# SENATE
## STATE OF MINNESOTA
## NINETY-SECOND SESSION

# S.F. No. 4165

**(SENATE AUTHORS: ABELER and Utke)**

| DATE | D-PG | OFFICIAL STATUS |
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| 03/21/2022 | 5476 | Introduction and first reading<br>Referred to Human Services Reform Finance and Policy |
| 03/28/2022 | 5661 | Author added Utke |
| 03/29/2022 | 5691a | Comm report: To pass as amended and re-refer to Finance |
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A bill for an act

relating to the operation of state government; modifying human services provisions in children and family services, behavioral health, community supports, licensing, continuing care for older adults, and direct care and treatment; modifying health provisions related to public pools, hospital construction, and hospice care; modifying expiration dates for various mandated reports from the commissioner of human services; amending Minnesota Statutes 2020, sections 15A.0815, subdivision 2; 62N.25, subdivision 5; 62Q.1055; 62Q.37, subdivision 7; 62Q.47; 144.1222, subdivision 2d; 144A.351, subdivision 1; 144A.75, subdivision 12; 145.4716, by adding a subdivision; 148F.11, by adding a subdivision; 169A.70, subdivisions 3, 4; 245.4661, subdivision 10; 245.4882, by adding a subdivision; 245.4889, subdivision 3, by adding a subdivision; 245A.11, subdivisions 2, 2a, 7, 7a, by adding a subdivision; 245A.14, subdivision 14; 245A.19; 245C.04, subdivision 1; 245D.10, subdivision 3a; 245D.12; 245F.03; 245F.04, subdivision 1; 245G.01, by adding a subdivision; 245G.05, subdivision 2; 245G.06, subdivision 3, by adding a subdivision; 245G.12; 245G.22, subdivision 2; 253B.18, subdivision 6; 254A.19, subdivisions 1, 3, by adding subdivisions; 254B.01, subdivision 5, by adding subdivisions; 254B.03, subdivisions 1, 5; 254B.04, subdivision 2a, by adding subdivisions; 256.01, subdivision 29, by adding a subdivision; 256.0112, by adding a subdivision; 256.021, subdivision 3; 256.042, subdivision 5; 256.045, subdivision 3; 256.9657, subdivision 8; 256.975, subdivision 11; 256B.0561, subdivision 4; 256B.057, subdivision 12; 256B.0659, subdivision 19; 256B.0757, subdivisions 1, 2, 3, 4, 5, 8; 256B.0911, subdivision 5; 256B.0949, subdivision 17; 256B.49, subdivision 23; 256B.4911, subdivision 4; 256B.4914, subdivision 8, as amended; 256B.493, subdivisions 2, 4, 5, 6, by adding subdivisions; 256B.69, subdivision 9d; 256D.09, subdivision 2a; 256E.28, subdivision 6; 256E.33, subdivisions 1, 2; 256E.35, subdivisions 1, 2, 4a, 6, 7; 256G.02, subdivision 6; 256I.04, subdivision 3; 256K.26, subdivisions 2, 6, 7; 256K.45, subdivision 6, by adding subdivisions; 256L.12, subdivision 8; 256P.02, by adding a subdivision; 256P.04, subdivision 11; 256Q.06, by adding a subdivision; 256R.18; 257.0725; 260.012; 260.775; 260B.157, subdivisions 1, 3; 260C.001, subdivision 3; 260C.007, subdivision 27; 260C.151, subdivision 6; 260C.152, subdivision 5; 260C.175, subdivision 2; 260C.176, subdivision 2; 260C.178, subdivision 1; 260C.181, subdivision 2; 260C.193, subdivision 3; 260C.201, subdivisions 1, 2; 260C.202; 260C.203; 260C.204; 260C.221; 260C.513; 260C.607, subdivisions 2, 5; 260C.613, subdivisions 1, 5; 260E.20, subdivision 1; 260E.24, subdivision 6; 260E.38, subdivision 3; 268.19, subdivision 1; 299A.299, subdivision 1; 518A.77; 626.557, subdivision 12b; Minnesota Statutes 2021 Supplement, sections 15.01; 15.06,

