieving and maintaining compliance.

332.32 (2) Applicants who do currently hold a license issued under this chapter must receive
332.33 a compliance monitoring visit after 24 months of the effective date of the initial license.

332.34 (c) Nothing in this subdivision shall be construed to limit the commissioner's
332.35 authority to suspend or revoke a license or issue a fine at any time under section 245A.07,
332.36 or make correction orders and make a license conditional for failure to comply with

333.1 applicable laws or rules under section 245A.06, based on the nature, chronicity, or severity
 333.2 of the violation of law or rule and the effect of the violation on the health, safety, or
 333.3 rights of persons served by the program.

333.4 Sec. 5. Minnesota Statutes 2010, section 245A.085, is amended to read:

333.5 **245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.**

333.6 Hearings authorized under this chapter, chapter 245C, and sections 256.045,
 333.7 256B.04, 626.556, and 626.557, shall be consolidated if feasible and in accordance with
 333.8 other applicable statutes and rules. Reconsideration under sections 245C.28; 626.556,
 333.9 subdivision 10i; and 626.557, subdivision 9d, shall also be consolidated if feasible.

333.10 Sec. 6. Minnesota Statutes 2010, section 245B.02, is amended by adding a subdivision
 333.11 to read:

333.12 Subd. 8a. **Emergency.** "Emergency" means any fires, severe weather, natural
 333.13 disasters, power failures, or any event that affects the ordinary daily operation of the
 333.14 program, including, but not limited to, events that threaten the immediate health and
 333.15 safety of a person receiving services and that require calling 911, emergency evacuation,
 333.16 moving to an emergency shelter, or temporary closure or relocation of the program
 333.17 to another facility or service site.

333.18 Sec. 7. Minnesota Statutes 2010, section 245B.02, subdivision 10, is amended to read:

333.19 Subd. 10. **Incident.** "Incident" means an occurrence that affects the ordinary
 333.20 provision of services to a person and includes any of the following:

333.21 (1) serious injury as determined by section 245.91, subdivision 6;

333.22 (2) a consumer's death;

333.23 (3) any medical ~~emergencies~~ emergency, unexpected serious ~~illnesses~~ illness, or
 333.24 ~~accidents~~ significant unexpected changes in an illness or medical condition, or the mental
 333.25 health status of a person that require ~~requires~~ calling 911 or a mental health mobile crisis
 333.26 intervention team, physician treatment, or hospitalization;

333.27 (4) a consumer's unauthorized or unexplained absence;

333.28 ~~(5) any fires or other events that require the relocation of services for more than 24~~
 333.29 ~~hours, or circumstances involving a law enforcement agency or fire department related to~~
 333.30 ~~the health, safety, or supervision of a consumer;~~

333.31 ~~(6)~~ (5) physical aggression by a consumer against another consumer that causes
 333.32 physical pain, injury, or persistent emotional distress, including, but not limited to, hitting,
 333.33 slapping, kicking, scratching, pinching, biting, pushing, and spitting;

334.1 ~~(7)~~ (6) any sexual activity between consumers involving force or coercion as defined
334.2 under section 609.341, subdivisions 3 and 14; or
334.3 ~~(8)~~ (7) a report of child or vulnerable adult maltreatment under section 626.556 or
334.4 626.557.

334.5 Sec. 8. Minnesota Statutes 2010, section 245B.04, subdivision 1, is amended to read:

334.6 Subdivision 1. **License holder's responsibility for consumers' rights.** The license
334.7 holder must:

334.8 (1) provide the consumer or the consumer's legal representative a copy of the
334.9 consumer's rights on the day that services are initiated and an explanation of the rights
334.10 in subdivisions 2 and 3 within five working days of service initiation and annually
334.11 thereafter. Reasonable accommodations shall be made by the license holder to provide
334.12 this information in other formats as needed to facilitate understanding of the rights by the
334.13 consumer and the consumer's legal representative, if any;

334.14 (2) document the consumer's or the consumer's legal representative's receipt of a
334.15 copy of the rights and an explanation of the rights; and

334.16 (3) ensure the exercise and protection of the consumer's rights in the services
334.17 provided by the license holder and authorized in the individual service plan.

334.18 Sec. 9. Minnesota Statutes 2010, section 245B.04, subdivision 2, is amended to read:

334.19 Subd. 2. **Service-related rights.** A consumer's service-related rights include the
334.20 right to:

334.21 (1) refuse or terminate services and be informed of the consequences of refusing
334.22 or terminating services;

334.23 (2) know, in advance, limits to the services available from the license holder;

334.24 (3) know conditions and terms governing the provision of services, including ~~those~~
334.25 the license holder's policies and procedures related to initiation and termination;

334.26 (4) know what the charges are for services, regardless of who will be paying for the
334.27 services, and be notified upon request of changes in those charges;

334.28 (5) know, in advance, whether services are covered by insurance, government
334.29 funding, or other sources, and be told of any charges the consumer or other private party
334.30 may have to pay; and

334.31 (6) receive licensed services from individuals who are competent and trained,
334.32 who have professional certification or licensure, as required, and who meet additional
334.33 qualifications identified in the individual service plan.

335.1 Sec. 10. Minnesota Statutes 2010, section 245B.04, subdivision 3, is amended to read:

335.2 Subd. 3. **Protection-related rights.** (a) The consumer's protection-related rights
335.3 include the right to:

335.4 (1) have personal, financial, services, and medical information kept private, and
335.5 be advised of the license holder's policies and procedures regarding disclosure of such
335.6 information;

335.7 (2) access records and recorded information about the person in accordance with
335.8 applicable state and federal law, regulation, or rule;

335.9 (3) be free from maltreatment;

335.10 (4) be treated with courtesy and respect for the consumer's individuality, mode of
335.11 communication, and culture, and receive respectful treatment of the consumer's property;

335.12 (5) reasonable observance of cultural and ethnic practice and religion;

335.13 (6) be free from bias and harassment regarding race, gender, age, disability,
335.14 spirituality, and sexual orientation;

335.15 (7) be informed of and use the license holder's grievance policy and procedures,
335.16 including knowing how to contact persons responsible for addressing problems and to
335.17 appeal under section 256.045;

335.18 (8) know the name, telephone number, and the Web site, e-mail, and street
335.19 addresses of protection and advocacy services, including the appropriate state-appointed
335.20 ombudsman, and a brief description of how to file a complaint with these offices;

335.21 ~~(5)~~ (9) voice grievances, know the contact persons responsible for addressing
335.22 problems and how to contact those persons;

335.23 ~~(6)~~ (10) any procedures for grievance or complaint resolution and the right to appeal
335.24 under section 256.045;

335.25 ~~(7)~~ (11) know the name and address of the state, county, or advocacy agency to
335.26 contact for additional information or assistance;

335.27 ~~(8)~~ (12) assert these rights personally, or have them asserted by the consumer's
335.28 family or legal representative, without retaliation;

335.29 ~~(9)~~ (13) give or withhold written informed consent to participate in any research or
335.30 experimental treatment;

335.31 ~~(10)~~ (14) have daily, private access to and use of a non-coin-operated telephone for
335.32 local calls and long-distance calls made collect or paid for by the resident;

335.33 ~~(11)~~ (15) receive and send, without interference, uncensored, unopened mail or
335.34 electronic correspondence or communication;

335.35 ~~(12)~~ (16) marital privacy for visits with the consumer's spouse and, if both are
335.36 residents of the site, the right to share a bedroom and bed;

336.1 ~~(13)~~ (17) associate with other persons of the consumer's choice;

336.2 ~~(14)~~ (18) personal privacy; and

336.3 ~~(15)~~ (19) engage in chosen activities.

336.4 (b) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or

336.5 this paragraph is allowed only if determined necessary to ensure the health, safety, and

336.6 well-being of the person. Any restriction of these rights must be documented in the service

336.7 plan for the person and must include the following information:

336.8 (1) the justification for the restriction based on an assessment of the person's

336.9 vulnerability related to exercising the right without restriction;

336.10 (2) the objective measures set as conditions for ending the restriction;

336.11 (3) a schedule for reviewing the need for the restriction based on the conditions for

336.12 ending the restriction to occur, at a minimum, every three months for persons who do not

336.13 have a legal representative and annually for persons who do have a legal representative

336.14 from the date of initial approval; and

336.15 (4) signed and dated approval for the restriction from the person, or the person's

336.16 legal representative, if any. A restriction may be implemented only when the required

336.17 approval has been obtained. Approval may be withdrawn at any time. If approval is

336.18 withdrawn, the right must be immediately and fully restored.

336.19 Sec. 11. Minnesota Statutes 2010, section 245B.05, subdivision 1, is amended to read:

336.20 Subdivision 1. **Environment.** The license holder must:

336.21 (1) ensure that services are provided in a safe and hazard-free environment when the

336.22 license holder is the owner, lessor, or tenant of the service site. All other license holders

336.23 shall inform the consumer or the consumer's legal representative and case manager about

336.24 any environmental safety concerns in writing;

336.25 (2) ~~lock doors~~ ensure that doors are locked or toxic substances or dangerous items

336.26 normally accessible to persons served by the program are stored in locked cabinets,

336.27 drawers, or containers only to protect the safety of consumers and not as a substitute for

336.28 staff supervision or interactions with consumers. If doors are locked or toxic substances

336.29 or dangerous items normally accessible to persons served by the program are stored in

336.30 locked cabinets, drawers, or containers, the license holder must justify and document

336.31 how this determination was made in consultation with the person or the person's legal

336.32 representative and how access will otherwise be provided to the person and all other

336.33 affected persons receiving services;

336.34 (3) follow procedures that minimize the consumer's health risk from communicable

336.35 diseases; and

337.1 (4) maintain equipment, vehicles, supplies, and materials owned or leased by the
337.2 license holder in good condition.

337.3 Sec. 12. Minnesota Statutes 2010, section 245B.07, subdivision 5, is amended to read:

337.4 Subd. 5. **Staff orientation.** (a) Within 60 days of hiring staff who provide direct
337.5 service, the license holder must provide 30 hours of staff orientation. Direct care staff
337.6 must complete 15 of the 30 hours orientation before providing any unsupervised direct
337.7 service to a consumer. If the staff person has received orientation training from a license
337.8 holder licensed under this chapter, or provides semi-independent living services only, the
337.9 15-hour requirement may be reduced to eight hours. The total orientation of 30 hours may
337.10 be reduced to 15 hours if the staff person has previously received orientation training from
337.11 a license holder licensed under this chapter.

337.12 (b) The 30 hours of orientation must combine supervised on-the-job training with
337.13 ~~coverage review of~~ and instruction on the following material:

337.14 (1) review of the consumer's service plans and risk management plan to achieve an
337.15 understanding of the consumer as a unique individual and staff responsibilities related to
337.16 implementation of those plans;

337.17 (2) review and instruction on implementation of the license holder's policies and
337.18 procedures, including their location and access;

337.19 (3) staff responsibilities related to emergency procedures;

337.20 (4) explanation of specific job functions, including implementing objectives from
337.21 the consumer's individual service plan;

337.22 (5) explanation of responsibilities related to section 245A.65; sections 626.556
337.23 and 626.557, governing maltreatment reporting and service planning for children and
337.24 vulnerable adults; and section 245.825, governing use of aversive and deprivation
337.25 procedures;

337.26 (6) medication administration as it applies to the individual consumer, from a
337.27 training curriculum developed by a health services professional described in section
337.28 245B.05, subdivision 5, and when the consumer meets the criteria of having overriding
337.29 health care needs, then medication administration taught by a health services professional.
337.30 Staff may administer medications only after they demonstrate the ability, as defined in the
337.31 license holder's medication administration policy and procedures. Once a consumer with
337.32 overriding health care needs is admitted, staff will be provided with remedial training as
337.33 deemed necessary by the license holder and the health professional to meet the needs of
337.34 that consumer.

338.1 For purposes of this section, overriding health care needs means a health care
338.2 condition that affects the service options available to the consumer because the condition
338.3 requires:

338.4 (i) specialized or intensive medical or nursing supervision; and

338.5 (ii) nonmedical service providers to adapt their services to accommodate the health
338.6 and safety needs of the consumer;

338.7 (7) consumer rights and staff responsibilities related to protecting and ensuring
338.8 the exercise of the consumer rights; and

338.9 (8) other topics necessary as determined by the consumer's individual service plan or
338.10 other areas identified by the license holder.

338.11 (c) The license holder must document each employee's orientation received.

338.12 Sec. 13. Minnesota Statutes 2010, section 245B.07, is amended by adding a
338.13 subdivision to read:

338.14 Subd. 7a. **Subcontractors.** If the license holder uses a subcontractor to perform
338.15 services licensed under this chapter on the license holder's behalf, the license holder must
338.16 ensure that the subcontractor meets and maintains compliance with all requirements under
338.17 this chapter that apply to the services to be provided.

338.18 Sec. 14. Minnesota Statutes 2010, section 245B.07, subdivision 9, is amended to read:

338.19 Subd. 9. **Availability of current written policies and procedures.** The license
338.20 holder shall:

338.21 (1) review and update, as needed, the written policies and procedures in this chapter;

338.22 (2) inform consumers or the consumer's legal representatives of the written policies
338.23 and procedures in this chapter upon service initiation. Copies of policies and procedures
338.24 affecting a consumer's rights under section 245D.04 must be provided upon service

338.25 initiation. Copies of all other policies and procedures must be available to consumers
338.26 or the consumer's legal representatives, case managers, the county where services are
338.27 located, and the commissioner upon request;

338.28 (3) provide all consumers or the consumers' legal representatives and case managers
338.29 a copy of the revised policies and procedures and explanation of the revisions to policies
338.30 and procedures that affect consumers' service-related or protection-related rights under
338.31 section 245B.04 and maltreatment reporting policies and procedures. Unless there is
338.32 reasonable cause, the license holder must provide this notice at least 30 days before
338.33 implementing the revised policy and procedure. The license holder must document the
338.34 reason for not providing the notice at least 30 days before implementing the revisions;

339.1 (4) annually notify all consumers or the consumers' legal representatives and case
339.2 managers of any revised policies and procedures under this chapter, other than those in
339.3 clause (3). Upon request, the license holder must provide the consumer or consumer's
339.4 legal representative and case manager copies of the revised policies and procedures;

339.5 (5) before implementing revisions to policies and procedures under this chapter,
339.6 inform all employees of the revisions and provide training on implementation of the
339.7 revised policies and procedures; and

339.8 (6) document and maintain relevant information related to the policies and
339.9 procedures in this chapter.

339.10 Sec. 15. Minnesota Statutes 2010, section 245B.07, subdivision 10, is amended to read:

339.11 Subd. 10. **Consumer funds.** (a) The license holder must ensure that consumers
339.12 retain the use and availability of personal funds or property unless restrictions are justified
339.13 in the consumer's individual service plan.

339.14 (b) The license holder must ensure separation of consumer funds from funds of the
339.15 license holder, the program, or program staff.

339.16 (c) Whenever the license holder assists a consumer with the safekeeping of funds
339.17 or other property, the license holder must have written authorization to do so by the
339.18 consumer or the consumer's legal representative, and the case manager. In addition, the
339.19 license holder must:

339.20 (1) document receipt and disbursement of the consumer's funds or the property;

339.21 (2) annually survey, document, and implement the preferences of the consumer,
339.22 consumer's legal representative, and the case manager for frequency of receiving a
339.23 statement that itemizes receipts and disbursements of consumer funds or other property;
339.24 and

339.25 (3) return to the consumer upon the consumer's request, funds and property in the
339.26 license holder's possession subject to restrictions in the consumer's individual service plan,
339.27 as soon as possible, but no later than three working days after the date of the request.

339.28 (d) License holders and program staff must not:

339.29 (1) borrow money from a consumer;

339.30 (2) purchase personal items from a consumer;

339.31 (3) sell merchandise or personal services to a consumer;

339.32 (4) require a consumer to purchase items for which the license holder is eligible for
339.33 reimbursement; ~~or~~

339.34 (5) use consumer funds in a manner that would violate section 256B.04, or any
339.35 rules promulgated under that section; or

340.1 (6) accept powers-of-attorney from a person receiving services from the license
340.2 holder for any purpose, and may not accept an appointment as guardian or conservator of
340.3 a person receiving services from the license holder. This does not apply to license holders
340.4 that are Minnesota counties or other units of government.

340.5 Sec. 16. **[245D.01] CITATION.**

340.6 This chapter may be cited as the "Home and Community-Based Services Standards"
340.7 or "HCBS Standards."

340.8 Sec. 17. **[245D.02] DEFINITIONS.**

340.9 Subdivision 1. **Scope.** The terms used in this chapter have the meanings given
340.10 them in this section.

340.11 Subd. 2. **Annual and annually.** "Annual" and "annually" have the meaning given
340.12 in section 245A.02, subdivision 2b.

340.13 Subd. 3. **Case manager.** "Case manager" means the individual designated
340.14 to provide waiver case management services, care coordination, or long-term care
340.15 consultation, as specified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49,
340.16 or successor provisions.

340.17 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the
340.18 Department of Human Services or the commissioner's designated representative.

340.19 Subd. 5. **Department.** "Department" means the Department of Human Services.

340.20 Subd. 6. **Direct contact.** "Direct contact" has the meaning given in section 245C.02,
340.21 subdivision 11, and is used interchangeably with the term "direct service."

340.22 Subd. 7. **Drug.** "Drug" has the meaning given in section 151.01, subdivision 5.

340.23 Subd. 8. **Emergency.** "Emergency" means any event that affects the ordinary
340.24 daily operation of the program including, but not limited to, fires, severe weather, natural
340.25 disasters, power failures, or other events that threaten the immediate health and safety of
340.26 a person receiving services and that require calling 911, emergency evacuation, moving
340.27 to an emergency shelter, or temporary closure or relocation of the program to another
340.28 facility or service site.

340.29 Subd. 9. **Health services.** "Health services" means any service or treatment
340.30 consistent with the physical and mental health needs of the person, such as medication
340.31 administration and monitoring, medical, dental, nutritional, health monitoring, wellness
340.32 education, and exercise.

340.33 Subd. 10. **Home and community-based services.** "Home and community-based
340.34 services" means the services subject to the provisions of this chapter and defined in the

341.1 federal waiver plans governed by United States Code, title 42, sections 1396 et seq., or the
341.2 state's alternative care program according to section 256B.0913, including the brain injury
341.3 (BI) waiver, the community alternative care (CAC) waiver, the community alternatives
341.4 for disabled individuals (CADI) waiver, the developmental disability (DD) waiver, the
341.5 elderly waiver (EW), and the alternative care (AC) program.

341.6 Subd. 11. **Incident.** "Incident" means an occurrence that affects the ordinary
341.7 provision of services to a person and includes any of the following:

341.8 (1) serious injury as determined by section 245.91, subdivision 6;

341.9 (2) a person's death;

341.10 (3) any medical emergency, unexpected serious illness, or significant unexpected
341.11 change in an illness or medical condition, or the mental health status of a person that
341.12 requires calling 911 or a mental health crisis intervention team, physician treatment,
341.13 or hospitalization;

341.14 (4) a person's unauthorized or unexplained absence from a program;

341.15 (5) physical aggression by a person receiving services against another person
341.16 receiving services that causes physical pain, injury, or persistent emotional distress,
341.17 including, but not limited to, hitting, slapping, kicking, scratching, pinching, biting,
341.18 pushing, and spitting;

341.19 (6) any sexual activity between persons receiving services involving force or
341.20 coercion as defined under section 609.341, subdivisions 3 and 14; or

341.21 (7) a report of alleged or suspected child or vulnerable adult maltreatment under
341.22 section 626.556 or 626.557.

341.23 Subd. 12. **Legal representative.** "Legal representative" means the parent of a
341.24 person who is under 18 years of age, a court-appointed guardian, or other representative
341.25 with legal authority to make decisions about services for a person.

341.26 Subd. 13. **License.** "License" has the meaning given in section 245A.02,
341.27 subdivision 8.

341.28 Subd. 14. **Licensed health professional.** "Licensed health professional" means a
341.29 person licensed in Minnesota to practice those professions described in section 214.01,
341.30 subdivision 2.

341.31 Subd. 15. **License holder.** "License holder" has the meaning given in section
341.32 245A.02, subdivision 9.

341.33 Subd. 16. **Medication.** "Medication" means a prescription drug or over-the-counter
341.34 drug. For purposes of this chapter, "medication" includes dietary supplements.

341.35 Subd. 17. **Medication administration.** "Medication administration" means
341.36 performing the following set of tasks to ensure a person takes both prescription and

342.1 over-the-counter medications and treatments according to orders issued by appropriately
342.2 licensed professionals, and includes the following:

342.3 (1) checking the person's medication record;

342.4 (2) preparing the medication for administration;

342.5 (3) administering the medication to the person;

342.6 (4) documenting the administration of the medication or the reason for not
342.7 administering the medication; and

342.8 (5) reporting to the prescriber or a nurse any concerns about the medication,

342.9 including side effects, adverse reactions, effectiveness, or the person's refusal to take the

342.10 medication or the person's self-administration of the medication.