subdivision 1; 43A.08, subdivision 1a; 62A.673, subdivision 2; 144.551, subdivision 1; 148F.11, subdivision 1; 245.467, subdivisions 2, 3; 245.4871, subdivision 21; 245.4876, subdivisions 2, 3; 245.4885, subdivision 1; 245.4889, subdivision 1; 245.735, subdivision 3; 245A.03, subdivision 7; 245C.05, subdivision 5; 245I.02, subdivisions 19, 36; 245I.03, subdivision 9; 245I.04, subdivision 4; 245I.05, subdivision 3; 245I.08, subdivision 4; 245I.09, subdivision 2; 245I.10, subdivisions 2, 6; 245I.20, subdivision 5; 245I.23, subdivision 22; 254A.03, subdivision 3; 254A.19, subdivision 4; 254B.03, subdivision 2; 254B.04, subdivision 1; 254B.05, subdivisions 4, 5; 256.01, subdivision 42; 256.042, subdivision 4; 256B.0622, subdivision 2; 256B.0625, subdivision 3b; 256B.0671, subdivision 6; 256B.0911, subdivisions 3a, 3f; 256B.0946, subdivision 1; 256B.0947, subdivisions 2, 6; 256B.0949, subdivisions 2, 13; 256B.69, subdivision 9f; 256L.03, subdivision 2; 256P.01, subdivision 6a; 256P.06, subdivision 3; 260C.157, subdivision 3; 260C.212, subdivisions 1, 2; 260C.605, subdivision 1; 260C.607, subdivision 6; Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended; Laws 2020, First Special Session chapter 7, section 1, subdivision 1, as amended; Laws 2021, First Special Session chapter 7, article 2, section 74, by adding a subdivision; article 10, sections 1; 3; article 11, section 38; Laws 2021, First Special Session chapter 8, article 6, section 1, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 245A; 245D; 245I; 256B; proposing coding for new law as Minnesota Statutes, chapter 256T; repealing Minnesota Statutes 2020, sections 169A.70, subdivision 6; 245.981; 245G.22, subdivision 19; 246.0136; 246.131; 246B.03, subdivision 2; 246B.035; 252.025, subdivision 7; 252.035; 254A.02, subdivision 8a; 254A.04; 254A.16, subdivision 6; 254A.19, subdivisions 1a, 2; 254B.04, subdivisions 2b, 2c; 254B.041, subdivision 2; 254B.14, subdivisions 1, 2, 3, 4, 6; 256.01, subdivision 31; 256.975, subdivision 12; 256B.0638, subdivision 7; 256B.0943, subdivisions 8, 8a, 10, 12, 13; Minnesota Statutes 2021 Supplement, sections 254A.19, subdivision 5; 254B.14, subdivision 5; 256B.0943, subdivisions 1, 2, 3, 4, 5, 5a, 6, 7, 9, 11; Laws 1998, chapter 382, article 1, section 23; Minnesota Rules, parts 9530.7000, subparts 1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17a, 19, 20, 21; 9530.7005; 9530.7010; 9530.7012; 9530.7015, subparts 1, 2a, 4, 5, 6; 9530.7020, subparts 1, 1a, 2; 9530.7021; 9530.7022, subpart 1; 9530.7025; 9530.7030, subpart 1.

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

## ARTICLE 1

## CHILDREN AND FAMILY SERVICES

Section 1. Minnesota Statutes 2020, section 145.4716, is amended by adding a subdivision to read:

Subd. 4. **Funding.** Funds appropriated for this section shall not be used for any activity other than the authorized activities under this section, and the commissioner shall not create additional eligibility criteria or restrictions on the funds. The commissioner must prioritize providing trauma-informed, culturally inclusive services for sexually exploited youth or youth at risk of sexual exploitation under this section.

Sec. 2. Minnesota Statutes 2020, section 256E.33, subdivision 1, is amended to read:

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

(b) "Transitional housing" means housing designed for independent living and provided to a homeless person or family at a rental rate of at least 25 percent of the family income for a period of up to ~~24~~ 36 months. If a transitional housing program is associated with a licensed facility or shelter, it must be located in a separate facility or a specified section of the main facility where residents can be responsible for their own meals and other daily needs.

(c) "Support services" means an assessment service that identifies the needs of individuals for independent living and arranges or provides for the appropriate educational, social, legal, advocacy, child care, employment, financial, health care, or information and referral services to meet these needs.