342.11 Subd. 18. **Medication assistance.** "Medication assistance" means providing verbal
342.12 or visual reminders to take regularly scheduled medication, which includes either of
342.13 the following:

342.14 (1) bringing to the person and opening a container of previously set up medications
342.15 and emptying the container into the person's hand or opening and giving the medications
342.16 in the original container to the person, or bringing to the person liquids or food to
342.17 accompany the medication; or

342.18 (2) providing verbal or visual reminders to perform regularly scheduled treatments
342.19 and exercises.

342.20 Subd. 19. **Medication management.** "Medication management" means the
342.21 provision of any of the following:

342.22 (1) medication-related services to a person;

342.23 (2) medication setup;

342.24 (3) medication administration;

342.25 (4) medication storage and security;

342.26 (5) medication documentation and charting;

342.27 (6) verification and monitoring of effectiveness of systems to ensure safe medication
342.28 handling and administration;

342.29 (7) coordination of medication refills;

342.30 (8) handling changes to prescriptions and implementation of those changes;

342.31 (9) communicating with the pharmacy; or

342.32 (10) coordination and communication with prescriber.

342.33 For the purposes of this chapter, medication management does not mean "medication
342.34 therapy management services" as identified in section 256B.0625, subdivision 13h.

342.35 Subd. 20. **Mental health crisis intervention team.** "Mental health crisis
342.36 intervention team" means mental health crisis response providers as identified in section

343.1 256B.0624, subdivision 2, paragraph (d), for adults, and in section 256B.0944, subdivision
343.2 1, paragraph (d), for children.

343.3 Subd. 21. **Over-the-counter drug.** "Over-the-counter drug" means a drug that
343.4 is not required by federal law to bear the statement "Caution: Federal law prohibits
343.5 dispensing without prescription."

343.6 Subd. 22. **Person.** "Person" has the meaning given in section 245A.02, subdivision
343.7 11.

343.8 Subd. 23. **Person with a disability.** "Person with a disability" means a person
343.9 determined to have a disability by the commissioner's state medical review team as
343.10 identified in section 256B.055, subdivision 7, the Social Security Administration, or
343.11 the person is determined to have a developmental disability as defined in Minnesota
343.12 Rules, part 9525.0016, subpart 2, item B, or a related condition as defined in section
343.13 252.27, subdivision 1a.

343.14 Subd. 24. **Prescriber.** "Prescriber" means a licensed practitioner as defined in
343.15 section 151.01, subdivision 23, who is authorized under section 151.37 to prescribe
343.16 drugs. For the purposes of this chapter, the term "prescriber" is used interchangeably
343.17 with "physician."

343.18 Subd. 25. **Prescription drug.** "Prescription drug" has the meaning given in section
343.19 151.01, subdivision 17.

343.20 Subd. 26. **Program.** "Program" means either the nonresidential or residential
343.21 program as defined in section 245A.02, subdivisions 10 and 14.

343.22 Subd. 27. **Psychotropic medication.** "Psychotropic medication" means any
343.23 medication prescribed to treat the symptoms of mental illness that affect thought processes,
343.24 mood, sleep, or behavior. The major classes of psychotropic medication are antipsychotic
343.25 (neuroleptic), antidepressant, antianxiety, mood stabilizers, anticonvulsants, and
343.26 stimulants and nonstimulants for the treatment of attention deficit/hyperactivity disorder.
343.27 Other miscellaneous medications are considered to be a psychotropic medication when
343.28 they are specifically prescribed to treat a mental illness or to control or alter behavior.

343.29 Subd. 28. **Restraint.** "Restraint" means physical or mechanical limiting of the free
343.30 and normal movement of body or limbs.

343.31 Subd. 29. **Seclusion.** "Seclusion" means separating a person from others in a way
343.32 that prevents social contact and prevents the person from leaving the situation if he or she
343.33 chooses.

343.34 Subd. 30. **Service.** "Service" means care, training, supervision, counseling,
343.35 consultation, or medication assistance assigned to the license holder in the service plan.

344.1 Subd. 31. **Service plan.** "Service plan" means the individual service plan or
344.2 individual care plan identified in sections 256B.0913, 256B.0915, 256B.092, and 256B.49,
344.3 or successor provisions, and includes any support plans or service needs identified as
344.4 a result of long-term care consultation, or a support team meeting that includes the
344.5 participation of the person, the person's legal representative, and case manager, or assigned
344.6 to a license holder through an authorized service agreement.

344.7 Subd. 32. **Service site.** "Service site" means the location where the service is
344.8 provided to the person, including but not limited to, a facility licensed according to chapter
344.9 245A; a location where the license holder is the owner, lessor, or tenant; a person's own
344.10 home; or a community-based location.

344.11 Subd. 33. **Staff.** "Staff" means an employee who will have direct contact with a
344.12 person served by the facility, agency, or program.

344.13 Subd. 34. **Support team.** "Support team" means the service planning team
344.14 identified in section 256B.49, subdivision 15, or the interdisciplinary team identified in
344.15 Minnesota Rules, part 9525.0004, subpart 14.

344.16 Subd. 35. **Unit of government.** "Unit of government" means every city, county,
344.17 town, school district, other political subdivisions of the state, and any agency of the state
344.18 or the United States, and includes any instrumentality of a unit of government.

344.19 Subd. 36. **Volunteer.** "Volunteer" means an individual who, under the direction of
344.20 the license holder, provides direct services without pay to a person served by the license
344.21 holder.

344.22 **Sec. 18. [245D.03] APPLICABILITY AND EFFECT.**

344.23 Subdivision 1. **Applicability.** The commissioner shall regulate the provision of
344.24 home and community-based services to persons with disabilities and persons age 65 and
344.25 older pursuant to this chapter. The licensing standards in this chapter govern the provision
344.26 of the following services:

344.27 (1) housing access coordination as defined under the current BI, CADI, and DD
344.28 waiver plans or successor plans;

344.29 (2) respite services as defined under the current CADI, BI, CAC, DD, and EW
344.30 waiver plans or successor plans when the provider is an individual who is not an employee
344.31 of a residential or nonresidential program licensed by the Department of Human Services
344.32 or the Department of Health that is otherwise providing the respite service;

344.33 (3) behavioral programming as defined under the current BI and CADI waiver
344.34 plans or successor plans;

345.1 (4) specialist services as defined under the current DD waiver plan or successor
345.2 plans;

345.3 (5) companion services as defined under the current BI, CADI, and EW waiver
345.4 plans or successor plans, excluding companion services provided under the Corporation
345.5 for National and Community Services Senior Companion Program established under the
345.6 Domestic Volunteer Service Act of 1973, Public Law 98-288;

345.7 (6) personal support as defined under the current DD waiver plan or successor plans;

345.8 (7) 24-hour emergency assistance, on-call and personal emergency response as
345.9 defined under the current CADI and DD waiver plans or successor plans;

345.10 (8) night supervision services as defined under the current BI waiver plan or
345.11 successor plans;

345.12 (9) homemaker services as defined under the current CADI, BI, CAC, DD, and EW
345.13 waiver plans or successor plans, excluding providers licensed by the Department of Health
345.14 under chapter 144A and those providers providing cleaning services only;

345.15 (10) independent living skills training as defined under the current BI and CADI
345.16 waiver plans or successor plans;

345.17 (11) prevocational services as defined under the current BI and CADI waiver plans
345.18 or successor plans;

345.19 (12) structured day services as defined under the current BI waiver plan or successor
345.20 plans; or

345.21 (13) supported employment as defined under the current BI and CADI waiver plans
345.22 or successor plans.

345.23 **Subd. 2. Relationship to other standards governing home and community-based**
345.24 **services.** (a) A license holder governed by this chapter is also subject to the licensure
345.25 requirements under chapter 245A.

345.26 (b) A license holder concurrently providing child foster care services licensed
345.27 according to Minnesota Rules, chapter 2960, to the same person receiving a service
345.28 licensed under this chapter is exempt from section 245D.04, as it applies to the person.

345.29 (c) A license holder concurrently providing home care services registered according
345.30 to sections 144A.43 to 144A.49 to the same person receiving home management services
345.31 licensed under this chapter is exempt from section 245D.04, as it applies to the person.

345.32 (d) A license holder identified in subdivision 1, clauses (1), (5), and (9), is exempt
345.33 from compliance with sections 245A.65, subdivision 2, paragraph (a), and 626.557,
345.34 subdivision 14, paragraph (b).

345.35 (e) Notwithstanding section 245D.06, subdivision 5, a license holder providing
345.36 structured day, prevocational, or supported employment services under this chapter and

346.1 day training and habilitation or supported employment services licensed under chapter
346.2 245B within the same program is exempt from compliance with this chapter, when
346.3 the license holder notifies the commissioner in writing that the requirements under
346.4 chapter 245B will be met for all persons receiving these services from the program. For
346.5 the purposes of this paragraph, if the license holder has obtained approval from the
346.6 commissioner for an alternative inspection status according to section 245B.031, that
346.7 approval will apply to all persons receiving services in the program.

346.8 Subd. 3. **Variance.** If the conditions in section 245A.04, subdivision 9, are met,
346.9 the commissioner may grant a variance to any of the requirements in this chapter, except
346.10 sections 245D.04, and 245D.10, subdivision 4, paragraph (b), or provisions governing
346.11 data practices and information rights of persons.

346.12 Subd. 4. **License holders with multiple 245D licenses.** (a) When a person changes
346.13 service from one license to a different license held by the same license holder, the license
346.14 holder is exempt from the requirements in section 245D.10, subdivision 4, paragraph (b).

346.15 (b) When a staff person begins providing direct service under one or more licenses
346.16 held by the same license holder, other than the license for which staff orientation was
346.17 initially provided according to section 245D.09, subdivision 4, the license holder is
346.18 exempt from those staff orientation requirements; except the staff person must review each
346.19 person's service plan and medication administration procedures in accordance with section
346.20 245D.09, subdivision 4, paragraph (c), if not previously reviewed by the staff person.

346.21 Sec. 19. **[245D.04] SERVICE RECIPIENT RIGHTS.**

346.22 Subdivision 1. **License holder responsibility for individual rights of persons**
346.23 served by the program. The license holder must:

346.24 (1) provide each person or each person's legal representative with a written notice
346.25 that identifies the service recipient rights in subdivisions 2 and 3, and an explanation of
346.26 those rights within five working days of service initiation and annually thereafter;

346.27 (2) make reasonable accommodations to provide this information in other formats
346.28 or languages as needed to facilitate understanding of the rights by the person and the
346.29 person's legal representative, if any;

346.30 (3) maintain documentation of the person's or the person's legal representative's
346.31 receipt of a copy and an explanation of the rights; and

346.32 (4) ensure the exercise and protection of the person's rights in the services provided
346.33 by the license holder and as authorized in the service plan.

346.34 Subd. 2. **Service-related rights.** A person's service-related rights include the right
346.35 to:

347.1 (1) participate in the development and evaluation of the services provided to the
347.2 person;

347.3 (2) have services identified in the service plan provided in a manner that respects
347.4 and takes into consideration the person's preferences;

347.5 (3) refuse or terminate services and be informed of the consequences of refusing
347.6 or terminating services;

347.7 (4) know, in advance, limits to the services available from the license holder;

347.8 (5) know conditions and terms governing the provision of services, including the
347.9 license holder's policies and procedures related to temporary service suspension and
347.10 service termination;

347.11 (6) know what the charges are for services, regardless of who will be paying for the
347.12 services, and be notified of changes in those charges;

347.13 (7) know, in advance, whether services are covered by insurance, government
347.14 funding, or other sources, and be told of any charges the person or other private party
347.15 may have to pay; and

347.16 (8) receive services from an individual who is competent and trained, who has
347.17 professional certification or licensure, as required, and who meets additional qualifications
347.18 identified in the person's service plan.

347.19 Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include
347.20 the right to:

347.21 (1) have personal, financial, service, health, and medical information kept private,
347.22 and be advised of disclosure of this information by the license holder;

347.23 (2) access records and recorded information about the person in accordance with
347.24 applicable state and federal law, regulation, or rule;

347.25 (3) be free from maltreatment;

347.26 (4) be free from restraint or seclusion used for a purpose other than to protect the
347.27 person from imminent danger to self or others;

347.28 (5) receive services in a clean and safe environment when the license holder is the
347.29 owner, lessor, or tenant of the service site;

347.30 (6) be treated with courtesy and respect and receive respectful treatment of the
347.31 person's property;

347.32 (7) reasonable observance of cultural and ethnic practice and religion;

347.33 (8) be free from bias and harassment regarding race, gender, age, disability,
347.34 spirituality, and sexual orientation;

348.1 (9) be informed of and use the license holder's grievance policy and procedures,
348.2 including knowing how to contact persons responsible for addressing problems and to
348.3 appeal under section 256.045;

348.4 (10) know the name, telephone number, and the Web site, e-mail, and street
348.5 addresses of protection and advocacy services, including the appropriate state-appointed
348.6 ombudsman, and a brief description of how to file a complaint with these offices;

348.7 (11) assert these rights personally, or have them asserted by the person's family,
348.8 authorized representative, or legal representative, without retaliation;

348.9 (12) give or withhold written informed consent to participate in any research or
348.10 experimental treatment;

348.11 (13) associate with other persons of the person's choice;

348.12 (14) personal privacy; and

348.13 (15) engage in chosen activities.

348.14 (b) For a person residing in a residential site licensed according to chapter 245A,
348.15 or where the license holder is the owner, lessor, or tenant of the residential service site,
348.16 protection-related rights also include the right to:

348.17 (1) have daily, private access to and use of a non-coin-operated telephone for local
348.18 calls and long-distance calls made collect or paid for by the person;

348.19 (2) receive and send, without interference, uncensored, unopened mail or electronic
348.20 correspondence or communication; and

348.21 (3) privacy for visits with the person's spouse, next of kin, legal counsel, religious
348.22 advisor, or others, in accordance with section 363A.09 of the Human Rights Act, including
348.23 privacy in the person's bedroom.

348.24 (c) Restriction of a person's rights under paragraph (a), clauses (13) to (15), or
348.25 paragraph (b) is allowed only if determined necessary to ensure the health, safety, and
348.26 well-being of the person. Any restriction of those rights must be documented in the service
348.27 plan for the person and must include the following information:

348.28 (1) the justification for the restriction based on an assessment of the person's
348.29 vulnerability related to exercising the right without restriction;

348.30 (2) the objective measures set as conditions for ending the restriction;

348.31 (3) a schedule for reviewing the need for the restriction based on the conditions for
348.32 ending the restriction to occur, at a minimum, every three months for persons who do not
348.33 have a legal representative and annually for persons who do have a legal representative
348.34 from the date of initial approval; and

348.35 (4) signed and dated approval for the restriction from the person, or the person's
348.36 legal representative, if any. A restriction may be implemented only when the required

349.1 approval has been obtained. Approval may be withdrawn at any time. If approval is
349.2 withdrawn, the right must be immediately and fully restored.

349.3 **Sec. 20. [245D.05] HEALTH SERVICES.**

349.4 Subdivision 1. **Health needs.** (a) The license holder is responsible for providing
349.5 health services assigned in the service plan and consistent with the person's health needs.
349.6 The license holder is responsible for promptly notifying the person or the person's legal
349.7 representative and the case manager of changes in a person's physical and mental health
349.8 needs affecting assigned health services, when discovered by the license holder, unless
349.9 the license holder has reason to know the change has already been reported. The license
349.10 holder must document when the notice is provided.

349.11 (b) When assigned in the service plan, the license holder is required to maintain
349.12 documentation on how the person's health needs will be met, including a description of
349.13 the procedures the license holder will follow in order to:

349.14 (1) provide medication administration, medication assistance, or medication
349.15 management according to this chapter;

349.16 (2) monitor health conditions according to written instructions from the person's
349.17 physician or a licensed health professional;

349.18 (3) assist with or coordinate medical, dental, and other health service appointments;
349.19 or

349.20 (4) use medical equipment, devices, or adaptive aides or technology safely and
349.21 correctly according to written instructions from the person's physician or a licensed
349.22 health professional.

349.23 Subd. 2. **Medication administration.** (a) The license holder must ensure that the
349.24 following criteria have been met before staff that is not a licensed health professional
349.25 administers medication or treatment:

349.26 (1) written authorization has been obtained from the person or the person's legal
349.27 representative to administer medication or treatment orders;

349.28 (2) the staff person has completed medication administration training according to
349.29 section 245D.09, subdivision 4, paragraph (c), clause (2); and

349.30 (3) the medication or treatment will be administered under administration procedures
349.31 established for the person in consultation with a licensed health professional. Written
349.32 instruction from the person's physician may constitute the medication administration
349.33 procedures. A prescription label or the prescriber's order for the prescription is sufficient
349.34 to constitute written instructions from the prescriber. A licensed health professional may
349.35 delegate medication administration procedures.

350.1 (b) The license holder must ensure the following information is documented in the
350.2 person's medication administration record:

350.3 (1) the information on the prescription label or the prescriber's order that includes
350.4 directions for safely and correctly administering the medication to ensure effectiveness;

350.5 (2) information on any discomforts, risks, or other side effects that are reasonable to
350.6 expect, and any contraindications to its use;

350.7 (3) the possible consequences if the medication or treatment is not taken or
350.8 administered as directed;

350.9 (4) instruction from the prescriber on when and to whom to report the following:

350.10 (i) if the medication or treatment is not administered as prescribed, whether by error
350.11 by the staff or the person or by refusal by the person; and

350.12 (ii) the occurrence of possible adverse reactions to the medication or treatment;

350.13 (5) notation of any occurrence of medication not being administered as prescribed or
350.14 of adverse reactions, and when and to whom the report was made; and

350.15 (6) notation of when a medication or treatment is started, changed, or discontinued.

350.16 (c) The license holder must ensure that the information maintained in the medication
350.17 administration record is current and is regularly reviewed with the person or the person's
350.18 legal representative and the staff administering the medication to identify medication
350.19 administration issues or errors. At a minimum, the review must be conducted every three
350.20 months or more often if requested by the person or the person's legal representative.

350.21 Based on the review, the license holder must develop and implement a plan to correct
350.22 medication administration issues or errors. If issues or concerns are identified related to
350.23 the medication itself, the license holder must report those as required under subdivision 4.

350.24 Subd. 3. **Medication assistance.** The license holder must ensure that the
350.25 requirements of subdivision 2, paragraph (a), have been met when staff provides assistance
350.26 to enable a person to self-administer medication when the person is capable of directing
350.27 the person's own care, or when the person's legal representative is present and able to
350.28 direct care for the person.

350.29 Subd. 4. **Reporting medication and treatment issues.** The following medication
350.30 administration issues must be reported to the person or the person's legal representative
350.31 and case manager as they occur or following timelines established in the person's service
350.32 plan or as requested in writing by the person or the person's legal representative, or the
350.33 case manager:

350.34 (1) any reports made to the person's physician or prescriber required under
350.35 subdivision 2, paragraph (b), clause (4);

350.36 (2) a person's refusal or failure to take medication or treatment as prescribed; or

351.1 (3) concerns about a person's self-administration of medication.

351.2 Subd. 5. **Injectable medications.** Injectable medications may be administered
351.3 according to a prescriber's order and written instructions when one of the following
351.4 conditions has been met:

351.5 (1) a registered nurse or licensed practical nurse will administer the subcutaneous or
351.6 intramuscular injection;

351.7 (2) a supervising registered nurse with a physician's order has delegated the
351.8 administration of subcutaneous injectable medication to an unlicensed staff member
351.9 and has provided the necessary training; or

351.10 (3) there is an agreement signed by the license holder, the prescriber, and the person
351.11 or the person's legal representative, specifying what subcutaneous injections may be
351.12 given, when, how, and that the prescriber must retain responsibility for the license
351.13 holder's giving the injections. A copy of the agreement must be placed in the person's
351.14 service recipient record.

351.15 Only licensed health professionals are allowed to administer psychotropic
351.16 medications by injection.

351.17 Sec. 21. **[245D.06] PROTECTION STANDARDS.**

351.18 Subdivision 1. **Incident response and reporting.** (a) The license holder must
351.19 respond to all incidents under section 245D.02, subdivision 11, that occur while providing
351.20 services to protect the health and safety of and minimize risk of harm to the person.

351.21 (b) The license holder must maintain information about and report incidents to the
351.22 person's legal representative or designated emergency contact and case manager within 24
351.23 hours of an incident occurring while services are being provided, or within 24 hours of
351.24 discovery or receipt of information that an incident occurred, unless the license holder has
351.25 reason to know that the incident has already been reported. An incident of suspected or
351.26 alleged maltreatment must be reported as required under paragraph (d), and an incident of
351.27 serious injury or death must be reported as required under paragraph (e).

351.28 (c) When the incident involves more than one person, the license holder must not
351.29 disclose personally identifiable information about any other person when making the report
351.30 to each person and case manager unless the license holder has the consent of the person.

351.31 (d) Within 24 hours of reporting maltreatment as required under section 626.556
351.32 or 626.557, the license holder must inform the case manager of the report unless there is
351.33 reason to believe that the case manager is involved in the suspected maltreatment. The
351.34 license holder must disclose the nature of the activity or occurrence reported and the
351.35 agency that received the report.

352.1 (e) Within 24 hours of the occurrence, or within 24 hours of receipt of the
352.2 information, the license holder must report the death or serious injury of the person to
352.3 the legal representative, if any, and case manager, the Department of Human Services
352.4 Licensing Division, and the Office of Ombudsman for Mental Health and Developmental
352.5 Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death,
352.6 discovery of the death, or receipt of information that the death occurred unless the license
352.7 holder has reason to know that the death has already been reported.

352.8 (f) The license holder must conduct a review of incident reports, for identification
352.9 of incident patterns, and implementation of corrective action as necessary to reduce
352.10 occurrences.

352.11 Subd. 2. **Environment and safety.** The license holder must:

352.12 (1) ensure the following when the license holder is the owner, lessor, or tenant
352.13 of the service site:

352.14 (i) the service site is a safe and hazard-free environment;

352.15 (ii) doors are locked or toxic substances or dangerous items normally accessible
352.16 to persons served by the program are stored in locked cabinets, drawers, or containers
352.17 only to protect the safety of a person receiving services and not as a substitute for staff
352.18 supervision or interactions with a person who is receiving services. If doors are locked or
352.19 toxic substances or dangerous items normally accessible to persons served by the program
352.20 are stored in locked cabinets, drawers, or containers, the license holder must justify and
352.21 document how this determination was made in consultation with the person or person's
352.22 legal representative, and how access will otherwise be provided to the person and all other
352.23 affected persons receiving services; and

352.24 (iii) a staff person is available on site who is trained in basic first aid whenever
352.25 persons are present and staff are required to be at the site to provide direct service;

352.26 (2) maintain equipment, vehicles, supplies, and materials owned or leased by the
352.27 license holder in good condition when used to provide services;

352.28 (3) follow procedures to ensure safe transportation, handling, and transfers of the
352.29 person and any equipment used by the person, when the license holder is responsible for
352.30 transportation of a person or a person's equipment;

352.31 (4) be prepared for emergencies and follow emergency response procedures to
352.32 ensure the person's safety in an emergency; and

352.33 (5) follow sanitary practices for infection control and to prevent communicable
352.34 diseases.

352.35 Subd. 3. **Compliance with fire and safety codes.** When services are provided at a
352.36 service site licensed according to chapter 245A or where the license holder is the owner,

353.1 lessor, or tenant of the service site, the license holder must document compliance with
353.2 applicable building codes, fire and safety codes, health rules, and zoning ordinances, or
353.3 document that an appropriate waiver has been granted.

353.4 Subd. 4. **Funds and property.** (a) Whenever the license holder assists a person
353.5 with the safekeeping of funds or other property according to section 245A.04, subdivision
353.6 13, the license holder must have written authorization to do so from the person and the
353.7 case manager.

353.8 (b) A license holder or staff person may not accept powers-of-attorney from a
353.9 person receiving services from the license holder for any purpose, and may not accept an
353.10 appointment as guardian or conservator of a person receiving services from the license
353.11 holder. This does not apply to license holders that are Minnesota counties or other units
353.12 of government or to staff persons employed by license holders who were acting as
353.13 power-of-attorney, guardian, or conservator for specific individuals prior to enactment of
353.14 this section. The license holder must maintain documentation of the power-of-attorney,
353.15 guardianship, or conservatorship in the service recipient record.

353.16 Subd. 5. **Prohibitions.** The license holder is prohibited from using psychotropic
353.17 medication as a substitute for adequate staffing, as punishment, for staff convenience,
353.18 or for any reason other than as prescribed. The license holder is prohibited from using
353.19 restraints or seclusion under any circumstance, unless the commissioner has approved a
353.20 variance request from the license holder that allows for the emergency use of restraints
353.21 and seclusion according to terms and conditions approved in the variance.

353.22 Sec. 22. **[245D.07] SERVICE NEEDS.**

353.23 Subdivision 1. **Provision of services.** The license holder must provide services as
353.24 specified in the service plan and assigned to the license holder. The provision of services
353.25 must comply with the requirements of this chapter and the federal waiver plans.

353.26 Subd. 2. **Service planning.** The license holder must participate in support team
353.27 meetings related to the person following stated timelines established in the person's service
353.28 plan or as requested by the support team, the person, or the person's legal representative.

353.29 Subd. 3. **Reports.** The license holder must provide written reports regarding the
353.30 person's progress or status as requested by the person, the person's legal representative, the
353.31 case manager, or the team.

353.32 Sec. 23. **[245D.08] RECORD REQUIREMENTS.**

354.1 Subdivision 1. **Record-keeping systems.** The license holder must ensure that the
354.2 content and format of service recipient, personnel, and program records are uniform,
354.3 legible, and in compliance with the requirements of this chapter.

354.4 Subd. 2. **Service recipient record.** (a) The license holder must:

354.5 (1) maintain a record of current services provided to each person on the premises
354.6 where the services are provided or coordinated; and

354.7 (2) protect service recipient records against loss, tampering, or unauthorized
354.8 disclosure in compliance with sections 13.01 to 13.10 and 13.46.

354.9 (b) The license holder must maintain the following information for each person:

354.10 (1) identifying information, including the person's name, date of birth, address, and
354.11 telephone number;

354.12 (2) the name, address, and telephone number of the person's legal representative, if
354.13 any, an emergency contact, the case manager, and family members or others as identified
354.14 by the person or case manager;

354.15 (3) service information, including service initiation information, verification of the
354.16 person's eligibility for services, and documentation verifying that services have been
354.17 provided as identified in the service plan according to paragraph (a);

354.18 (4) health information, including medical history and allergies; and when the license
354.19 holder is assigned responsibility for meeting the person's health needs according to section
354.20 245D.05:

354.21 (i) current orders for medication, treatments, or medical equipment;

354.22 (ii) medication administration procedures;

354.23 (iii) a medication administration record documenting the implementation of the
354.24 medication administration procedures, including any agreements for administration of
354.25 injectable medications by the license holder; and

354.26 (iv) a medical appointment schedule;

354.27 (5) the person's current service plan or that portion of the plan assigned to the
354.28 license holder. When a person's case manager does not provide a current service plan,
354.29 the license holder must make a written request to the case manager to provide a copy of
354.30 the service plan and inform the person of the right to a current service plan and the right
354.31 to appeal under section 256.045;

354.32 (6) a record of other service providers serving the person when the person's service
354.33 plan identifies the need for coordination between the service providers, that includes
354.34 a contact person and telephone numbers, services being provided, and names of staff
354.35 responsible for coordination;

355.1 (7) documentation of orientation to the service recipient rights according to section
355.2 245D.04, subdivision 1, and maltreatment reporting policies and procedures according to
355.3 section 245A.65, subdivision 1, paragraph (c);

355.4 (8) copies of authorizations to handle a person's funds, according to section 245D.06,
355.5 subdivision 4, paragraph (a);

355.6 (9) documentation of complaints received and grievance resolution;

355.7 (10) incident reports required under section 245D.06, subdivision 1;

355.8 (11) copies of written reports regarding the person's status when requested according
355.9 to section 245D.07, subdivision 3; and

355.10 (12) discharge summary, including service termination notice and related
355.11 documentation, when applicable.

355.12 Subd. 3. **Access to service recipient records.** The license holder must ensure that
355.13 the following people have access to the information in subdivision 1 in accordance with
355.14 applicable state and federal law, regulation, or rule:

355.15 (1) the person, the person's legal representative, and anyone properly authorized
355.16 by the person;

355.17 (2) the person's case manager;

355.18 (3) staff providing services to the person unless the information is not relevant to
355.19 carrying out the service plan; and

355.20 (4) the county adult foster care licenser, when services are also licensed as adult
355.21 foster care.

355.22 Subd. 4. **Personnel records.** The license holder must maintain a personnel record
355.23 of each employee, direct service volunteer, and subcontractor to document and verify staff
355.24 qualifications, orientation, and training. For the purposes of this subdivision, the terms
355.25 "staff" or "staff person" mean paid employee, direct service volunteer, or subcontractor.
355.26 The personnel record must include:

355.27 (1) the staff person's date of hire, completed application, a position description
355.28 signed by the staff person, documentation that the staff person meets the position
355.29 requirements as determined by the license holder, the date of first supervised direct contact
355.30 with a person served by the program, and the date of first unsupervised direct contact with
355.31 a person served by the program;

355.32 (2) documentation of staff qualifications, orientation, training, and performance
355.33 evaluations as required under section 245D.09, subdivisions 3, 4, and 5, including the
355.34 date the training was completed, the number of hours per subject area, and the name and
355.35 qualifications of the trainer or instructor; and

355.36 (3) a completed background study as required under chapter 245C.

356.1 Sec. 24. **[245D.09] STAFFING STANDARDS.**

356.2 **Subdivision 1. Staffing requirements.** The license holder must provide direct
356.3 service staff sufficient to ensure the health, safety, and protection of rights of each person
356.4 and to be able to implement the responsibilities assigned to the license holder in each
356.5 person's service plan.

356.6 **Subd. 2. Supervision of staff having direct contact.** Except for a license holder
356.7 who are the sole direct service staff, the license holder must provide adequate supervision
356.8 of staff providing direct service to ensure the health, safety, and protection of rights of
356.9 each person and implementation of the responsibilities assigned to the license holder in
356.10 each person's service plan.

356.11 **Subd. 3. Staff qualifications.** (a) The license holder must ensure that staff is
356.12 competent through training, experience, and education to meet the person's needs and
356.13 additional requirements as written in the service plan, or when otherwise required by the
356.14 case manager or the federal waiver plan. The license holder must verify and maintain
356.15 evidence of staff competency, including documentation of:

356.16 (1) education and experience qualifications, including a valid degree and transcript,
356.17 or a current license, registration, or certification, when a degree or licensure, registration,
356.18 or certification is required;

356.19 (2) completion of required orientation and training, including completion of
356.20 continuing education required to maintain professional licensure, registration, or
356.21 certification requirements; and

356.22 (3) except for a license holder who is the sole direct service staff, performance
356.23 evaluations completed by the license holder of the direct service staff person's ability to
356.24 perform the job functions based on direct observation.

356.25 (b) Staff under 18 years of age may not perform overnight duties or administer
356.26 medication.

356.27 **Subd. 4. Orientation.** (a) Except for a license holder who does not supervise any
356.28 direct service staff, within 90 days of hiring direct service staff, the license holder must
356.29 provide and ensure completion of orientation that combines supervised on-the-job training
356.30 with review of and instruction on the following:

356.31 (1) the job description and how to complete specific job functions, including:

356.32 (i) responding to and reporting incidents as required under section 245D.06,
356.33 subdivision 1; and

356.34 (ii) following safety practices established by the license holder and as required in
356.35 section 245D.06, subdivision 2;

357.1 (2) the license holder's current policies and procedures required under this chapter,
357.2 including their location and access, and staff responsibilities related to implementation
357.3 of those policies and procedures;

357.4 (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the
357.5 federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff
357.6 responsibilities related to complying with data privacy practices;

357.7 (4) the service recipient rights under section 245D.04, and staff responsibilities
357.8 related to ensuring the exercise and protection of those rights;

357.9 (5) sections 245A.65; 245A.66, 626.556, and 626.557, governing maltreatment
357.10 reporting and service planning for children and vulnerable adults, and staff responsibilities
357.11 related to protecting persons from maltreatment and reporting maltreatment;

357.12 (6) what constitutes use of restraints, seclusion, and psychotropic medications, and
357.13 staff responsibilities related to the prohibitions of their use; and

357.14 (7) other topics as determined necessary in the person's service plan by the case
357.15 manager or other areas identified by the license holder.

357.16 (b) License holders who provide direct service themselves must complete the
357.17 orientation required in paragraph (a), clauses (3) to (7).

357.18 (c) Before providing unsupervised direct service to a person served by the program,
357.19 or for whom the staff person has not previously provided direct service, or any time the
357.20 plans or procedures identified in clauses (1) and (2) are revised, the staff person must
357.21 review and receive instruction on the following as it relates to the staff person's job
357.22 functions for that person:

357.23 (1) the person's service plan as it relates to the responsibilities assigned to the license
357.24 holder, and when applicable, the person's individual abuse prevention plan according to
357.25 section 245A.65, to achieve an understanding of the person as a unique individual, and
357.26 how to implement those plans; and

357.27 (2) medication administration procedures established for the person when assigned
357.28 to the license holder according to section 245D.05, subdivision 1, paragraph (b).

357.29 Unlicensed staff may administer medications only after successful completion of a
357.30 medication administration training, from a training curriculum developed by a registered
357.31 nurse, clinical nurse specialist in psychiatric and mental health nursing, certified nurse
357.32 practitioner, physician's assistant, or physician incorporating an observed skill assessment
357.33 conducted by the trainer to ensure staff demonstrate the ability to safely and correctly
357.34 follow medication procedures. Medication administration must be taught by a registered
357.35 nurse, clinical nurse specialist, certified nurse practitioner, physician's assistant, or
357.36 physician, if at the time of service initiation or any time thereafter, the person has or

358.1 develops a health care condition that affects the service options available to the person
358.2 because the condition requires:

358.3 (i) specialized or intensive medical or nursing supervision;

358.4 (ii) nonmedical service providers to adapt their services to accommodate the health
358.5 and safety needs of the person; and

358.6 (iii) necessary training in order to meet the health service needs of the person as
358.7 determined by the person's physician.

358.8 Subd. 5. **Training.** (a) A license holder must provide annual training to direct
358.9 service staff on the topics identified in subdivision 4, paragraph (a), clauses (3) to (6).

358.10 (b) A license holder providing behavioral programming, specialist services, personal
358.11 support, 24-hour emergency assistance, night supervision, independent living skills,
358.12 structured day, prevocational, or supported employment services must provide a minimum
358.13 of eight hours of annual training to direct service staff that addresses:

358.14 (1) topics related to the general health, safety, and service needs of the population
358.15 served by the license holder; and

358.16 (2) other areas identified by the license holder or in the person's current service plan.

358.17 Training on relevant topics received from sources other than the license holder
358.18 may count toward training requirements.

358.19 (c) When the license holder is the owner, lessor, or tenant of the service site and
358.20 whenever a person receiving services is present at the site, the license holder must have
358.21 a staff person available on site who is trained in basic first aid and, when required in a
358.22 person's service plan, cardiopulmonary resuscitation.

358.23 Subd. 6. **Subcontractors.** If the license holder uses a subcontractor to perform
358.24 services licensed under this chapter on their behalf, the license holder must ensure that the
358.25 subcontractor meets and maintains compliance with all requirements under this chapter
358.26 that apply to the services to be provided.

358.27 Subd. 7. **Volunteers.** The license holder must ensure that volunteers who provide
358.28 direct services to persons served by the program receive the training, orientation, and
358.29 supervision necessary to fulfill their responsibilities.

358.30 **Sec. 25. [245D.10] POLICIES AND PROCEDURES.**

358.31 Subdivision 1. **Policy and procedure requirements.** The license holder must
358.32 establish, enforce, and maintain policies and procedures as required in this chapter.

358.33 Subd. 2. **Grievances.** The license holder must establish policies and procedures that
358.34 provide a simple complaint process for persons served by the program and their authorized
358.35 representatives to bring a grievance that:

359.1 (1) provides staff assistance with the complaint process when requested, and the
359.2 addresses and telephone numbers of outside agencies to assist the person;

359.3 (2) allows the person to bring the complaint to the highest level of authority in the
359.4 program if the grievance cannot be resolved by other staff members, and that provides
359.5 the name, address, and telephone number of that person;

359.6 (3) requires the license holder to promptly respond to all complaints affecting a
359.7 person's health and safety. For all other complaints the license holder must provide an
359.8 initial response within 14 calendar days of receipt of the complaint. All complaints must
359.9 be resolved within 30 calendar days of receipt or the license holder must document the
359.10 reason for the delay and a plan for resolution;

359.11 (4) requires a complaint review that includes an evaluation of whether:

359.12 (i) related policies and procedures were followed and adequate;

359.13 (ii) there is a need for additional staff training;

359.14 (iii) the complaint is similar to past complaints with the persons, staff, or services
359.15 involved; and

359.16 (iv) there is a need for corrective action by the license holder to protect the health
359.17 and safety of persons receiving services;

359.18 (5) based on the review in clause (4), requires the license holder to develop,
359.19 document, and implement a corrective action plan, designed to correct current lapses and
359.20 prevent future lapses in performance by staff or the license holder, if any;

359.21 (6) provides a written summary of the complaint and a notice of the complaint
359.22 resolution to the person and case manager, that:

359.23 (i) identifies the nature of the complaint and the date it was received;

359.24 (ii) includes the results of the complaint review;

359.25 (iii) identifies the complaint resolution, including any corrective action; and

359.26 (7) requires that the complaint summary and resolution notice be maintained in the
359.27 service recipient record.

359.28 Subd. 3. **Service suspension and service termination.** (a) The license holder must
359.29 establish policies and procedures for temporary service suspension and service termination
359.30 that promote continuity of care and service coordination with the person and the case
359.31 manager, and with other licensed caregivers, if any, who also provide support to the person.

359.32 (b) The policy must include the following requirements:

359.33 (1) the license holder must notify the person and case manager in writing of the
359.34 intended termination or temporary service suspension, and the person's right to seek a
359.35 temporary order staying the termination of service according to the procedures in section
359.36 256.045, subdivision 4a, or 6, paragraph (c);

360.1 (2) notice of the proposed termination of services, including those situations
360.2 that began with a temporary service suspension, must be given at least 60 days before
360.3 the proposed termination is to become effective when a license holder is providing
360.4 independent living skills training, structured day, prevocational or supported employment
360.5 services to the person, and 30 days prior to termination for all other services licensed
360.6 under this chapter;

360.7 (3) the license holder must provide information requested by the person or case
360.8 manager when services are temporarily suspended or upon notice of termination;

360.9 (4) prior to giving notice of service termination or temporary service suspension,
360.10 the license holder must document actions taken to minimize or eliminate the need for
360.11 service suspension or termination;

360.12 (5) during the temporary service suspension or service termination notice period,
360.13 the license holder will work with the appropriate county agency to develop reasonable
360.14 alternatives to protect the person and others;

360.15 (6) the license holder must maintain information about the service suspension or
360.16 termination, including the written termination notice, in the service recipient record; and

360.17 (7) the license holder must restrict temporary service suspension to situations in
360.18 which the person's behavior causes immediate and serious danger to the health and safety
360.19 of the person or others.

360.20 Subd. 4. **Availability of current written policies and procedures.** (a) The license
360.21 holder must review and update, as needed, the written policies and procedures required
360.22 under this chapter.

360.23 (b) The license holder must inform the person and case manager of the policies and
360.24 procedures affecting a person's rights under section 245D.04, and provide copies of those
360.25 policies and procedures, within five working days of service initiation.

360.26 (c) The license holder must provide a written notice at least 30 days before
360.27 implementing any revised policies and procedures affecting a person's rights under section
360.28 245D.04. The notice must explain the revision that was made and include a copy of
360.29 the revised policy and procedure. The license holder must document the reason for not
360.30 providing the notice at least 30 days before implementing the revisions.

360.31 (d) Before implementing revisions to required policies and procedures the license
360.32 holder must inform all employees of the revisions and provide training on implementation
360.33 of the revised policies and procedures.

361.1 Sec. 26. Minnesota Statutes 2010, section 256B.4912, is amended to read:

361.2 **256B.4912 HOME AND COMMUNITY-BASED WAIVERS; PROVIDERS**
361.3 **AND PAYMENT.**

361.4 Subdivision 1. **Provider qualifications.** For the home and community-based
361.5 waivers providing services to seniors and individuals with disabilities, the commissioner
361.6 shall establish:

361.7 (1) agreements with enrolled waiver service providers to ensure providers meet
361.8 ~~qualifications defined in the waiver plans~~ Minnesota health care program requirements;

361.9 (2) regular reviews of provider qualifications, and including requests of proof of
361.10 documentation; and

361.11 (3) processes to gather the necessary information to determine provider
361.12 qualifications.

361.13 ~~By July 2010, Beginning July 1, 2012,~~ staff that provide direct contact, as defined
361.14 in section 245C.02, subdivision 11, ~~that are employees of waiver service providers for~~
361.15 services specified in the federally approved waiver plans must meet the requirements
361.16 of chapter 245C prior to providing waiver services and as part of ongoing enrollment.
361.17 Upon federal approval, this requirement must also apply to consumer-directed community
361.18 supports.