Sec. 3. Minnesota Statutes 2020, section 256E.33, subdivision 2, is amended to read:

Subd. 2. **Establishment and administration.** A transitional housing program is established to be administered by the commissioner. The commissioner may make grants to eligible recipients or enter into agreements with community action agencies or other public or private nonprofit agencies to make grants to eligible recipients to initiate, maintain, or expand programs to provide transitional housing and support services for persons in need of transitional housing, which may include up to six months of follow-up support services for persons who complete transitional housing as they stabilize in permanent housing. The commissioner must ensure that money appropriated to implement this section is distributed as soon as practicable. The commissioner may make grants directly to eligible recipients. The commissioner may extend use ~~up to ten percent of the appropriation available for~~ of this program for persons needing assistance longer than ~~24~~ 36 months.

Sec. 4. Minnesota Statutes 2020, section 256E.35, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The Minnesota family assets for independence initiative is established to provide incentives for low-income families to accrue assets for education, housing, vehicles, emergencies, and economic development purposes.

Sec. 5. Minnesota Statutes 2020, section 256E.35, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Eligible educational institution" means the following:

(1) an institution of higher education described in section 101 or 102 of the Higher Education Act of 1965; or

(2) an area vocational education school, as defined in subparagraph (C) or (D) of United States Code, title 20, chapter 44, section 2302 (3) (the Carl D. Perkins Vocational and Applied Technology Education Act), which is located within any state, as defined in United States Code, title 20, chapter 44, section 2302 (30). This clause is applicable only to the extent section 2302 is in effect on August 1, 2008.

(c) "Family asset account" means a savings account opened by a household participating in the Minnesota family assets for independence initiative.

(d) "Fiduciary organization" means:

(1) a community action agency that has obtained recognition under section 256E.31;

(2) a federal community development credit union ~~serving the seven-county metropolitan area~~; ~~or~~

(3) a women-oriented economic development agency ~~serving the seven-county metropolitan area~~;

(4) a federally recognized Tribal nation; or

(5) a nonprofit organization, as defined under section 501(c)(3) of the Internal Revenue Code.

(e) "Financial coach" means a person who:

(1) has completed an intensive financial literacy training workshop that includes curriculum on budgeting to increase savings, debt reduction and asset building, building a good credit rating, and consumer protection;

(2) participates in ongoing statewide family assets for independence in Minnesota (FAIM) network training meetings under FAIM program supervision; and

(3) provides financial coaching to program participants under subdivision 4a.

(f) "Financial institution" means a bank, bank and trust, savings bank, savings association, or credit union, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(g) "Household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(h) "Permissible use" means:

(1) postsecondary educational expenses at an eligible educational institution as defined in paragraph (b), including books, supplies, and equipment required for courses of instruction;

(2) acquisition costs of acquiring, constructing, or reconstructing a residence, including any usual or reasonable settlement, financing, or other closing costs;

(3) business capitalization expenses for expenditures on capital, plant, equipment, working capital, and inventory expenses of a legitimate business pursuant to a business plan approved by the fiduciary organization;

(4) acquisition costs of a principal residence within the meaning of section 1034 of the Internal Revenue Code of 1986 which do not exceed 100 percent of the average area purchase price applicable to the residence determined according to section 143(e)(2) and (3) of the Internal Revenue Code of 1986; ~~and~~

(5) acquisition costs of a personal vehicle only if approved by the fiduciary organization;

(6) contribution to an emergency savings account; and

(7) contribution to a Minnesota 529 savings plan.

Sec. 6. Minnesota Statutes 2020, section 256E.35, subdivision 4a, is amended to read:

Subd. 4a. **Financial coaching.** A financial coach shall provide the following to program participants:

(1) financial education relating to budgeting, debt reduction, asset-specific training, credit building, and financial stability activities;

(2) asset-specific training related to buying a home or vehicle, acquiring postsecondary education, ~~or~~ starting or expanding a small business, saving for emergencies, or saving for a child's education; and

(3) financial stability education and training to improve and sustain financial security.

Sec. 7. Minnesota Statutes 2020, section 256E.35, subdivision 6, is amended to read:

Subd. 6. **Withdrawal; matching; permissible uses.** (a) To receive a match, a participating household must transfer funds withdrawn from a family asset account to its matching fund custodial account held by the fiscal agent, according to the family asset agreement. The fiscal agent must determine if the match request is for a permissible use consistent with the household's family asset agreement.

(b) The fiscal agent must ensure the household's custodial account contains the applicable matching funds to match the balance in the household's account, including interest, on at least a quarterly basis and at the time of an approved withdrawal. Matches must be a

contribution of $3 from state grant or TANF funds for every $1 of funds withdrawn from the family asset account not to exceed a $6,000 lifetime limit.

(c) Notwithstanding paragraph (b), if funds are appropriated for the Federal Assets for Independence Act of 1998, and a participating fiduciary organization is awarded a grant under that act, participating households with that fiduciary organization must be provided matches as follows:

(1) from state grant and TANF funds, a matching contribution of $1.50 for every $1 of funds withdrawn from the family asset account not to exceed a ~~$3,000~~ $4,500 lifetime limit; and

(2) from nonstate funds, a matching contribution of not less than $1.50 for every $1 of funds withdrawn from the family asset account not to exceed a ~~$3,000~~ $4,500 lifetime limit.

(d) Upon receipt of transferred custodial account funds, the fiscal agent must make a direct payment to the vendor of the goods or services for the permissible use.

Sec. 8. Minnesota Statutes 2020, section 256E.35, subdivision 7, is amended to read:

Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary organization participating in a family assets for independence initiative must report quarterly to the commissioner of human services identifying the participants with accounts, the number of accounts, the amount of savings and matches for each participant's account, the uses of the account, and the number of businesses, homes, vehicles, and educational services paid for with money from the account, and the amount of contributions to Minnesota 529 savings plans and emergency savings accounts, as well as other information that may be required for the commissioner to administer the program and meet federal TANF reporting requirements.

Sec. 9. Minnesota Statutes 2020, section 256K.45, subdivision 6, is amended to read:

Subd. 6. **Funding.** Funds appropriated for this section may be expended on programs described under subdivisions 3 to 5 and 8, technical assistance, and capacity building to meet the greatest need on a statewide basis. The commissioner will provide outreach, technical assistance, and program development support to increase capacity to new and existing service providers to better meet needs statewide, particularly in areas where services for homeless youth have not been established, especially in greater Minnesota.

Sec. 10. Minnesota Statutes 2020, section 256K.45, is amended by adding a subdivision to read:

Subd. 7. **Awarding of grants.** (a) Grants awarded under this section shall not be used for any activity other than the authorized activities under this section, and the commissioner shall not create additional eligibility criteria or restrictions on the grant money.

(b) Grants shall be awarded under this section only after a review of the grant recipient's application materials, including past performance and utilization of grant money. The commissioner shall not reduce an existing grant award amount unless the commissioner first determines that the grant recipient has failed to meet performance measures or has used grant money improperly.

(c) For grants awarded pursuant to a two-year grant contract, the commissioner shall permit grant recipients to carry over any unexpended amount from the first contract year to the second contract year.

Sec. 11. Minnesota Statutes 2020, section 256K.45, is amended by adding a subdivision to read:

Subd. 8. **Provider repair or improvement grants.** (a) Providers that serve homeless youth under this section may apply for a grant of up to $100,000 under this subdivision to make minor or mechanical repairs or improvements to a facility providing services to homeless youth or youth at risk of homelessness.

(b) Grant applications under this subdivision must include a description of the repairs or improvements and the estimated cost of the repairs or improvements.

(c) Grantees under this subdivision cannot receive grant funds under this subdivision for two consecutive years.

Sec. 12. Minnesota Statutes 2020, section 256P.02, is amended by adding a subdivision to read:

Subd. 4. **Account exception.** Family asset accounts under section 256E.35 and individual development accounts authorized under the Assets for Independence Act, Title IV of the Community Opportunities, Accountability, and Training and Educational Services Human Services Reauthorization Act of 1998, Public Law 105-285, shall be excluded when determining the equity value of personal property.

Sec. 13. Minnesota Statutes 2020, section 256P.04, subdivision 11, is amended to read:

Subd. 11. **Participant's completion of household report form.** (a) When a participant is required to complete a household report form, the following paragraphs apply.