361.19 Subd. 2. ~~Rate-setting~~ **Payment methodologies.** (a) The commissioner shall
361.20 establish statewide ~~rate-setting~~ payment methodologies that meet federal waiver
361.21 requirements for home and community-based waiver services for individuals with
361.22 disabilities. The ~~rate-setting~~ payment methodologies must abide by the principles of
361.23 transparency and equitability across the state. The methodologies must involve a uniform
361.24 process of structuring rates for each service and must promote quality and participant
361.25 choice.

361.26 (b) As of January 1, 2012, counties shall not implement changes to established
361.27 processes for rate-setting methodologies for individuals using components of or data
361.28 from research rates.

361.29 Subd. 3. **Payment requirements.** The payment methodologies established under
361.30 this section shall accommodate:

361.31 (1) supervision costs;

361.32 (2) staffing patterns;

361.33 (3) program-related expenses;

361.34 (4) general and administrative expenses; and

361.35 (5) consideration of recipient intensity.

362.1 Subd. 4. **Payment rate criteria.** (a) The payment methodologies under this section
362.2 shall reflect the payment rate criteria in paragraphs (b), (c), and (d).

362.3 (b) Payment rates shall reflect the reasonable, ordinary, and necessary costs of
362.4 service delivery.

362.5 (c) Payment rates shall be sufficient to enlist enough providers so that care and
362.6 services are available at least to the extent that such care and services are available to
362.7 the general population in the geographic area as required by section 1902(a)(30)(A) of
362.8 the Social Security Act.

362.9 (d) The commissioner must not reimburse:

362.10 (1) unauthorized service delivery;

362.11 (2) services provided under a receipt of a special grant;

362.12 (3) services provided under contract to a local school district;

362.13 (4) extended employment services under Minnesota Rules, parts 3300.2005 to
362.14 3300.3100, or vocational rehabilitation services provided under the federal Rehabilitation
362.15 Act, as amended, Title I, section 110, or Title VI-C, and not through use of medical
362.16 assistance or county social service funds; or

362.17 (5) services provided to a client by a licensed medical, therapeutic, or rehabilitation
362.18 practitioner or any other vendor of medical care which are billed separately on a
362.19 fee-for-service basis.

362.20 Subd. 5. **County and tribal provider contract elimination.** County and tribal
362.21 contracts with providers of home and community-based waiver services provided under
362.22 sections 256B.0913, 256B.0915, 256B.092, and 256B.49 are eliminated effective January
362.23 1, 2014.

362.24 Subd. 6. **Program standards.** The commissioner of human services must establish
362.25 uniform program standards for services identified in chapter 245D for persons with
362.26 disabilities and people age 65 and older. The commissioner must grant licenses according
362.27 to the provisions of chapter 245A.

362.28 Subd. 7. **Applicant and license holder training.** An applicant or license holder
362.29 that is not enrolled as a Minnesota health care program home and community-based
362.30 services waiver provider at the time of application must ensure that at least one controlling
362.31 individual completes a onetime training on the requirements for providing home and
362.32 community-based services from a qualified source as determined by the commissioner,
362.33 before a provider is enrolled or license is issued.

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

362.35 Sec. 27. **[256B.4913] PAYMENT METHODOLOGY DEVELOPMENT.**

363.1 Subdivision 1. **Research period and rates.** (a) For the purposes of this
363.2 section, "research rate" means a proposed payment rate for the provision of home
363.3 and community-based waived services to meet federal requirements and assess
363.4 the implications of changing resources on the provision of services and "research
363.5 period" means the time period during which the research rate is being assessed by the
363.6 commissioner.

363.7 (b) The commissioner shall determine and publish initial frameworks and values to
363.8 generate research rates for individuals receiving home and community-based services.

363.9 (c) The initial values issued by the commissioner shall ensure projected spending
363.10 for home and community-based services for each service area is equivalent to projected
363.11 spending under current law in the most recent expenditure forecast.

363.12 (d) The initial values issued shall be based on the most updated information and cost
363.13 data available on supervision, employee-related costs, client programming and supports,
363.14 programming planning supports, transportation, administrative overhead, and utilization
363.15 costs. These service areas are:

363.16 (1) residential services, defined as corporate foster care, family foster care, residential
363.17 care, supported living services, customized living, and 24-hour customized living;

363.18 (2) day program services, defined as adult day care, day training and habilitation,
363.19 prevocational services, structured day services, and transportation;

363.20 (3) unit-based services with programming, defined as in-home family support,
363.21 independent living services, supported living services, supported employment, behavior
363.22 programming, and housing access coordination; and

363.23 (4) unit-based services without programming, defined as respite, personal support,
363.24 and night supervision.

363.25 (e) The commissioner shall make available the underlying assessment information,
363.26 without any identifying information, and the statistical modeling used to generate the
363.27 initial research rate and calculate budget neutrality.

363.28 Subd. 2. **Framework values.** (a) The commissioner shall propose legislation with
363.29 the specific payment methodology frameworks, process for calculation, and specific
363.30 values to populate the frameworks by February 15, 2013.

363.31 (b) The commissioner shall provide underlying data and information used to
363.32 formulate the final frameworks and values to the existing stakeholder workgroup by
363.33 January 15, 2013.

363.34 (c) The commissioner shall provide recommendations for the final frameworks
363.35 and values, and the basis for the recommendations to the legislative committees with
363.36 jurisdiction over health and human services finance by February 15, 2013.

364.1 (d) The commissioner shall review the following topics during the research period
364.2 and propose, as necessary, recommendations to address the following research questions:

364.3 (1) underlying differences in the cost to provide services throughout the state;

364.4 (2) a data-driven process for determining labor costs and customizations for staffing
364.5 classifications included in each rate framework based on the services performed;

364.6 (3) the allocation of resources previously established under section 256B.501,
364.7 subdivision 4b;

364.8 (4) further definition and development of unit-based services;

364.9 (5) the impact of splitting the allocation of resources for unit-based services for those
364.10 with programming aspects and those without;

364.11 (6) linking assessment criteria to future assessment processes for determination
364.12 of customizations;

364.13 (7) recognition of cost differences in the use of monitoring technology where it is
364.14 appropriate to substitute for supervision;

364.15 (8) implications for day services of reimbursement based on a unit rate and a daily
364.16 rate;

364.17 (9) a definition of shared and individual staffing for unit-based services;

364.18 (10) the underlying costs of providing transportation associated with day services;

364.19 and

364.20 (11) an exception process for individuals with exceptional needs that cannot be met
364.21 under the initial research rate, and an alternative payment structure for those individuals.

364.22 (e) The commissioner shall develop a comprehensive plan based on information
364.23 gathered during the research period that uses statistically reliable and valid assessment
364.24 data to refine payment methodologies.

364.25 (f) The commissioner shall make recommendations and provide underlying data and
364.26 information used to formulate these research recommendations to the existing stakeholder
364.27 workgroup by January 15, 2013.

364.28 Subd. 3. **Data collection.** (a) The commissioner shall conduct any necessary
364.29 research and gather additional data for the further development and refinement of payment
364.30 methodology components. These include but are not limited to:

364.31 (1) levels of service utilization and patterns of use;

364.32 (2) staffing patterns for each service;

364.33 (3) profile of individual service needs; and

364.34 (4) cost factors involved in providing transportation services.

364.35 (b) The commissioner shall provide this information to the existing stakeholder
364.36 workgroup by January 15, 2013.

365.1 Subd. 4. **Rate stabilization adjustment.** Beginning January 1, 2014, the
365.2 commissioner shall adjust individual rates determined by the new payment methodology
365.3 so that the new rate varies no more than one percent per year from the rate effective
365.4 on December 31 of the prior calendar year. This adjustment is made annually and is
365.5 effective for three calendar years from the date of implementation. This subdivision
365.6 expires January 1, 2017.

365.7 Subd. 5. **Stakeholder consultation.** The commissioner shall continue consultation
365.8 on regular intervals with the existing stakeholder group established as part of the
365.9 rate-setting methodology process to gather input, concerns, data, and exchange ideas for
365.10 the legislative proposals for the new rate payment system and make pertinent information
365.11 available to the public through the department's Web site.

365.12 Subd. 6. **Implementation.** The commissioner may implement changes no
365.13 sooner than January 1, 2014, to payment rates for individuals receiving home and
365.14 community-based waived services after the enactment of legislation that establishes
365.15 specific payment methodology frameworks, processes for rate calculations, and specific
365.16 values to populate the payment methodology frameworks.

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

APPENDIX
Article locations in UES1675-1

ARTICLE 1	CHILDREN AND FAMILIES POLICY PROVISIONS	Page.Ln 2.33
ARTICLE 2	SAFE PLACE FOR NEWBORNS	Page.Ln 56.1
ARTICLE 3	ADOPTION ASSISTANCE	Page.Ln 58.18
ARTICLE 4	CHILD PROTECTION	Page.Ln 80.14
ARTICLE 5	CHILD SUPPORT	Page.Ln 120.14
ARTICLE 6	TECHNICAL AND CONFORMING AMENDMENTS	Page.Ln 125.6
ARTICLE 7	CHILD CARE	Page.Ln 147.13
ARTICLE 8	SIMPLIFICATION OF MFIP AND DWP	Page.Ln 156.6
ARTICLE 9	CONTINUING CARE	Page.Ln 162.14
ARTICLE 10	TELEPHONE EQUIPMENT PROGRAM	Page.Ln 198.27
	COMPREHENSIVE ASSESSMENT AND CASE MANAGEMENT	
ARTICLE 11	REFORM	Page.Ln 206.13
ARTICLE 12	CHEMICAL AND MENTAL HEALTH	Page.Ln 248.31
ARTICLE 13	HEALTH CARE	Page.Ln 255.4
ARTICLE 14	TECHNICAL	Page.Ln 284.6
ARTICLE 15	DATA PRACTICES	Page.Ln 285.10
ARTICLE 16	LICENSING	Page.Ln 295.11
ARTICLE 17	PROGRAM INTEGRITY	Page.Ln 323.4
	STATEWIDE PROVIDER ENROLLMENT, PERFORMANCE	
	STANDARDS, AND PAYMENT METHODOLOGY	
ARTICLE 18	DEVELOPMENT	Page.Ln 327.16

256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.

Subd. 18b. **Protections for American Indians.** Effective July 1, 2009, the commissioner shall comply with the federal requirements in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, section 5006, regarding American Indians.

256.022 CHILD MALTREATMENT REVIEW PANEL.

256.022 CHILD MALTREATMENT REVIEW PANEL.

Subdivision 1. **Creation.** The commissioner of human services shall establish a review panel for purposes of reviewing investigating agency determinations regarding maltreatment of a child in a facility in response to requests received under section 626.556, subdivision 10i, paragraph (b). The review panel consists of the commissioners of health; human services; education; public safety; and corrections; and the ombudsman for mental health and developmental disabilities; or their designees.

Subd. 2. **Review procedure.** (a) The panel shall hold quarterly meetings for purposes of conducting reviews under this section. If an interested person acting on behalf of a child requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the final determination regarding maltreatment made by the investigating agency and may review any other data on the investigation maintained by the agency that are pertinent and necessary to its review of the determination. If more than one person requests a review under this section with respect to the same determination, the review panel shall combine the requests into one review. Upon receipt of a request for a review, the panel shall notify the alleged perpetrator of maltreatment that a review has been requested and provide an approximate timeline for conducting the review.

(b) Within 30 days of the review under this section, the panel shall notify the investigating agency and the interested person who requested the review as to whether the panel agrees with the determination or whether the investigating agency must reconsider the determination. If the panel determines that the agency must reconsider the determination, the panel must make specific investigative recommendations to the agency. Within 30 days the investigating agency shall conduct a review and report back to the panel with its reconsidered determination and the specific rationale for its determination.

Subd. 3. **Report.** By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.556 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the investigating agency to reconsider its final determination, the number of cases where the final determination is changed, and any recommendations to improve the review or investigative process.

Subd. 4. **Data.** Data of the review panel created as part of a review under this section are private data on individuals as defined in section 13.02.

256.022 CHILD MALTREATMENT REVIEW PANEL.

Subdivision 1. **Creation.** The commissioner of human services shall establish a review panel for purposes of reviewing investigating agency determinations regarding maltreatment of a child in a facility in response to requests received under section 626.556, subdivision 10i, paragraph (b). The review panel consists of the commissioners of health; human services; education; public safety; and corrections; and the ombudsman for mental health and developmental disabilities; or their designees.

Subd. 2. **Review procedure.** (a) The panel shall hold quarterly meetings for purposes of conducting reviews under this section. If an interested person acting on behalf of a child requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the final determination regarding maltreatment made by the investigating agency and may review any other data on the investigation maintained by the agency that are pertinent and necessary to its review of the determination. If more than one person requests a review under this section with respect to the same determination, the review panel shall combine the requests into one review. Upon

APPENDIX

Repealed Minnesota Statutes: UES1675-1

receipt of a request for a review, the panel shall notify the alleged perpetrator of maltreatment that a review has been requested and provide an approximate timeline for conducting the review.

(b) Within 30 days of the review under this section, the panel shall notify the investigating agency and the interested person who requested the review as to whether the panel agrees with the determination or whether the investigating agency must reconsider the determination. If the panel determines that the agency must reconsider the determination, the panel must make specific investigative recommendations to the agency. Within 30 days the investigating agency shall conduct a review and report back to the panel with its reconsidered determination and the specific rationale for its determination.

Subd. 3. **Report.** By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.556 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the investigating agency to reconsider its final determination, the number of cases where the final determination is changed, and any recommendations to improve the review or investigative process.

Subd. 4. **Data.** Data of the review panel created as part of a review under this section are private data on individuals as defined in section 13.02.

256B.431 RATE DETERMINATION.

Subd. 2c. **Operating costs after July 1, 1986.** For rate years beginning on or after July 1, 1986, the commissioner may allow a one time adjustment to historical operating costs of a nursing facility that has been found by the commissioner of health to be significantly below care related minimum standards appropriate to the mix of resident needs in that nursing facility when it is determined by the commissioners of health and human services that the nursing facility is unable to meet minimum standards through reallocation of nursing facility costs and efficiency incentives or allowances. In developing procedures to allow adjustments, the commissioner shall specify the terms and conditions governing any additional payments made to a nursing facility as a result of the adjustment. The commissioner shall establish procedures to recover amounts paid under this subdivision, in whole or in part, and to adjust current and future rates, for nursing facilities that fail to use the adjustment to satisfy care related minimum standards.

Subd. 2g. **Required consultants.** Costs considered general and administrative costs under section 256B.421 must be included in general and administrative costs in total, without direct or indirect allocation to other cost categories. In a nursing facility of 60 or fewer beds, part of an administrator's salary may be allocated to other cost categories to the extent justified in records kept by the nursing facility. Central or home office costs representing services of required consultants in areas including, but not limited to, dietary, pharmacy, social services, or activities may be allocated to the appropriate department, but only if those costs are directly identified by the nursing facility. Central, affiliated, or corporate office costs representing services of consultants not required by law in the areas of nursing, quality assurance, medical records, dietary, other care related services, and plant operations may be allocated to the appropriate operating cost category of a nursing facility according to paragraphs (a) to (e).

(a) Only the salaries, fringe benefits, and payroll taxes associated with the individual performing the service may be allocated. No other costs may be allocated.

(b) The allocation must be based on direct identification and only to the extent justified in time distribution records that show the actual time spent by the consultant performing the services in the nursing facility.

(c) The cost in paragraph (a) for each consultant must not be allocated to more than one operating cost category in the nursing facility. If more than one nursing facility is served by a consultant, all nursing facilities shall allocate the consultant's cost to the same operating category.

(d) Top management personnel must not be considered consultants.

(e) The consultant's full-time responsibilities shall be to provide the services identified in this item.

Subd. 2i. **Operating costs after July 1, 1988.** (a) Other operating cost limits. For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4. For the rate period beginning October 1, 1992, and for rate years beginning after June 30, 1993, the amount of the surcharge under section 256.9657, subdivision 1, shall be included in the plant operations and maintenance operating cost category. The surcharge shall be an allowable cost for the purpose of establishing the payment rate.

(b) Care-related operating cost limits. For rate years beginning on or after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(c) Salary adjustment per diem. Effective July 1, 1998, to June 30, 2000, the commissioner shall make available the salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing facility reimbursed under this section or section 256B.434. The salary adjustment per diem for each nursing facility must be determined as follows:

(1) For each nursing facility that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.0 percent and then dividing the resulting amount by the nursing facility's actual resident days.

(2) For each nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (1).

(3) A nursing facility may apply for the salary adjustment per diem calculated under clauses (1) and (2). The application must be made to the commissioner and contain a plan by which the nursing facility will distribute the salary adjustment to employees of the nursing facility. In order to apply for a salary adjustment, a nursing facility reimbursed under section 256B.434, must report the information required by clause (1) or (2) in the application, in the manner specified by the commissioner. For nursing facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative, after July 1, 1998, may constitute the plan for the salary distribution. The commissioner shall review the plan to ensure that the salary adjustment per diem is used solely to increase the compensation of nursing home facility employees. To be eligible, a facility must submit its plan for the salary distribution by December 31, 1998. If a facility's plan for salary distribution is effective for its employees after July 1, 1998, the salary adjustment cost per diem shall be effective the same date as its plan.

(4) Additional costs incurred by nursing facilities as a result of this salary adjustment are not allowable costs for purposes of the September 30, 1998, cost report.

(d) New base year. The commissioner shall establish a new base year for the reporting years ending September 30, 1991, and September 30, 1992. In establishing a new base year, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs.

Subd. 2j. **Hospital-attached nursing facility status.** (a) For the purpose of setting rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for rate years beginning after June 30, 1989, a hospital-attached nursing facility means a nursing facility which meets the requirements of clauses (1) to (3):

(1) the nursing facility is recognized by the federal Medicare program to be a hospital-based nursing facility for purposes of being subject to higher cost limits accorded hospital-based nursing facilities under the Medicare program, or, prior to June 30, 1983, was classified as a hospital-attached nursing facility under Minnesota Rules, parts 9510.0010 to 9510.0480;

(2) the nursing facility's cost report filed under Minnesota Rules, parts 9549.0010 to 9549.0080, shall use the same cost allocation principles and methods used in the reports filed for the Medicare program except as provided in clause (3); and

(3) direct identification of costs to the nursing facility cost center will be permitted only when the comparable hospital costs have also been directly identified to a cost center which is not allocated to the nursing facility.

(b) For rate years beginning after June 30, 1989, a nursing facility and hospital, which have applied for hospital-based nursing facility status under the federal Medicare program during the reporting year or the nine-month period following the nursing facility's reporting year, shall be considered a hospital-attached nursing facility for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for the rate year following the reporting year or the nine-month period in which the facility made its Medicare application. The nursing facility must file its cost report or an amended cost report for that reporting year before the following rate year using Medicare principles and Medicare's recommended cost allocation methods had the Medicare program's hospital-based nursing facility status been granted to the nursing facility. For each subsequent rate year, the nursing facility must meet the definition requirements in paragraph (a). If the nursing facility is denied hospital-based nursing facility status under the Medicare program, the nursing facility's payment rates for the rate years the nursing facility was considered to be a hospital-attached nursing facility pursuant to this paragraph shall be recalculated treating the nursing facility as a non-hospital-attached nursing facility.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(c) For rate years beginning on or after July 1, 1995, a nursing facility shall be considered a hospital attached nursing facility for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080 and this section if it meets the requirements of paragraphs (a) and (b), and

(1) the hospital and nursing facility are physically attached or connected by a tunnel or skyway; or

(2) the nursing facility was recognized by the Medicare program as hospital attached as of January 1, 1995, and this status has been maintained continuously.

Subd. 2k. Operating costs after July 1, 1989. For rate years beginning on or after July 1, 1989, a nursing facility that is exempt under subdivision 2b, paragraph (d), clause (2); whose total number of licensed beds are licensed under Minnesota Rules, parts 9570.2000 to 9570.3600; and that maintains an average length of stay of less than 365 days during each reporting year, is limited to 140 percent of the other-operating-cost limit for hospital-attached nursing facilities as established by Minnesota Rules, part 9549.0055, subpart 2, item E, subitem (2), as modified by subdivision 2i, paragraph (a). For purposes of this subdivision, the nursing facility's average length of stay must be computed by dividing the nursing facility's actual resident days for the reporting year by the nursing facility's total discharges for that reporting year.

Subd. 2l. Inflation adjustments after July 1, 1990. (a) For rate years beginning on or after July 1, 1990, the forecasted composite price index for a nursing facility's allowable operating cost per diems shall be determined using Data Resources, Inc., forecast for change in the Nursing Home Market Basket. The commissioner of human services shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(b) For rate years beginning on or after July 1, 1992, the commissioner shall index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., Nursing Home Market Basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

(c) For rate years beginning on or after July 1, 1993, the commissioner shall not provide automatic annual inflation adjustments for nursing facilities. The commissioner of management and budget shall include annual adjustments in operating costs for nursing facilities as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Subd. 2o. Special payment rates for short-stay nursing facilities. Notwithstanding contrary provisions of this section and rules adopted by the commissioner, for the rate years beginning on or after July 1, 1993, a nursing facility whose average length of stay for the preceding reporting year is (1) less than 180 days; or (2) less than 225 days in a nursing facility with more than 315 licensed beds must be reimbursed for allowable costs up to 125 percent of the total care-related limit and 105 percent of the other-operating-cost limit for hospital-attached nursing facilities. A nursing facility that received the benefit of this limit during the rate year beginning July 1, 1992, continues to receive this rate during the rate year beginning July 1, 1993, even if the facility's average length of stay is more than 180 days in the rate years subsequent to the rate year beginning July 1, 1991. For purposes of this subdivision, a nursing facility shall compute its average length of stay by dividing the nursing facility's actual resident days for the reporting year by the nursing facility's total resident discharges for that reporting year.

Subd. 3c. Plant and maintenance costs. For the rate years beginning on or after July 1, 1987, the commissioner shall allow as an expense in the reporting year of occurrence the lesser of the actual allowable plant and maintenance costs for supplies, minor equipment, equipment repairs, building repairs, purchased services and service contracts, except for arm's-length service contracts whose primary purpose is supervision, or \$325 per licensed bed.

Subd. 11. Special property rate setting procedures for certain nursing facilities. (a) Notwithstanding Minnesota Rules, part 9549.0060, subpart 13, item H, to the contrary, for the rate year beginning July 1, 1990, a nursing facility leased prior to January 1, 1986, and currently subject to adverse licensure action under section 144A.04, subdivision 4, paragraph (a), or section 144A.11, subdivision 2, and whose ownership changes prior to July 1, 1990, shall be allowed a property-related payment equal to the lesser of its current lease obligation divided by its capacity days as determined in Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), or the frozen property-related payment rate in effect for the rate year beginning July 1, 1989. For rate years beginning on or after July 1, 1991, the property-related payment rate shall be its rental rate computed using the previous owner's allowable principal and interest expense as allowed by the department prior to that prior owner's sale and lease-back transaction of December 1985.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(b) Notwithstanding other provisions of applicable law, a nursing facility licensed for 122 beds on January 1, 1998, and located in Columbia Heights shall have its property-related payment rate set under this subdivision. The commissioner shall make a rate adjustment by adding \$2.41 to the facility's July 1, 1997, property-related payment rate. The adjusted property-related payment rate shall be effective for rate years beginning on or after July 1, 1998. The adjustment in this paragraph shall remain in effect so long as the facility's rates are set under this section. If the facility participates in the alternative payment system under section 256B.434, the adjustment in this paragraph shall be included in the facility's contract payment rate. If historical rates or property costs recognized under this section become the basis for future medical assistance payments to the facility under a managed care, capitation, or other alternative payment system, the adjustment in this paragraph shall be included in the computation of the facility's payments.

Subd. 14. **Limitations on sales of nursing facilities.** (a) For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility's property-related payment rate as established under subdivision 13 shall be adjusted by either paragraph (b) or (c) for the sale of the nursing facility, including sales occurring after June 30, 1992, as provided in this subdivision.

(b) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is greater than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the greater of its property-related payment rate under subdivision 13 prior to sale or its rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(c) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is equal to or less than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the nursing facility's property-related payment rate under subdivision 13 plus the difference between its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale and its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(d) For purposes of this subdivision, "sale" means the purchase of a nursing facility's capital assets with cash or debt. The term sale does not include a stock purchase of a nursing facility or any of the following transactions:

(1) a sale and leaseback to the same licensee that does not constitute a change in facility license;

(2) a transfer of an interest to a trust;

(3) gifts or other transfers for no consideration;

(4) a merger of two or more related organizations;

(5) a change in the legal form of doing business, other than a publicly held organization that becomes privately held or vice versa;

(6) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing facility or the issuance of stock; and

(7) a sale, merger, reorganization, or any other transfer of interest between related organizations other than those permitted in this section.

(e) For purposes of this subdivision, "sale" includes the sale or transfer of a nursing facility to a close relative as defined in Minnesota Rules, part 9549.0020, subpart 38, item C, upon the death of an owner, due to serious illness or disability, as defined under the Social Security Act, under United States Code, title 42, section 423(d)(1)(A), or upon retirement of an owner from the business of owning or operating a nursing home at 62 years of age or older. For sales to a close relative allowed under this paragraph, otherwise nonallowable debt resulting from seller financing of all or a portion of the debt resulting from the sale shall be allowed and shall not be subject to Minnesota Rules, part 9549.0060, subpart 5, item E, provided that in addition to existing requirements for allowance of debt and interest, the debt is subject to repayment through annual principal payments and the interest rate on the related organization debt does not exceed three percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation for delivery in 60 days in effect on the day of sale. If at any time, the seller forgives the related organization debt allowed under this paragraph for other than equal amount of payment on that debt, then the buyer shall pay to the state the total revenue received by the nursing facility after the sale attributable to the amount of allowable debt which has been forgiven. Any assignment, sale, or transfer of the debt instrument entered into by the close relatives, either directly or indirectly, which grants to the close relative buyer the right to receive all or a portion of the payments under the debt instrument shall, effective on the date of the transfer, result in the prospective reduction in the corresponding portion of the

APPENDIX

Repealed Minnesota Statutes: UES1675-1

allowable debt and interest expense. Upon the death of the close relative seller, any remaining balance of the close relative debt must be refinanced and such refinancing shall be subject to the provisions of Minnesota Rules, part 9549.0060, subpart 7, item G. This paragraph shall not apply to sales occurring on or after June 30, 1997.

(f) For purposes of this subdivision, "effective date of sale" means the later of either the date on which legal title to the capital assets is transferred or the date on which closing for the sale occurred.

(g) The effective day for the property-related payment rate determined under this subdivision shall be the first day of the month following the month in which the effective date of sale occurs or October 1, 1992, whichever is later, provided that the notice requirements under section 256B.47, subdivision 2, have been met.

(h) Notwithstanding Minnesota Rules, part 9549.0060, subparts 5, item A, subitems (3) and (4), and 7, items E and F, the commissioner shall limit the total allowable debt and related interest for sales occurring after June 30, 1992, to the sum of clauses (1) to (3):

(1) the historical cost of capital assets, as of the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the nursing facility's initial historical cost of constructing capital assets;

(2) the average annual capital asset additions after deduction for capital asset deletions, not including depreciations; and

(3) one-half of the allowed inflation on the nursing facility's capital assets. The commissioner shall compute the allowed inflation as described in paragraph (i).

(i) For purposes of computing the amount of allowed inflation, the commissioner must apply the following principles:

(1) the lesser of the Consumer Price Index for all urban consumers or the Dodge Construction Systems Costs for Nursing Homes for any time periods during which both are available must be used. If the Dodge Construction Systems Costs for Nursing Homes becomes unavailable, the commissioner shall substitute the index in subdivision 3f, or such other index as the secretary of the Centers for Medicare and Medicaid Services may designate;

(2) the amount of allowed inflation to be applied to the capital assets in paragraph (h), clauses (1) and (2), must be computed separately;

(3) the amount of allowed inflation must be determined on an annual basis, prorated on a monthly basis for partial years and if the initial month of use is not determinable for a capital asset, then one-half of that calendar year shall be used for purposes of prorating;

(4) the amount of allowed inflation to be applied to the capital assets in paragraph (h), clauses (1) and (2), must not exceed 300 percent of the total capital assets in any one of those clauses; and

(5) the allowed inflation must be computed starting with the month following the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the month following the date of the nursing facility's initial occupancy, and ending with the month preceding the effective date of sale.

(j) If the historical cost of a capital asset is not readily available for the date of the nursing facility's most recent previous sale or if there has been no previous sale for the date of the nursing facility's initial occupancy, then the commissioner shall limit the total allowable debt and related interest after sale to the extent recognized by the Medicare intermediary after the sale. For a nursing facility that has no historical capital asset cost data available and does not have allowable debt and interest calculated by the Medicare intermediary, the commissioner shall use the historical cost of capital asset data from the point in time for which capital asset data is recorded in the nursing facility's audited financial statements.

(k) The limitations in this subdivision apply only to debt resulting from a sale of a nursing facility occurring after June 30, 1992, including debt assumed by the purchaser of the nursing facility.

Subd. 17b. Property-related payment rate. The incremental increase in a nursing facility's rental rate, determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, resulting from the acquisition of allowable capital assets, and allowable debt and interest expense under this subdivision shall be added to its property-related payment rate and shall be effective on the first day of the month following the month in which the moratorium project was completed.

Subd. 17f. Provisions for specific facilities. (a) For a total replacement, as defined in subdivision 17d, authorized under section 144A.073 for a 96-bed nursing home in Carlton County, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident's beds, and \$111,420 per licensed bed in a single room. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. The resulting maximum allowable replacement-costs-new

APPENDIX

Repealed Minnesota Statutes: UES1675-1

multiplied by 1.25 shall constitute the project's dollar threshold for purposes of application of the limit set forth in section 144A.071, subdivision 2. The commissioner of health may waive the requirements of section 144A.073, subdivision 3b, paragraph (b), clause (2), on the condition that the other requirements of that paragraph are met.

(b) For a renovation authorized under section 144A.073 for a 65-bed nursing home in St. Louis County, the incremental increase in rental rate for purposes of subdivision 17b shall be \$8.16, and the total replacement cost, allowable appraised value, allowable debt, and allowable interest shall be increased according to the incremental increase.

(c) For a total replacement, as defined in subdivision 17d, authorized under section 144A.073 involving a new building addition that relocates beds from three-bed wards for an 80-bed nursing home in Redwood County, the replacement-costs-new per bed limit shall be \$74,280 per licensed bed for multiple-bed rooms; \$92,850 per licensed bed for semiprivate rooms with a fixed partition separating the beds; and \$111,420 per licensed bed for single rooms. These amounts shall be adjusted annually, beginning January 1, 2001. Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. The resulting maximum allowable replacement-costs-new multiplied by 1.25 shall constitute the project's dollar threshold for purposes of application of the limit set forth in section 144A.071, subdivision 2. The commissioner of health may waive the requirements of section 144A.073, subdivision 3b, paragraph (b), clause (2), on the condition that the other requirements of that paragraph are met.

Subd. 19. Refinancing incentive. (a) A nursing facility that refinances debt after May 30, 1992, in order to save in interest expense payments as determined in clauses (1) to (5) may be eligible for the refinancing incentive under this subdivision. To be eligible for the refinancing incentive, a nursing facility must notify the commissioner in writing of such a refinancing within 60 days following the date on which the refinancing occurs. If the nursing facility meets these conditions, the commissioner shall determine the refinancing incentive as in clauses (1) to (5).

(1) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, remaining on the debt to be refinanced, and divide this amount by the number of years remaining for the term of that debt.

(2) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, for the new debt, and divide this amount by the number of years for the term of that debt.

(3) Subtract the amount in clause (2) from the amount in clause (1), and multiply the amount, if positive, by .5.

(4) The amount in clause (3) shall be divided by the nursing facility's occupancy factor under subdivision 3f, paragraph (c).

(5) The per diem amount in clause (4) shall be deducted from the nursing facility's property-related payment rate for three full rate years following the rate year in which the refinancing occurs. For the fourth full rate year following the rate year in which the refinancing occurs, and each rate year thereafter, the per diem amount in clause (4) shall again be deducted from the nursing facility's property-related payment rate.

(b) An increase in a nursing facility's debt for costs in subdivision 17, paragraph (b), clause (2), including the cost of refinancing the issuance or financing costs of the debt refinanced resulting from refinancing that meets the conditions of this section shall be allowed, notwithstanding Minnesota Rules, part 9549.0060, subpart 5, item A, subitem (6).

(c) The proceeds of refinancing may not be used for the purpose of withdrawing equity from the nursing facility.

(d) Sale of a nursing facility under subdivision 14 shall terminate the payment of the incentive payments under this subdivision effective the date provided in subdivision 14, paragraph (f), for the sale, and the full amount of the refinancing incentive in paragraph (a) shall be implemented.

(e) If a nursing facility eligible under this subdivision fails to notify the commissioner as required, the commissioner shall determine the full amount of the refinancing incentive in paragraph (a), and shall deduct one-half that amount from the nursing facility's property-related payment rate effective the first day of the month following the month in which the refinancing is completed. For the next three full rate years, the commissioner shall deduct one-half the amount in paragraph (a), clause (5). The remaining per diem amount shall be deducted in each rate year thereafter.

(f) The commissioner shall reestablish the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section following the refinancing using the new debt and interest expense information for the purpose of measuring future incremental rental increases.

Subd. 20. Special property rate setting. For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the property-related payment rate for a nursing

APPENDIX

Repealed Minnesota Statutes: UES1675-1

facility approved for total replacement under the moratorium exception process in section 144A.073 through an addition to another nursing facility shall have its property-related rate under subdivision 13 recalculated using the greater of actual resident days or 80 percent of capacity days. This rate shall apply until the nursing facility is replaced or until the moratorium exception authority lapses, whichever is sooner.

Subd. 25. Changes to nursing facility reimbursement beginning July 1, 1995. A nursing facility licensed for 302 beds on September 30, 1993, that was approved under the moratorium exception process in section 144A.073 for a partial replacement, and completed the replacement project in December 1994, is exempt from Minnesota Statutes 1998, section 256B.431, subdivision 25, paragraphs (b) to (d) for rate years beginning on or after July 1, 1995.

For the rate year beginning July 1, 1997, after computing this nursing facility's payment rate according to section 256B.434, the commissioner shall make a one-year rate adjustment of \$8.62 to the facility's contract payment rate for the rate effect of operating cost changes associated with the facility's 1994 downsizing project.

For rate years beginning on or after July 1, 1997, the commissioner shall add 35 cents to the facility's base property related payment rate for the rate effect of reducing its licensed capacity to 290 beds from 302 beds and shall add 83 cents to the facility's real estate tax and special assessment payment rate for payments in lieu of real estate taxes. The adjustments in this clause shall remain in effect for the duration of the facility's contract under section 256B.434.

Subd. 26. Changes to nursing facility reimbursement beginning July 1, 1997. The nursing facility reimbursement changes in paragraphs (a) to (e) shall apply in the sequence specified in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, beginning July 1, 1997.

(a) For rate years beginning on or after July 1, 1997, the commissioner shall limit a nursing facility's allowable operating per diem for each case mix category for each rate year. The commissioner shall group nursing facilities into two groups, freestanding and nonfreestanding, within each geographic group, using their operating cost per diem for the case mix A classification. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the hospital attached, short length of stay, or the rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities in each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem:

(1) is at or below the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(2) is above the median of the array, the commissioner shall limit the nursing facility's allowable operating cost per diem for each case mix category to the lesser of the prior reporting year's allowable operating cost per diem as specified in Laws 1996, chapter 451, article 3, section 11, paragraph (h), plus the inflation factor as established in paragraph (d), clause (2), increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diem.

For purposes of paragraph (a), if a nursing facility reports on its cost report a reduction in cost due to a refund or credit for a rate year beginning on or after July 1, 1998, the commissioner shall increase that facility's spend-up limit for the rate year following the current rate year by the amount of the cost reduction divided by its resident days for the reporting year preceding the rate year in which the adjustment is to be made.

(b) For rate years beginning on or after July 1, 1997, the commissioner shall limit the allowable operating cost per diem for high cost nursing facilities. After application of the limits in paragraph (a) to each nursing facility's operating cost per diem, the commissioner shall group nursing facilities into two groups, freestanding or nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem are subject to hospital attached, short length of stay, or rule 80 limits. All other nursing facilities shall be considered freestanding nursing facilities. The commissioner shall then array all nursing facilities within each grouping by their allowable case mix A operating cost per diem. In calculating a nursing facility's operating cost per diem for this purpose, the commissioner shall exclude the raw food cost per diem related to providing special diets that are based on

APPENDIX

Repealed Minnesota Statutes: UES1675-1

religious beliefs, as determined in subdivision 2b, paragraph (h). For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by three percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the commissioner shall reduce their allowable operating cost per diem by two percent. However, in no case shall a nursing facility's operating cost per diem be reduced below its grouping's limit established at 0.5 standard deviations above the median.

(c) For rate years beginning on or after July 1, 1997, the commissioner shall determine a nursing facility's efficiency incentive by first computing the allowable difference, which is the lesser of \$4.50 or the amount by which the facility's other operating cost limit exceeds its nonadjusted other operating cost per diem for that rate year. The commissioner shall compute the efficiency incentive by:

- (1) subtracting the allowable difference from \$4.50 and dividing the result by \$4.50;
- (2) multiplying 0.20 by the ratio resulting from clause (1), and then;
- (3) adding 0.50 to the result from clause (2); and
- (4) multiplying the result from clause (3) times the allowable difference.

The nursing facility's efficiency incentive payment shall be the lesser of \$2.25 or the product obtained in clause (4).

(d) For rate years beginning on or after July 1, 1997, the forecasted price index for a nursing facility's allowable operating cost per diem shall be determined under clauses (1) and (2) using the change in the Consumer Price Index-All Items (United States city average) (CPI-U) as forecasted by Data Resources, Inc. The commissioner shall use the indices as forecasted in the fourth quarter of the calendar year preceding the rate year, subject to subdivision 21, paragraph (c).

(1) The CPI-U forecasted index for allowable operating cost per diem shall be based on the 21-month period from the midpoint of the nursing facility's reporting year to the midpoint of the rate year following the reporting year.

(2) For rate years beginning on or after July 1, 1997, the forecasted index for operating cost limits referred to in subdivision 21, paragraph (b), shall be based on the CPI-U for the 12-month period between the midpoints of the two reporting years preceding the rate year.

(e) After applying these provisions for the respective rate years, the commissioner shall index these allowable operating cost per diem by the inflation factor provided for in paragraph (d), clause (1), and add the nursing facility's efficiency incentive as computed in paragraph (c).

(f) For the rate years beginning on July 1, 1997, July 1, 1998, and July 1, 1999, a nursing facility licensed for 40 beds effective May 1, 1992, with a subsequent increase of 20 Medicare/Medicaid certified beds, effective January 26, 1993, in accordance with an increase in licensure is exempt from paragraphs (a) and (b).

(g) For the rate year beginning July 1, 1997, the commissioner shall compute the payment rate for a nursing facility licensed for 94 beds on September 30, 1996, that applied in October 1993 for approval of a total replacement under the moratorium exception process in section 144A.073, and completed the approved replacement in June 1995, with other operating cost spend-up limit under paragraph (a), increased by \$3.98, and after computing the facility's payment rate according to this section, the commissioner shall make a one-year positive rate adjustment of \$3.19 for operating costs related to the newly constructed total replacement, without application of paragraphs (a) and (b). The facility's per diem, before the \$3.19 adjustment, shall be used as the prior reporting year's allowable operating cost per diem for payment rate calculation for the rate year beginning July 1, 1998. A facility described in this paragraph is exempt from paragraph (b) for the rate years beginning July 1, 1997, and July 1, 1998.

(h) For the purpose of applying the limit stated in paragraph (a), a nursing facility in Kandiyohi County licensed for 86 beds that was granted hospital-attached status on December 1, 1994, shall have the prior year's allowable care-related per diem increased by \$3.207 and the prior year's other operating cost per diem increased by \$4.777 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(i) For the purpose of applying the limit stated in paragraph (a), a 117 bed nursing facility located in Pine County shall have the prior year's allowable other operating cost per diem increased by \$1.50 before adding the inflation in paragraph (d), clause (2), for the rate year beginning on July 1, 1997.

(j) For the purpose of applying the limit under paragraph (a), a nursing facility in Hibbing licensed for 192 beds shall have the prior year's allowable other operating cost per diem increased by \$2.67 before adding the inflation in paragraph (d), clause (2), for the rate year beginning July 1, 1997.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

Subd. 27. **Changes to nursing facility reimbursement beginning July 1, 1998.** (a) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Hennepin County licensed for 181 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$1.455 and the prior year's other operating cost per diem increased by \$0.439 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(b) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Hennepin County licensed for 161 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$1.154 and the prior year's other operating cost per diem increased by \$0.256 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(c) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Ramsey County licensed for 176 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$0.803 and the prior year's other operating cost per diem increased by \$0.272 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(d) For the purpose of applying the limit stated in subdivision 26, paragraph (a), a nursing facility in Brown County licensed for 86 beds on September 30, 1996, shall have the prior year's allowable care-related per diem increased by \$0.850 and the prior year's other operating cost per diem increased by \$0.275 before adding the inflation in subdivision 26, paragraph (d), clause (2), for the rate year beginning on July 1, 1998.

(e) For the rate year beginning July 1, 1998, the commissioner shall compute the payment rate for a nursing facility, which was licensed for 110 beds on May 1, 1997, was granted approval in January 1994 for a replacement and remodeling project under the moratorium exception process in section 144A.073, and completed the approved replacement and remodeling project on March 14, 1997, by increasing the other operating cost spend-up limit under paragraph (a) by \$1.64. After computing the facility's payment rate for the rate year beginning July 1, 1998, according to this section, the commissioner shall make a one-year positive rate adjustment of 48 cents for increased real estate taxes resulting from completion of the moratorium exception project, without application of paragraphs (a) and (b).

(f) For the rate year beginning July 1, 1998, the commissioner shall compute the payment rate for a nursing facility exempted from care-related limits under subdivision 2b, paragraph (d), clause (2), with a minimum of three-quarters of its beds licensed to provide residential services for the physically disabled under Minnesota Rules, parts 9570.2000 to 9570.3400, with the care-related spend-up limit under subdivision 26, paragraph (a), increased by \$13.21 for the rate year beginning July 1, 1998, without application of subdivision 26, paragraph (b). For rate years beginning on or after July 1, 1999, the commissioner shall exclude that amount in calculating the facility's operating cost per diem for purposes of applying subdivision 26, paragraph (b).

(g) For the rate year beginning July 1, 1998, a nursing facility in Canby, Minnesota, licensed for 75 beds shall be reimbursed without the limitation imposed under subdivision 26, paragraph (a), and for rate years beginning on or after July 1, 1999, its base costs shall be calculated on the basis of its September 30, 1997, cost report.

(h) The nursing facility reimbursement changes in paragraphs (i) and (j) shall apply in the sequence specified in this section and Minnesota Rules, parts 9549.0010 to 9549.0080, beginning July 1, 1998.

(i) For rate years beginning on or after July 1, 1998, the operating cost limits established in subdivisions 2, 2b, 2i, 3c, and 22, paragraph (d), and any previously effective corresponding limits in law or rule shall not apply, except that these cost limits shall still be calculated for purposes of determining efficiency incentive per diems. For rate years beginning on or after July 1, 1998, the total operating cost payment rates for a nursing facility shall be the greater of the total operating cost payment rates determined under this section or the total operating cost payment rates in effect on June 30, 1998, subject to rate adjustments due to field audit or rate appeal resolution.

(j) For rate years beginning on or after July 1, 1998, the operating cost per diem referred to in subdivision 26, paragraph (a), clauses (1) and (2), is the sum of the care-related and other operating per diems for a given case mix class. Any reductions to the combined operating per diem shall be divided proportionately between the care-related and other operating per diems.

(k) For rate years beginning on or after July 1, 1998, the commissioner shall modify the determination of the spend-up limits referred to in subdivision 26, paragraph (a), by indexing each group's previous year's median value by the factor in subdivision 26, paragraph (d), clause (2), plus one percentage point.

(l) For rate years beginning on or after July 1, 1998, the commissioner shall modify the determination of the high cost limits referred to in subdivision 26, paragraph (b), by indexing

APPENDIX

Repealed Minnesota Statutes: UES1675-1

each group's previous year's high cost per diem limits at .5 and one standard deviations above the median by the factor in subdivision 26, paragraph (d), clause (2), plus one percentage point.

Subd. 29. **Facility rate increases effective July 1, 2000.** Following the determination under subdivision 28 of the payment rate for the rate year beginning July 1, 2000, for a facility in Roseau County licensed for 49 beds, the facility's operating cost per diem shall be increased by the following amounts:

- (1) case mix class A, \$1.97;
- (2) case mix class B, \$2.11;
- (3) case mix class C, \$2.26;
- (4) case mix class D, \$2.39;
- (5) case mix class E, \$2.54;
- (6) case mix class F, \$2.55;
- (7) case mix class G, \$2.66;
- (8) case mix class H, \$2.90;
- (9) case mix class I, \$2.97;
- (10) case mix class J, \$3.10; and
- (11) case mix class K, \$3.36.

These increases shall be included in the facility's total payment rates for the purpose of determining future rates under this section or any other section.

256B.434 ALTERNATIVE PAYMENT DEMONSTRATION PROJECT.

Subd. 4a. **Facility rate increases.** For the rate year beginning July 1, 1999, the nursing facilities described in clauses (1) to (5) shall receive the rate increases indicated. The increases provided under this subdivision shall be included in the facility's total payment rates for the purpose of determining future rates under this section or any other section:

(1) a nursing facility in Becker County licensed for 102 nursing home beds on September 30, 1998, shall receive an increase of \$1.30 in its case mix class A payment rate; an increase of \$1.33 in its case mix class B payment rate; an increase of \$1.36 in its case mix class C payment rate; an increase of \$1.39 in its case mix class D payment rate; an increase of \$1.42 in its case mix class E payment rate; an increase of \$1.42 in its case mix class F payment rate; an increase of \$1.45 in its case mix class G payment rate; an increase of \$1.49 in its case mix class H payment rate; an increase of \$1.51 in its case mix class I payment rate; an increase of \$1.54 in its case mix class J payment rate; and an increase of \$1.59 in its case mix class K payment rate;

(2) a nursing facility in Chisago County licensed for 101 nursing home beds on September 30, 1998, shall receive an increase of \$3.67 in each case mix payment rate;

(3) a nursing facility in Canby, licensed for 75 beds shall have its property-related per diem rate increased by \$1.21. This increase shall be recognized in the facility's contract payment rate under this section;

(4) a nursing facility in Golden Valley with all its beds licensed to provide residential rehabilitative services to young adults under Minnesota Rules, parts 9570.2000 to 9570.3400, shall have the payment rate computed according to this section increased by \$14.83; and

(5) a county-owned 130-bed nursing facility in Park Rapids shall have its per diem contract payment rate increased by \$1.02 for costs related to compliance with comparable worth requirements.

Subd. 4b. **Facility rate increases effective July 1, 2000.** For the rate year beginning July 1, 2000, the nursing facilities described in clauses (1) to (6) shall receive the rate increases indicated. The increases under this subdivision shall be added following the determination under section 256B.431, subdivision 28, of the payment rate for the rate year beginning July 1, 2000, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section or any other section:

(1) a nursing facility in Hennepin County licensed for 290 beds shall receive an operating cost per diem increase of 5.9 percent, provided that the facility delicensures, decertifies, or places on layaway status, if that status is otherwise permitted by law, 70 beds;

(2) a nursing facility in Goodhue County licensed for 84 beds shall receive an increase of \$1.54 in each case mix payment rate;

(3) a nursing facility located in Rochester and licensed for 103 beds on January 1, 2000, shall receive an increase in its case mix resident class A payment of \$3.78, and an increase in the payment rate for all other case mix classes of that amount multiplied by the class weight for that case mix class established in Minnesota Rules, part 9549.0058, subpart 3;

(4) a nursing facility in Wright County licensed for 154 beds shall receive an increase of \$2.03 in each case mix payment rate to be used for employee wage and benefit enhancements;

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(5) a facility in Todd County licensed for 78 beds, shall have its operating cost per diem increased by the following amounts:

- (i) case mix class A, \$1.16;
- (ii) case mix class B, \$1.50;
- (iii) case mix class C, \$1.89;
- (iv) case mix class D, \$2.26;
- (v) case mix class E, \$2.63;
- (vi) case mix class F, \$2.65;
- (vii) case mix class G, \$2.96;
- (viii) case mix class H, \$3.55;
- (ix) case mix class I, \$3.76;
- (x) case mix class J, \$4.08; and
- (xi) case mix class K, \$4.76; and

(6) a nursing facility in Pine City that decertified 22 beds in calendar year 1999 shall have its property-related per diem payment rate increased by \$1.59.

Subd. 4c. **Facility rate increases effective January 1, 2002.** For the rate period beginning January 1, 2002, and for the rate year beginning July 1, 2002, a nursing facility in Morrison County licensed for 83 beds as of March 1, 2001, shall receive an increase of \$2.54 in each case mix payment rate to offset property tax payments due as a result of the facility's conversion from nonprofit to for-profit status. The increase under this subdivision shall be added following the determination under this chapter of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section or any other section.

Subd. 4d. **Facility rate increases effective July 1, 2001.** For the rate year beginning July 1, 2001, a nursing facility in Hennepin County licensed for 302 beds shall receive an increase of 29 cents in each case mix payment rate to correct an error in the cost-reporting system that occurred prior to the date that the facility entered the alternative payment demonstration project. The increase under this subdivision shall be added following the determination under this chapter of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rates for the purposes of determining future rates under this section or any other section.

Subd. 4e. **Rate increase effective July 1, 2001.** A nursing facility in Anoka County licensed for 98 beds as of July 1, 2000, shall receive a total increase of \$10 in each case mix rate for the rate year beginning July 1, 2001, as a result of increases provided under this subdivision and section 256B.431, subdivision 33. The increases under this subdivision shall be added prior to the determination under section 256B.431, subdivision 33, of the payment rate for the rate year beginning July 1, 2001, and shall be included in the facility's total payment rate for purposes of determining future rates under this section or any other section through June 30, 2004.

Subd. 4g. **Facility rate increase effective October 1, 2007; Otter Tail County.** For the rate year beginning October 1, 2007, a nursing facility in Otter Tail County that was licensed for 57 beds as of December 31, 2004, shall receive a rate increase to increase its operating rate to the 60th percentile of the operating rates of all other Otter Tail County nursing facilities. The commissioner shall determine the 60th percentile of the case mix portion of the operating rates with a RUG's weight of 1.0 of all other Otter Tail County nursing facilities and then apply the case mix weights. The 60th percentile of the other operating per diem for all other Otter Tail County nursing facilities will be added to the above-determined case mix rates to compute the operating payment rates. The nonoperating components of the facility's rates will not be adjusted under this subdivision.

Subd. 4h. **Nursing facility rate increase effective October 1, 2007; Martin County.** For the rate year beginning October 1, 2007, the commissioner shall provide to a nursing facility in Martin County licensed for 93 beds as of January 1, 2006, an increase in the total operating payment rate of \$5 per resident day for all case mix classes.

Subd. 7. **Case mix assessments.** The commissioner may allow a contract facility to develop and implement a case mix assessment using the federal minimum data set resident assessment.

Subd. 8. **Optional higher payments for first 100 days.** The commissioner may include in the contract with a nursing facility under this section a higher rate for the first 100 days after admission than for subsequent days. The rate for the subsequent days must be reduced so that the estimated total cost to the medical assistance program will not exceed the estimated cost without the differential payment rates.

256B.435 JULY 1, 2001, NURSING FACILITY REIMBURSEMENT SYSTEM.

Subdivision 1. **In general.** Effective July 1, 2001, the commissioner shall implement a performance-based contracting system to replace the current method of setting operating cost

APPENDIX

Repealed Minnesota Statutes: UES1675-1

payment rates under sections 256B.431 and 256B.434 and Minnesota Rules, parts 9549.0010 to 9549.0080. Operating cost payment rates for newly established facilities under Minnesota Rules, part 9549.0057, shall be established using section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0070. A nursing facility in operation on May 1, 1998, with payment rates not established under section 256B.431 or 256B.434 on that date, is ineligible for this performance-based contracting system. In determining prospective payment rates of nursing facility services, the commissioner shall distinguish between operating costs and property-related costs. The commissioner of management and budget shall include an annual inflationary adjustment in operating costs for nursing facilities using the inflation factor specified in subdivision 3 and funding for incentive-based payments as a budget change request in each biennial detailed expenditure budget submitted to the legislature under section 16A.11. Property related payment rates, including real estate taxes and special assessments, shall be determined under section 256B.431 or 256B.434 or under a new property-related reimbursement system, if one is implemented by the commissioner under subdivision 3. The commissioner shall present additional recommendations for performance-based contracting for nursing facilities to the legislature by February 15, 2000, in the following specific areas:

- (1) development of an interim default payment mechanism for nursing facilities that do not respond to the state's request for proposal but wish to continue participation in the medical assistance program, and nursing facilities the state does not select in the request for proposal process, and nursing facilities whose contract has been canceled;
- (2) development of criteria for facilities to earn performance-based incentive payments based on relevant outcomes negotiated by nursing facilities and the commissioner and that recognize both continuous quality efforts and quality improvement;
- (3) development of criteria and a process under which nursing facilities can request rate adjustments for low base rates, geographic disparities, or other reasons;
- (4) development of a dispute resolution mechanism for nursing facilities that are denied a contract, denied incentive payments, or denied a rate adjustment;
- (5) development of a property payment system to address the capital needs of nursing facilities that will be funded with additional appropriations;
- (6) establishment of a transitional plan to move from dual assessment instruments to the federally mandated resident assessment system, whereby the financial impact for each facility would be budget neutral;
- (7) identification of net cost implications for facilities and to the department of preparing for and implementing performance-based contracting or any proposed alternative system;
- (8) identification of facility financial and statistical reporting requirements; and
- (9) identification of exemptions from current regulations and statutes applicable under performance-based contracting.

Subd. 1a. **Requests for proposals.** (a) For nursing facilities with rates established under section 256B.434 on January 1, 2001, the commissioner shall renegotiate contracts without requiring a response to a request for proposal, notwithstanding the solicitation process described in chapter 16C.

(b) Prior to July 1, 2001, the commissioner shall publish in the State Register a request for proposals to provide nursing facility services according to this section. The commissioner will consider proposals from all nursing facilities that have payment rates established under section 256B.431. The commissioner must respond to all proposals in a timely manner.

(c) In issuing a request for proposals, the commissioner may develop reasonable requirements which, in the judgment of the commissioner, are necessary to protect residents or ensure that the performance-based contracting system furthers the interests of the state of Minnesota. The request for proposals may include, but need not be limited to:

- (1) a requirement that a nursing facility make reasonable efforts to maximize Medicare payments on behalf of eligible residents;
- (2) requirements designed to prevent inappropriate or illegal discrimination against residents enrolled in the medical assistance program as compared to private paying residents;
- (3) requirements designed to ensure that admissions to a nursing facility are appropriate and that reasonable efforts are made to place residents in home and community-based settings when appropriate;
- (4) a requirement to agree to participate in the development of data collection systems and outcome-based standards. Among other requirements specified by the commissioner, each facility entering into a contract may be required to pay an annual fee not to exceed \$1,000. The commissioner must use revenue generated from the fees to contract with a qualified consultant or contractor to develop data collection systems and outcome-based contracting standards;

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(5) a requirement that Medicare-certified contractors agree to maintain Medicare cost reports and to submit them to the commissioner upon request, or at times specified by the commissioner; and that contractors that are not Medicare-certified agree to maintain a uniform cost report in a format established by the commissioner and to submit the report to the commissioner upon request, or at times specified by the commissioner;

(6) a requirement that demonstrates willingness and ability to develop and maintain data collection and retrieval systems to measure outcomes; and

(7) a requirement to provide all information and assurances required by the terms and conditions of the federal waiver or federal approval.

(d) In addition to the information and assurances contained in the submitted proposals, the commissioner may consider the following criteria in developing the terms of the contract:

(1) the facility's history of compliance with federal and state laws and rules. A facility deemed to be in substantial compliance with federal and state laws and rules is eligible to respond to a request for proposals. A facility's compliance history shall not be the sole determining factor in situations where the facility has been sold and the new owners have submitted a proposal;

(2) whether the facility has a record of excessive licensure fines or sanctions or fraudulent cost reports;

(3) the facility's financial history and solvency; and

(4) other factors identified by the commissioner deemed relevant to developing the terms of the contract, including a determination that a contract with a particular facility is not in the best interests of the residents of the facility or the state of Minnesota.

(e) Notwithstanding the requirements of the solicitation process described in chapter 16C, the commissioner may contract with nursing facilities established according to section 144A.073 without issuing a request for proposals.

(f) Notwithstanding subdivision 1, after July 1, 2001, the commissioner may contract with additional nursing facilities, according to requests for proposals.

Subd. 2. Contract provisions. (a) The performance-based contract with each nursing facility must include provisions that:

(1) apply the resident case mix assessment provisions of Minnesota Rules, parts 9549.0051, 9549.0058, and 9549.0059, or another assessment system, with the goal of moving to a single assessment system;

(2) monitor resident outcomes through various methods, such as quality indicators based on the minimum data set and other utilization and performance measures;

(3) require the establishment and use of a continuous quality improvement process that integrates information from quality indicators and regular resident and family satisfaction interviews;

(4) require annual reporting of facility statistical information, including resident days by case mix category, productive nursing hours, wages and benefits, and raw food costs for use by the commissioner in the development of facility profiles that include trends in payment and service utilization;

(5) require from each nursing facility an annual certified audited financial statement consisting of a balance sheet, income and expense statements, and an opinion from either a licensed or certified public accountant, if a certified audit was prepared, or unaudited financial statements if no certified audit was prepared;

(6) specify the method for resolving disputes; and

(7) establish additional requirements for nursing facilities not meeting the standards set forth in the performance-based contract.

(b) The commissioner may develop additional incentive-based payments for achieving specified outcomes specified in each contract. The specified facility-specific outcomes must be measurable and approved by the commissioner.

(c) The commissioner may also contract with nursing facilities in other ways through requests for proposals, including contracts on a risk or nonrisk basis, with nursing facilities or consortia of nursing facilities, to provide comprehensive long-term care coverage on a premium or capitated basis.

(d) The commissioner may negotiate different contract terms for different nursing facilities.

Subd. 2a. Duration and termination of contracts. (a) All contracts entered into under this section are for a term of one year. Either party may terminate this contract at any time without cause by providing 90 calendar days' advance written notice to the other party. Notwithstanding section 16C.05, subdivisions 2, paragraph (b), and 5, if neither party provides written notice of termination, the contract shall be renegotiated for additional one-year terms or the terms of the existing contract will be extended for one year. The provisions of the contract shall be

APPENDIX

Repealed Minnesota Statutes: UES1675-1

renegotiated annually by the parties prior to the expiration date of the contract. The parties may voluntarily renegotiate the terms of the contract at any time by mutual agreement.

(b) If a nursing facility fails to comply with the terms of a contract, the commissioner shall provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance. If the facility fails to come into compliance or to remain in compliance, the commissioner may terminate the contract. If a contract is terminated, provisions of section 256B.48, subdivision 1a, shall apply.

Subd. 3. Payment rate provisions. (a) For rate years beginning on or after July 1, 2001, within the limits of appropriations specifically for this purpose, the commissioner shall determine operating cost payment rates for each licensed and certified nursing facility by indexing its operating cost payment rates in effect on June 30, 2001, for inflation. For rate years beginning on or after July 1, 2001, the inflation factor must be based on the change in the Employment Cost Index for Private Industry Workers - Total Compensation as forecasted by the commissioner of management and budget's national economic consultant, in the fourth quarter preceding the rate year. The forecasted index for operating cost payment rates shall be based on the 12-month period from the midpoint of the nursing facility's prior rate year to the midpoint of the rate year for which the operating payment rate is being determined. The operating cost payment rate to be inflated shall be the total payment rate in effect on June 30, 2001, minus the portion determined to be the property-related payment rate, minus the per diem amount of the preadmission screening cost included in the nursing facility's last payment rate established under section 256B.431.

(b) A per diem amount for preadmission screening will be added onto the contract payment rates according to the method of distribution of county allocation described in section 256B.0911, subdivision 6, paragraph (a).

(c) For rate years beginning on or after July 1, 2001, the commissioner may implement a new method of payment for property-related costs that addresses the capital needs of facilities. The new property payment system or systems, if implemented, shall replace the current methods of setting property payment rates under sections 256B.431 and 256B.434.

Subd. 4. Contract payment rates; appeals. If an appeal is pending concerning the cost-based payment rates that are the basis for the calculation of the payment rate under this section, the commissioner and the nursing facility may agree on an interim contract rate to be used until the appeal is resolved. When the appeal is resolved, the contract rate must be adjusted retroactively according to the appeal decision.

Subd. 5. Consumer protection. In addition to complying with all applicable laws regarding consumer protection, as a condition of entering into a contract under this section, a nursing facility must agree to:

- (1) establish resident grievance procedures;
- (2) establish expedited grievance procedures to resolve complaints made by short-stay residents; and
- (3) make available to residents and families a copy of the performance-based contract and outcomes to be achieved.

Subd. 6. Contracts are voluntary. Participation of nursing facilities in the medical assistance program is voluntary. The terms and procedures governing the performance-based contract are determined under this section and through negotiations between the commissioner and nursing facilities.

Subd. 7. Federal requirements. The commissioner shall implement the performance-based contracting system subject to any required federal waivers or approval and in a manner that is consistent with federal requirements. If a provision of this section is inconsistent with a federal requirement, the federal requirement supersedes the inconsistent provision. The commissioner shall seek federal approval and request waivers as necessary to implement this section.

Subd. 8. Case-mix adjustments based upon the minimum data set. The performance-based contracting system must include case-mix adjustments that are based upon the federally mandated minimum data set assessment instrument. These case-mix adjustments must be incorporated into the performance-based contracting system beginning on or after July 1, 2001, but no later than January 1, 2002, and must have a budget neutral financial impact on each facility at the time of implementation, relative to case-mix adjustments based upon the current state case-mix.

256B.436 VOLUNTARY CLOSURES; PLANNING.

Subdivision 1. Definitions. (a) "Closure" means the voluntary cessation of operations of a nursing facility and voluntary delicensure and decertification of all nursing facility beds of the nursing facility.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(b) "Commencement of closure" means the date on which the commissioner of health is notified of a planned closure in accordance with an approved closure plan.

(c) "Completion of closure" means the date on which the final resident of the nursing facility or nursing facilities designated for closure in an approved closure plan is discharged from the facility or facilities.

(d) "Closure plan" means a plan to close one or more nursing facilities and reallocate the resulting savings to provide special rate adjustments at other facilities.

(e) "Interim closure payments" means the medical assistance payments that may be made to a nursing facility designated for closure in an approved plan under this section.

(f) "Phased plan" means a closure plan affecting more than one nursing facility undergoing closure that is commenced and completed in phases.

(g) "Special rate adjustment" means an increase in a nursing facility's operating rates under this section.

(h) "Standardized resident days" means the standardized resident days as calculated under Minnesota Rules, part 9549.0054, subpart 2, based on the resident days in each resident class for the most recent reporting period required to be reported to the commissioner.

Subd. 2. Proposal for a closure plan. (a) One or more nursing facilities that are owned or operated by a nonprofit corporation owning or operating more than 22 nursing facilities licensed in the state of Minnesota may submit to the commissioner a proposal for a closure plan under this section. Between February 25, 2000, and June 30, 2001, the commissioner may negotiate phased plans for closure of up to seven nursing facilities.

(b) A facility or facilities reimbursed under section 256B.431 or 256B.434 with a closure plan approved by the commissioner under subdivision 4 are eligible for the following payments:

(1) facilities designated for closure are eligible for interim closure payments under subdivision 5; and

(2) facilities that remain open are eligible for a special rate adjustment.

(c) To be considered for approval, a proposal must include the following:

(1) a description of the proposed closure plan, which shall include identification of the facility or facilities to receive a special rate adjustment, the amount and timing of a special rate adjustment proposed for each facility for the case mix level "A" operating rate, the standardized resident days for each facility for which a special rate adjustment is proposed, and the effective date for each special rate adjustment. The actual special rate adjustment for a facility shall be allocated proportionately to the various rate per diems included in that facility's operating rate;

(2) an analysis of the projected state medical assistance costs of the closure plan as proposed, including the estimated costs of the special rate adjustments and estimated resident relocation costs, including county government costs;

(3) an analysis of the projected state medical assistance savings of the closure plan as proposed, including any savings projected to result from closure of one or more nursing facilities;

(4) the proposed timetable for any proposed closure, including the proposed dates for commencement and completion of closure;

(5) the proposed relocation plan for current residents of any facility designated for closure. The proposed relocation plan must be designed to comply with all applicable state and federal statutes and regulations, including, but not limited to, Minnesota Rules, parts 4655.6810 to 4655.6830; parts 4658.1600 to 4658.1690; and parts 9546.0010 to 9546.0060; and

(6) documentation, in a format approved by the commissioner, that all the nursing facilities receiving a special rate adjustment under the plan have accepted joint and several liability for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under the plan.

Subd. 3. Phased closure plans. A proposal for a phased plan may include more than one closure, each of which must meet the requirements of this section and each of which may be implemented in phases at different times. As part of a phased plan, a nursing facility may receive a special rate adjustment under more than one phase of the plan, and the cost savings from the closure of a nursing facility designated for closure under the plan may be applied as an offset to the subsequent costs of more than one phase of the plan. If a facility is proposed to receive a special rate adjustment or provide cost savings under more than one phase of a plan, the proposal must describe the special rate adjustments or cost savings in each of the affected phases of the plan. Review and approval of a phased plan under subdivision 4 shall apply to all phases of the plan as proposed.

Subd. 4. Review and approval of proposals. (a) The commissioner may grant interim closure payments or special rate adjustments for a nursing facility or facilities according to an approved plan that satisfies the requirements of this section. The commissioner shall not approve a proposal unless the commissioner determines that projected state savings of the plan equal or

APPENDIX

Repealed Minnesota Statutes: UES1675-1

exceed projected state and county government costs, including facility costs during the closure period, the estimated costs of special rate adjustments, estimated resident relocation costs, the cost of services to relocated residents, and state agency administrative costs directly related to the accomplishment of duties specified in this subdivision relative to that proposal. To achieve cost neutrality costs may only be offset against savings that occur within the same fiscal year. For purposes of a phased plan, the requirement that costs must not exceed savings applies to both the aggregate costs and savings of the plan and to each phase of the plan. A special rate adjustment under this section shall be effective no earlier than the first day of the month following completion of closure of all facilities designated for closure under the plan. For purposes of a phased plan, the special rate adjustment for each phase shall be effective no earlier than the first day of the month following completion of closure of all facilities designated for closure in that phase of the plan. No special rate adjustment under this section shall take effect prior to July 1, 2000.

(b) Upon receipt of a proposal for a closure plan, the commissioner shall provide a copy of the proposal to the commissioner of health. The commissioner of health shall certify to the commissioner within 30 days whether the proposal, if implemented, will satisfy the requirements of Minnesota Rules, parts 4655.6810 to 4655.6830, and parts 4658.1600 to 4658.1690. The commissioner shall not approve a plan under this section unless the commissioner of health has made the certification required under this paragraph.

(c) The commissioner shall review a proposal for a closure plan to determine whether it satisfies the requirements of this section. A determination shall be made within 60 days of the date the proposal is submitted. If the commissioner determines that the proposal does not satisfy the requirements of this section, or if the commissioner of health does not certify the proposal under paragraph (b), the applicant shall be provided written notice as soon as practicable specifying the deficiencies of the proposal. The proposal may be modified and resubmitted for further review by each commissioner. The commissioner of health shall review a modified proposal within 30 days from the date it is submitted, and the commissioner shall make a final determination on whether the proposal satisfies the requirements of this section within 60 days of the date the modified proposal is submitted.

(d) Approval of a closure plan expires 18 months after approval by the commissioner, unless commencement of closure has occurred at all facilities designated for closure under the plan.

Subd. 5. **Interim closure payments.** Instead of payments under section 256B.431 or 256B.434, the commissioner may approve a closure plan under which the commissioner shall:

(1) apply the interim and settle-up rate provisions under Minnesota Rules, part 9549.0057, to include facilities covered by this section, effective from commencement of closure to completion of closure;

(2) extend the length of the interim period but not to exceed 12 months;

(3) limit the amount of reimbursable expenses related to the acquisition of new capital assets;

(4) prohibit the acquisition of additional capital debt or refinancing of existing capital debt unless prior approval is obtained from the commissioner;

(5) establish as the aggregate administrative operating cost limitation for the interim period the actual aggregate administrative operating costs for the period immediately prior to commencement of closure that is of the same duration as the interim period;

(6) require the retention of financial and statistical records until the commissioner has audited the interim period and the settle-up rate;

(7) make aggregate payments under this subdivision for the interim period up to the level of the aggregate payments for the period immediately prior to commencement of closure that is of the same duration as the interim period; or

(8) change any other provision to which all parties to the plan agree.

Subd. 6. **Cost savings of closure.** For purposes of this section, the calculation of medical assistance cost savings from the closure of a nursing facility designated for closure under a closure plan shall be according to the following criteria:

(a) The projected medical assistance savings of the closure of a facility shall be the aggregate medical assistance payments to the facility for the most recently completed state fiscal year prior to submission of the proposal, as reflected in the number of resident days of care for each resident class provided by the facility in that fiscal year, multiplied by the payment rate for each resident class.

(b) If one or more facilities designated for closure in an approved closure plan are not able to be closed for any reason, or projection of savings for that closure are otherwise prohibited under this section, the projected medical assistance savings from that closure may not be offset against the medical assistance costs of special rate adjustments under the plan. In that event,

APPENDIX

Repealed Minnesota Statutes: UES1675-1

the applicant must notify the commissioner in writing and the applicant must either amend its proposal by reducing the special rate adjustment to reduce the medical assistance cost of the plan by at least the amount of the medical assistance savings that were projected from the closure of that facility or withdraw the plan.

(c) No medical assistance savings shall be projected from closure of a nursing facility that is designated for closure under a closure plan, if the facility is:

(1) subject to adverse licensure action under section 144A.11; or

(2) located in a county with a ratio of nursing facility beds to county residents age 85 and over that is in the lowest quartile of all counties in the state, at the time the proposal is submitted or at the commencement of closure.

(d) Medical assistance savings under paragraph (a) shall be recognized for purposes of this section beginning the first day of the month following the month of completion of closure for all facilities designated for closure under the plan, or all facilities designated for closure under that phase for a phased plan.

Subd. 7. Other rate adjustments. Except as otherwise provided in subdivision 5, facilities subject to this section remain eligible for any applicable rate adjustments provided under section 256B.431, 256B.434, or any other section.

Subd. 8. County costs. A portion of the savings estimated under subdivision 4, not to exceed \$75,000 per closing facility, may be transferred from the medical assistance account to the commissioner to be used for relocation costs incurred by counties.

259.67 ADOPTION ASSISTANCE PROGRAM.

Subdivision 1. Adoption assistance. (a) The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents of an eligible child. To be eligible for adoption assistance a child must:

(1) be determined to be a child with special needs, according to subdivision 4; and

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

(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and be either under the guardianship of the commissioner or under the jurisdiction of a Minnesota tribe, with adoption in accordance with tribal law as the child's documented permanency plan.

(b) Notwithstanding any provision to the contrary, no child on whose behalf federal title IV-E adoption assistance payments are to be made may be placed in an adoptive home unless a criminal background check under section 259.41, subdivision 3, paragraph (b), has been completed on the prospective adoptive parents and no disqualifying condition exists. A disqualifying condition exists if:

(1) a criminal background check reveals a felony conviction for child abuse; for spousal abuse; for a crime against children (including child pornography); or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a criminal background check reveals a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

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

(d) Subject to commissioner approval, the legally responsible agency shall make a title IV-E adoption assistance eligibility determination for each child. Children who meet all eligibility criteria except those specific to title IV-E adoption assistance shall receive adoption assistance paid through state funds.

(e) Payments for adoption assistance shall not be made to a biological parent of the child who later adopts the same child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption and all required eligibility factors are met.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance agreement, the nature and amount of any payment, services, and assistance to be provided under such agreement, the child's eligibility for Medicaid services, eligibility for reimbursement of nonrecurring expenses associated with adopting the child, to the extent that total cost does not exceed \$2,000 per child, provisions for modification of the terms of the agreement, the effective date of the agreement, that the agreement must remain in effect regardless of the state of which the adoptive parents are residents at any given time, and the payment terms. The agreement is effective the date of the adoption decree. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered. The agreement must be negotiated with the adoptive parent or parents. A monthly payment is provided as part of the adoption assistance agreement to support the care of a child who has manifested special needs.

The amount of adoption assistance shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed the payment schedule outlined in subdivision 2a and, for state-funded cases, is subject to the availability of state funds.

Subd. 2a. **Benefits and payments.** (a) Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

(b) Basic maintenance payments are available for all children eligible for adoption assistance except those eligible solely based on high risk of developing a disability. Basic maintenance payments must be made according to the following schedule:

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

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

(c) Supplemental adoption assistance needs payments, in addition to basic maintenance payments, are available for a child whose disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age. These payments are related to the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following schedule:

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

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

Subd. 3. **Modification, termination, or extension of adoption assistance agreement.** The adoption assistance agreement shall continue in accordance with its terms as long as the

APPENDIX

Repealed Minnesota Statutes: UES1675-1

need for adoption assistance continues and the adopted child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. If the commissioner determines that the adoptive parents are no longer legally responsible for support of the child or are no longer providing financial support to the child, the agreement shall terminate. Under certain limited circumstances, the adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. An application for extension must be completed and submitted by the adoptive parent prior to the date the child attains age 18. The application for extension must be made according to policies and procedures prescribed by the commissioner, including documentation of eligibility, and on forms prescribed by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When an adoptive parent requests modification of the adoption assistance agreement, a reassessment of the child must be completed consistent with subdivision 2a. If the reassessment indicates that the child's level has changed or, for a high-risk child, that the potential disability upon which eligibility for the agreement was based has manifested itself, the agreement shall be renegotiated to include an appropriate payment, consistent with subdivision 2a. The agreement must not be modified unless the commissioner and the adoptive parent mutually agree to the changes. When the commissioner determines that a child is eligible for extension of title IV-E adoption assistance under section 473 of the Social Security Act, the commissioner shall require the adoptive parents to submit the necessary documentation in order to obtain the funds under that act.

Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Adoption assistance amounts covered by this subdivision include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

Subd. 3b. **Extension; adoption finalized after age 16.** A child who has attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement to the date the child attains age 21 if the child is:

- (1) completing a secondary education program or a program leading to an equivalent credential;
- (2) enrolled in an institution which provides postsecondary or vocational education;
- (3) participating in a program or activity designed to promote or remove barriers to employment;
- (4) employed for at least 80 hours per month; or
- (5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition which incapability is supported by regularly updated information in the case plan of the child.

Subd. 4. **Special needs determination.** (a) A child is considered a child with special needs under this section if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful;

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child;

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iv) for a non-Indian child, the family that previously adopted a child of the same mother or father desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

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

(i) a court-ordered termination of parental rights;

(ii) a petition to terminate parental rights;

(iii) a consent to adopt accepted by the court under sections 259.24 and 260C.201, subdivision 11;

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

APPENDIX

Repealed Minnesota Statutes: UES1675-1

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

(vi) the death of the legal parent.

(b) The characteristics or circumstances that may be considered in determining whether a child meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:

(1) The child is a member of a sibling group to be adopted at the same time by the same parent.

(2) The child has been determined by the Social Security Administration to meet all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits.

(3) The child has documented physical, mental, emotional, or behavioral disabilities not covered under clause (2).

(4) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(5) The child is five years of age or older.

(6) The child is placed for adoption in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability upon which eligibility for the agreement was based manifests itself as documented by an appropriate professional.

(d) Documentation must be provided to verify that a child meets the special needs criteria in this subdivision. Documentation is limited to evidence deemed appropriate by the commissioner.

Subd. 5. Determination of residency. A child placed in the state from another state or a tribe outside of the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child. A child who is a resident of any county in this state when eligibility for adoption assistance is certified shall remain eligible and receive adoption assistance in accordance with the terms of the adoption assistance agreement, regardless of the domicile or residence of the adopting parents at the time of application for adoptive placement, legal decree of adoption, or thereafter.

Subd. 6. Right of appeal. (a) The adoptive parents have the right to appeal to the commissioner pursuant to section 256.045, when the commissioner denies, discontinues, or modifies the agreement.

(b) Adoptive parents who believe that their adopted child was incorrectly denied adoption assistance, or who did not seek adoption assistance on the child's behalf because of being provided with inaccurate or insufficient information about the child or the adoption assistance program, may request a hearing under section 256.045. Notwithstanding subdivision 2, the purpose of the hearing shall be to determine whether, under standards established by the federal Department of Health and Human Services, the circumstances surrounding the child's adoption warrant making an adoption assistance agreement on behalf of the child after the final decree of adoption has been issued. The commissioner shall enter into an adoption assistance agreement on the child's behalf if it is determined that:

(1) at the time of the adoption and at the time the request for a hearing was submitted the child was eligible for adoption assistance under United States Code, title 42, chapter 7, subchapter IV, part E, sections 670 to 679a, at the time of the adoption or for state funded adoption assistance under subdivision 4; and

(2) an adoption assistance agreement was not entered into on behalf of the child before the final decree of adoption because of extenuating circumstances as the term is used in the standards established by the federal Department of Health and Human Services. An adoption assistance agreement made under this paragraph shall be effective the date the request for a hearing was received by the commissioner or the local agency.

Subd. 7. Reimbursement of costs. (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing child-specific adoption services. Adoption services under this subdivision may include child-specific recruitment, training, and home studies for prospective adoptive parents, and placement services.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(b) An eligible child must have a goal of adoption, which may include an adoption in accordance with tribal law, and meet one of the following criteria:

(1) is a ward of the commissioner of human services or a ward of tribal court pursuant to section 260.755, subdivision 20, who meets one of the criteria in subdivision 4, paragraph (a), clause (3), and one of the criteria in subdivision 4, paragraph (b); or

(2) is under the guardianship of a Minnesota-licensed child-placing agency who meets one of the criteria in subdivision 4, paragraph (b), clause (1), (2), (3), (5), or (6).

(c) A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. Tribal social services shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive reimbursement only for adoption services it purchases for an eligible child.

Before providing adoption services for which reimbursement will be sought under this subdivision, a reimbursement agreement, on the designated format, must be entered into with the commissioner. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Reimbursement shall not be made unless the commissioner agrees that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to \$16,000 for each purchase of service agreement. Only one agreement per child is allowed, unless an exception is granted by the commissioner and agreed to in writing by the commissioner prior to commencement of services. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

The commissioner shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social services agency along with a verification that the service was provided.

Subd. 8. Indian children. The commissioner is encouraged to work with American Indian organizations to assist in the establishment of American Indian child adoption organizations able to be licensed as child-placing agencies. Children certified as eligible for adoption assistance under this section who are protected under the federal Indian Child Welfare Act of 1978 should, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child-placing agency.

Subd. 9. Effect on other aid. Adoption assistance payments received under this section shall not affect eligibility for any other financial payments to which a person may otherwise be entitled.

Subd. 10. Rules. The commissioner shall promulgate rules necessary to implement this section and to comply with the adoption assistance requirements of the Social Security Act to qualify for funds available under the act.

Subd. 11. Promotion of programs. The commissioner or the commissioner's designee shall actively seek ways to promote the adoption assistance program, including information to prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must also be informed as to the adoption tax credit.

259.71 INTERSTATE ADOPTION COMPACTS; SERVICE PAYMENTS.

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

(a) Enter into interstate agreements with agencies of other states for the protection of children for whom the commissioner is providing adoption assistance.

(b) Provide procedures for interstate assistance payments, including medical payments, for eligible children who are adopted interstate and for children adopted in Minnesota who move to another state.

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

(a) "Adoption assistance state" means the state that signs an adoption assistance agreement in a particular case.

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

(c) "Resident state" means the state of which the child is a resident because of the residence of the adoptive parents.

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

APPENDIX

Repealed Minnesota Statutes: UES1675-1

Subd. 3. **Compacts authorized.** The commissioner is authorized to develop, negotiate and enter into one or more interstate compacts on behalf of this state with other states to implement the purposes of Laws 1984, chapter 422. When entered into, the compact will have the force and effect of law.

Subd. 4. **Contents of compacts.** A compact entered into under Laws 1984, chapter 422, must include:

- (a) a provision allowing all states to join the compact;
- (b) a provision for withdrawal from the compact upon written notice to the parties. The provision must require a period of one year between the date of the notice and the effective date of the withdrawal;
- (c) a requirement that the protections afforded under the compact continue in force for the duration of the adoption assistance from a party state other than the one in which the adoptive parents and the child are resident;
- (d) a requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which provides the adoption assistance, and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and
- (e) other provisions necessary and appropriate for the proper administration of the compact.

A compact entered into under Laws 1984, chapter 422, may contain provisions establishing procedures and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or funds to pay part of or all of the costs.

Subd. 5. **Medical assistance; duties of the commissioner of human services.** The commissioner of human services shall:

- (a) Issue a medical assistance identification card to any child with special needs who is title IV-E eligible, or who is not title IV-E eligible but was determined by another state to have a special need for medical or rehabilitative care, and who is a resident in this state and is the subject of an adoption assistance agreement with another state when a certified copy of the adoption assistance agreement obtained from the adoption assistance state has been filed with the commissioner. The adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.
- (b) Consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; process and make payment on claims for the recipient in the same manner as for other recipients of medical assistance.
- (c) Provide coverage and benefits for a child who is title IV-E eligible or who is not title IV-E eligible but was determined to have a special need for medical or rehabilitative care and who is in another state and who is covered by an adoption assistance agreement made by the commissioner for the coverage or benefits, if any, which is not provided by the resident state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the resident state and shall be reimbursed. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents.
- (d) Publish rules implementing this subdivision. Such rules shall include procedures to be followed in obtaining prior approvals for services which are required for the assistance.

Subd. 6. **Penalties for false claims.** Any person who submits a claim or makes a statement for payment or reimbursement for services or benefits under subdivision 5 which the maker or claimant knows or should know to be false, misleading, or fraudulent is guilty of perjury. That person shall also be subject to a fine of not more than \$5,000 or imprisonment for not more than three years, or both.

Subd. 7. **Federal participation.** Consistent with federal law, the commissioner shall, in connection with the administration of Laws 1984, chapter 422, and any compact under Laws 1984, chapter 422, include in any state plan made under the Adoption Assistance and Child Welfare Act of 1980, Titles IV(e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

260C.201 DISPOSITIONS; CHILDREN IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

Subd. 11. Review of court-ordered placements; permanent placement determination.

(a) This subdivision and subdivision 11a do not apply to cases where the child is in foster care for treatment of the child's developmental disability or emotional disturbance under chapter 260D. Foster care placements of children for treatment are governed by chapter 260D. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall commence proceedings to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing commencing such proceedings, the court shall determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, required under section 260.012 and proceed according to the rules of juvenile court.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this subdivision and a permanency review for a child under eight years of age under subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing required under paragraph (a) and the rules of juvenile court, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child, including a termination of parental rights petition, according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152.

(c) The permanency proceedings shall be conducted in a timely fashion including that any trial required under section 260C.163 shall be commenced within 60 days of the admit-deny hearing required under paragraph (a). At the conclusion of the permanency proceedings, the court shall:

(1) order the child returned to the care of the parent or guardian from whom the child was removed; or

(2) order a permanent placement or termination of parental rights if permanent placement or termination of parental rights is in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human

APPENDIX

Repealed Minnesota Statutes: UES1675-1

services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

(2) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met or according to the following conditions:

(i) order the social services agency to file a petition for termination of parental rights in which case all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it approves the responsible social service agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or with a fit and willing relative who will agree to a transfer of permanent legal and physical custody of the child, but such efforts have not proven successful; or

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; and

(iii) at least annually, the responsible social services agency reconsiders its provision of services to the child and the child's placement in long-term foster care to ensure that:

(A) long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability, including whether there is another permanent placement option under this chapter that would better serve the child's needs and best interests;

(B) whenever possible, there is an identified long-term foster care family that is committed to being the foster family for the child as long as the child is a minor or under the jurisdiction of the court;

(C) the child is receiving appropriate services or assistance to maintain or build connections with the child's family and community;

(D) the child's physical and mental health needs are being appropriately provided for; and

(E) the child's educational needs are being met;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section that has agreed to adopt the child and the court accepts the parent's voluntary consent to adopt under section 259.24, except that such consent executed by a parent under this item, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable unless fraud is established and an order issues permitting revocation as stated in item (vii);

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner;

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(vii) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913, a consent to adopt executed under this section, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact. When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly at an in-court appearance hearing and must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize the permanent plan for the child including the agency's efforts to:

(1) ensure that long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability or, if not, to identify and attempt to finalize another permanent placement option under this chapter that would better serve the child's needs and best interests;

(2) identify a specific long-term foster home for the child, if one has not already been identified;

(3) support continued placement of the child in the identified home, if one has been identified;

(4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of long-term foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1.

(h) In the event it is necessary for a child that has been ordered into foster care for a specified period of time to be in foster care longer than one year after the permanency hearing held under this section, not later than 12 months after the time the child was ordered into foster care for a specified period of time, the matter must be returned to court for a review of the appropriateness of continuing the child in foster care and of the responsible social services agency's reasonable efforts to finalize a permanent plan for the child; if it is in the child's best interests to continue the order for foster care for a specified period of time past a total of 12 months, the court shall set objectives for the child's continuation in foster care, specify any further amount of time the child may be in foster care, and review the plan for the safe return of the child to the parent.

APPENDIX

Repealed Minnesota Statutes: UES1675-1

(i) An order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(j) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. The responsible social services agency may ask the court to vacate an order for long-term foster care upon a prima facie showing that there is a factual basis for the court to order another permanency option under this chapter and that such an option is in the child's best interests.

Upon a hearing where the court determines that there is a factual basis for vacating the order for long-term foster care and that another permanent order regarding the placement of the child is in the child's best interests, the court may vacate the order for long-term foster care and enter a different order for permanent placement that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for long-term foster care and ordering a different permanent placement in the child's best interests. The county attorney must file pleadings and give notice as required under the rules of juvenile court in order to modify an order for long-term foster care under this paragraph.

(k) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

(l) This paragraph applies to proceedings required under this subdivision when the child is on a trial home visit:

(1) if the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent as calculated in this subdivision, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the pleadings required under paragraph (b). The court shall make findings regarding reasonableness of the responsible social services efforts to finalize the child's return home as the permanent order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in subdivision 1. If the court finds the responsible social services agency has not made reasonable efforts to finalize the child's return home as the permanent order in the best interests of the child, the court may order other or additional efforts to support the child remaining in the care of the parent; and

(2) if a trial home visit ordered or continued at proceedings under this subdivision terminates, the court shall recommence proceedings under this subdivision to determine the permanent status of the child not later than 30 days after the child is returned to foster care.

260C.215 WELFARE OF CHILDREN.

Subd. 2. **Duties of commissioner.** The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit adoptive and foster families that reflect the ethnic and racial diversity of children in the state for whom adoptive and foster homes are needed; and

(2) require that agency staff people who work in the area of adoption and foster family recruitment participate in cultural competency training.

260C.456 FOSTER CARE BENEFITS UNTIL AGE 21.

Upon the request of a person, at any time, between the ages of 18 and 21 who had been receiving foster care benefits in the six consecutive months prior to the person's 18th birthday, or who was discharged while on runaway status after age 15, the local agency shall develop, in conjunction with the person and other appropriate parties, a specific plan related to that person's

APPENDIX

Repealed Minnesota Statutes: UES1675-1

vocational, educational, social, or maturational needs and, to the extent funds are available, shall ensure that any foster care, housing, or counseling benefits are tied to that plan. Youth who left foster care while under state guardianship as dependent or neglected retain their ability to return to foster care for placement at any time between the ages of 18 and 21.

9555.7700 REPORTS TO THE STATE AGENCY.

Subpart 1. **Initial report.** Every incident of abuse or neglect reported to the local social services agency shall be reported to the social services division of the state agency on forms provided by the state agency. The local agency shall send the completed report form to the state agency within 20 days of receiving the complaint, whether or not the classification of the report has been determined according to part 9555.7500.

Subp. 2. **Subsequent report.** When the classification of the report has been determined or if the classification has changed subsequent to the time of the initial report to the state agency, the local agency shall advise the state agency in writing of the correct information. The local agency shall do this within 90 days of when the local agency received the complaint.

Subp. 3. **Data privacy.** Reports to the social services division of the state agency are for statistical purposes only. The identity of the vulnerable adult and of the perpetrator shall not be included on the copy of the report sent to the state agency.

9560.0071 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** Parts 9560.0071 to 9560.0102 establish the procedures and standards for determining a child's eligibility for an adoption subsidy and the terms of the adoption subsidy.

Subp. 2. **Purpose.** The purpose of the adoption subsidy program is to make possible adoptive placement of children whose special needs prevent adoption without subsidy assistance.

9560.0082 CERTIFICATION.

Subpart 1. **Certification criteria.** A child is eligible for certification for an adoption subsidy if the child:

- A. is a Minnesota resident;
- B. is under the legal guardianship of the commissioner or of a Minnesota licensed child placing agency; and
- C. has special needs that prevent adoptive placement without an adoption subsidy.

Subp. 2. **Certification criteria for foster children.** A child whose foster parents desire to adopt the child is eligible for certification for an adoption subsidy if:

- A. the child meets the requirements of subpart 1;
- B. the placing agency determines that adoption by the child's foster parents is in the best interest of the child according to part 9560.0050; and
- C. the child's special needs make it difficult to provide the child an adoptive home without subsidy.

Subp. 3. **Eligibility period.** A child is not eligible for certification after a final decree of adoption has been issued for the child.

Subp. 4. **Certification by placing agency.** A child is certified as eligible for an adoption subsidy by the placing agency. The placing agency shall certify a child as eligible if:

- A. the child meets the certification criteria in subpart 1 or 2; and
- B. the placing agency has made reasonable efforts without success to place the child in an adoptive home without an adoption subsidy. These efforts must include:
 - (1) registration of the child with the state adoption exchange;
 - (2) contact with Hennepin, Ramsey, and St. Louis counties and Minnesota licensed child placing agencies for potential adoptive homes; and
 - (3) at least one additional special effort to locate an adoptive home, such as use of photo listing services, newsletters, or adoption exchange services.

The requirements in item B may be waived by the state adoption unit if an eligible child's specific condition requires recruitment of a particular family able to care for that child, or if the child is in a foster home and will be adopted by the foster parents.

Subp. 5. **Written certification statement.** The placing agency shall certify a child's eligibility for an adoption subsidy in writing in the format prescribed by the commissioner. The certification statement must include:

- A. a description of the special needs of the child upon which eligibility is based;
- B. applicable supporting documents, such as:

APPENDIX

Repealed Minnesota Rule: UES1675-1

- (1) a social history summary;
- (2) a medical evaluation;
- (3) a psychological evaluation; and
- (4) a special education evaluation (IEP); and

C. the signature of the director of the placing agency or the director's designee.

Subp. 6. **Commissioner review.** The commissioner shall review the facts upon which eligibility is based. The placing agency shall provide verification of eligibility factors at the request of the commissioner.

Subp. 7. **Eligibility for federal adoption assistance.** The placing agency shall determine the child's eligibility for federal adoption assistance under Title IV-E of the Social Security Act.

9560.0083 DETERMINATION OF AMOUNT OF ADOPTION SUBSIDY.

Subpart 1. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 2. **Identification of alternative resources.** The placing agency must identify resources available to meet the child's special needs before the amount of adoption subsidy payment is determined. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

Subp. 3. **Basis for subsidy.** The amount of an adoption subsidy is based on the special needs of the child and the determination that other resources to meet those special needs are not available.

Subp. 4. **Payment limit.** The amount of a monthly subsidy payment must not exceed the monthly foster care maintenance payment rate and difficulty of care payment that would be allowable for the child.

Subp. 5. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 6. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 7. **Special nonmedical needs.** Adoption subsidy is available for nonmedical services, items, or equipment periodically required to meet special needs documented at the time the child was certified as eligible for an adoption subsidy. Payment for nonmedical services, items, or equipment under this part is limited to:

A. Services for children under age three who are developmentally delayed if the programs are prescribed by a physician, psychologist, or developmental specialist and are not available through the public school system.

B. Child care during the adoptive parents' employment, training, or education hours if the child requires a caregiver trained to meet the child's special needs. The amount of subsidy payment is limited to:

(1) the amount the local social service agency would pay for a trained caregiver in the home or in a licensed day care facility; or

(2) the amount adoptive parents would pay under the child care sliding fee program authorized under Minnesota Statutes, section 268.91.

C. Family counseling required to meet the child's needs. Subsidy payments are limited to the prorated portion of the counseling fees allotted to the family when the family's insurance or the medical assistance program pays for the child's counseling but does not cover all fees for counseling the rest of the family.

D. Postadoption counseling to promote the child's integration into the adoptive family, provided by the placing agency during the first year following the date of the adoption decree. Subsidy payment is limited to 12 sessions of postadoption counseling.

E. Respite care provided in or out of the family residence for the relief of the child's family. Subsidy payments are limited to payment for 504 hours of respite care annually. If respite care is provided by the local social service agency, that amount of time is subtracted from the 504 hour annual total. Payment shall be no more than the respite care rate paid by the local social service agency.

F. The parental fee counties are authorized to charge parents under Minnesota Statutes, section 252.27, when a child is in 24 hour out-of-home care in a licensed residential facility. Subsidy payments shall not exceed the basic maintenance rate applicable under part 9560.0083, subpart 5.

APPENDIX

Repealed Minnesota Rule: UES1675-1

G. Burial expenses up to \$1,000 if the special needs upon which eligibility for subsidy was based result in the death of the child.

H. Camping programs adapted to meet the child's special needs. Subsidy payments are limited to two weeks of camp per year.

I. Specialized communications equipment prescribed through the local school district but not covered through educational, vocational, or other rehabilitation resources.

J. The following alterations to the family home or vehicle to accommodate the child's special physical needs:

(1) Home:

- (a) wheelchair ramps;
- (b) handrail and grab bars;
- (c) accessible shower;
- (d) elevated bathtubs and toilets;
- (e) widened doorways;
- (f) shatterproof windows;
- (g) blinking lights and tactile alarms as alternate warning systems;
- (h) lowered kitchen work surfaces;
- (i) modified cabinets and sinks that provide wheelchair space;
- (j) handles and hoses for showerheads;
- (k) door hinge replacements;
- (l) lifting devices;
- (m) special communication devices that enable caregivers not immediately present to monitor and respond to a child;
- (n) air conditioning required due to a child's medical condition;
- (o) special covers such as Plexiglas for appliances, windows, fireplaces, and radiators required to protect the child; and
- (p) door opening devices; and

(2) Vehicle:

- (a) door widening;
- (b) lifting devices;
- (c) wheelchair securing devices;
- (d) adapted seats;
- (e) handrails and grab bars;
- (f) door handle replacements; and
- (g) air conditioning required due to a child's medical condition.

K. Nonrecurring adoption expenses, up to \$2,000, for:

- (1) agency adoption fees;
- (2) travel, meal, and lodging expenses at the time of placement;
- (3) attorney fees;
- (4) court filing fee; and
- (5) replacement birth record fee.

Subp. 8. **Medical needs.** Children for whom a subsidy agreement has been executed are eligible for the medical assistance program until they reach age 21.

A. The placing agency shall assist in establishing a child's eligibility at the time of adoptive placement by:

- (1) notifying the medical assistance program of the child's eligibility for medical assistance;
- (2) providing the adoptive parent or parents with medical assistance program information;
- (3) informing the adoptive parent or parents of the procedure required to establish initial and continuing eligibility for medical assistance;
- (4) assisting the adoptive parent or parents with completion of the medical assistance application forms;

APPENDIX

Repealed Minnesota Rule: UES1675-1

(5) assisting the adoptive parent or parents, if the child is covered under family health insurance, with the insurance information and assignment forms required by the medical assistance program within 30 days of placement; and

(6) providing insurance documentation to the state adoption unit, including the adoptive parents' health insurance carrier, policy number, insurance holder, and the amount of deductible under the policy.

B. Subsidy payment is not available for any service or item covered under the medical assistance program. Subsidy payment is not available for any service or item that the medical assistance program has determined is not medically necessary.

9560.0091 SUBSIDY AGREEMENT.

Subpart 1. **Written subsidy agreement.** Before the final decree of adoption is issued, the placing agency, the adoptive parent or parents, and the commissioner shall enter into a written agreement stating the terms of the adoption subsidy.

Subp. 2. **Form of subsidy agreement.** The subsidy agreement must be in the form prescribed by the commissioner and must state:

- A. the responsibilities of the parties;
- B. the anticipated duration of the subsidy agreement;
- C. the payment terms;
- D. provision for modification of the terms of the agreement; and
- E. the effective date, which is the date the final decree of adoption is issued.

Subp. 3. **Preparation of subsidy agreement.** The placing agency shall prepare and submit to the commissioner for review an initial draft of the subsidy agreement. After the placing agency, the adoptive parent or parents, and the commissioner have agreed to the terms of the subsidy agreement, the placing agency shall:

- A. prepare six written copies;
- B. ensure that all copies are signed by the adoptive parent or parents and the placing agency director or the director's designee; and
- C. submit all copies to the state adoption unit for the commissioner's final approval and signature.

Subp. 4. **Duration.** The subsidy agreement continues in effect if the conditions in items A and B are met:

- A. the special needs upon which eligibility for subsidy was based continue; and
 - B. the child remains dependent on the adoptive parent or parents for care and financial support.
- C. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 5. **Extension to age 22.** The subsidy agreement continues beyond the child's 18th birthday if the adopted person:

- A. meets the requirements in subpart 4; and
- B. is enrolled in a secondary education program as a full-time student; or is incapable of self sustaining employment because of a physical or mental disability upon which eligibility for subsidy was based.

Within 30 days of each birthday, the adopted person must apply to the local social service agency and to the Social Security Administration for services and financial benefits to meet the person's special needs.

Written documentation that services are not available or that financial benefits are not adequate to meet those special needs must be submitted to the commissioner.

Subp. 6. **Out-of-state residence.** A subsidy agreement remains in effect regardless of the state of residence of the adoptive parent or parents.

Subp. 7. **Subsidy payment upon death of the adoptive parent or parents or termination of parental rights.** The subsidy agreement ends upon the death or upon the termination of parental rights of adoptive parents who are parties to a subsidy agreement except in the following circumstances:

- A. if the need for subsidy continues and the subsidy agreement provides for assignment to a guardian or conservator; or

APPENDIX

Repealed Minnesota Rule: UES1675-1

B. for up to six months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

If the child is placed under the custody of an authorized child placing agency, payment of the subsidy must cease.

9560.0093 MODIFICATION OF THE SUBSIDY.

Subpart 1. **Modification or termination.** The parties to the subsidy agreement may at any time request modification or termination of the subsidy agreement. The subsidy agreement is subject to modification when a significant change in the child's circumstances affects the need for or amount of the subsidy. Requests for modification or termination must be made in writing.

The adoptive parent or parents shall notify the state adoption unit in writing within 30 days of any event affecting the need for or amount of subsidy payment, including:

- A. marriage of the child or adoptive parent;
- B. separation or divorce of the adoptive parents;
- C. residence of the child outside the adoptive home for a period exceeding 30 consecutive days; or
- D. death of the child or adoptive parent or parents.

The notification must describe the effect of the event on the need for subsidy.

9560.0093 MODIFICATION OF THE SUBSIDY.

Subp. 3. **Appeal.** When the commissioner denies payment or otherwise modifies or discontinues the subsidy agreement, the adoptive parent or parents may appeal the commissioner's action under Minnesota Statutes, section 256.045.

9560.0093 MODIFICATION OF THE SUBSIDY.

Subp. 4. **Local social service agency assistance.** Upon request, the local social service agency in the county where the child resides shall assist the commissioner and the adoptive parent or parents with review or modification of the subsidy.

9560.0101 REIMBURSEMENT PROCEDURES.

Subpart 1. **Payment schedule.** Subsidy payments for basic maintenance and supplemental maintenance are made monthly to the adoptive parent or parents.

Subp. 2. **Payment of special nonmedical and medical expenses.** When requesting subsidy payment for special nonmedical or medical expenses provided for in the subsidy agreement, the adoptive parent or parents shall submit the expense statement to the state adoption unit for reimbursement.

Subp. 3. **Expenses not specified in subsidy agreement.** When requesting subsidy payment for expenses not specifically provided for in the subsidy agreement, the adoptive parent or parents shall follow the procedures in items A and B.

A. The adoptive parent or parents shall contact the local social service agency to determine whether the local social service plan includes services to meet the child's needs. If services are available, the adoptive parent or parents shall complete a local social service application. The adoptive parent or parents shall send a copy of the local social service agency response to their request for service to the state adoption unit or shall inform the state adoption unit in writing if the local social service agency refuses to accept an application.

B. The adoptive parent or parents shall apply for other services to meet the child's needs when other resources are identified by the state adoption unit, for example:

- (1) the adoptive parent's or parents' insurance carrier;
- (2) the medical assistance program;
- (3) the community mental health center;
- (4) the local public school system; or
- (5) the local public health department.

Subp. 4. **Response time.** The state adoption unit shall answer requests for special expense authorizations within 30 days.

Subp. 5. **Cost estimates.** Requests for special equipment under part 9560.0083, subpart 7, item J, must include three estimates of cost.

APPENDIX

Repealed Minnesota Rule: UES1675-1

Subp. 6. **Fiscal year.** The adoptive parent or parents shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

Subp. 7. **Address changes.** The adoptive parent or parents shall notify the state adoption unit of address changes.

9560.0102 REIMBURSEMENT FOR PLACING AGENCY.

Subpart 1. **General provisions.** Within the limitations of subpart 2, the commissioner shall reimburse placing agencies for the portion of costs of providing or purchasing adoption services for children certified as eligible for adoption subsidy that are not reimbursed under other federal or state funding sources.

Subp. 2. **Reimbursement limitations.** Reimbursement to placing agencies is subject to the following limitations:

A. The commissioner shall set aside an amount not to exceed five percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program to reimburse placing agencies for adoption services.

B. When subsidy payments for children's needs exceed 95 percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

C. [Repealed, L 2007 c 147 art 2 s 63]

D. Adoption services for which subsidy reimbursement is available are limited to services provided before the adoption decree including recruitment, counseling, and training of the adoptive family; preparation and placement of the child in an adoptive home; case management and supervision of the adoptive placement before a final decree of adoption; and referral services.

Subp. 3. **Procedures for reimbursement.** Placing agencies seeking reimbursement for the costs of adoption services provided for a child certified as eligible for adoption subsidy shall follow the procedures in items A to C. The Minnesota placing agency financially responsible for the child shall:

A. submit to the state adoption unit a statement describing the adoption services to be provided and the estimated costs;

B. submit to the state adoption unit itemized statements within 60 days after adoptive placement and within 60 days after the adoption decree is issued that list the adoption services provided and the cost for each service; and

C. use the purchase of service agreement form prescribed by the commissioner when adoption services are provided under a purchase of service agreement and submit to the state adoption unit for the commissioner's approval and signature a purchase of service agreement signed by the vendor of services.