(b) If the agency receives an incomplete household report form, the agency must immediately ~~return the incomplete form and clearly state what the participant must do for the form to be complete~~ contact the participant by phone or in writing to acquire the necessary information to complete the form.

(c) The automated eligibility system must send a notice of proposed termination of assistance to the participant if a complete household report form is not received by the agency. The automated notice must be mailed to the participant by approximately the 16th of the month. When a participant submits an incomplete form on or after the date a notice of proposed termination has been sent, the termination is valid unless the participant submits a complete form before the end of the month.

(d) The submission of a household report form is considered to have continued the participant's application for assistance if a complete household report form is received within a calendar month after the month in which the form was due. Assistance shall be paid for the period beginning with the first day of that calendar month.

(e) An agency must allow good cause exemptions for a participant required to complete a household report form when any of the following factors cause a participant to fail to submit a completed household report form before the end of the month in which the form is due:

(1) an employer delays completion of employment verification;

(2) the agency does not help a participant complete the household report form when the participant asks for help;

(3) a participant does not receive a household report form due to a mistake on the part of the department or the agency or a reported change in address;

(4) a participant is ill or physically or mentally incapacitated; or

(5) some other circumstance occurs that a participant could not avoid with reasonable care which prevents the participant from providing a completed household report form before the end of the month in which the form is due.

Sec. 14. Minnesota Statutes 2021 Supplement, section 256P.06, subdivision 3, is amended to read:

Subd. 3. **Income inclusions.** The following must be included in determining the income of an assistance unit:

(1) earned income; and

(2) unearned income, which includes:

(i) interest and dividends from investments and savings;

(ii) capital gains as defined by the Internal Revenue Service from any sale of real property;

(iii) proceeds from rent and contract for deed payments in excess of the principal and interest portion owed on property;

(iv) income from trusts, excluding special needs and supplemental needs trusts;

(v) interest income from loans made by the participant or household;

(vi) cash prizes and winnings;

(vii) unemployment insurance income that is received by an adult member of the assistance unit unless the individual receiving unemployment insurance income is:

(A) 18 years of age and enrolled in a secondary school; or

(B) 18 or 19 years of age, a caregiver, and is enrolled in school at least half-time;

(viii) retirement, survivors, and disability insurance payments;

(ix) nonrecurring income over $60 per quarter unless the nonrecurring income is: (A) from tax refunds, tax rebates, or tax credits; (B) a reimbursement, rebate, award, grant, or refund of personal or real property or costs or losses incurred when these payments are made by: a public agency; a court; solicitations through public appeal; a federal, state, or local unit of government; or a disaster assistance organization; (C) provided as an in-kind benefit; or (D) earmarked and used for the purpose for which it was intended, subject to verification requirements under section 256P.04;

(x) retirement benefits;

(xi) cash assistance benefits, as defined by each program in chapters 119B, 256D, 256I, and 256J;

(xii) Tribal per capita payments unless excluded by federal and state law;

~~(xiii) income and payments from service and rehabilitation programs that meet or exceed the state's minimum wage rate;~~

~~(xiv)~~ (xiii) income from members of the United States armed forces unless excluded from income taxes according to federal or state law;

~~(xv)~~ (xiv) all child support payments for programs under chapters 119B, 256D, and 256I;

~~(xvi)~~ (xv) the amount of child support received that exceeds $100 for assistance units with one child and $200 for assistance units with two or more children for programs under chapter 256J;

~~(xvii)~~ (xvi) spousal support; and

~~(xviii)~~ (xvii) workers' compensation.

Sec. 15. Minnesota Statutes 2020, section 260.012, is amended to read:

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.**

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services and practices, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been terminated involuntarily;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.505, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under sections 260C.503 to 260C.521 must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan that is individualized to the needs of the child and the child's family and may include support persons from the child's extended family, kin network, and community; or

(2) the agency has demonstrated to the court that, given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available ~~which~~ that could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.219;

(3) conduct a relative search to identify and provide notice to adult relatives, and engage relatives in case planning and permanency planning, as required under section 260C.221;

(4) consider placing the child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a);

~~(4)~~ (5) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

~~(5)~~ (6) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably with a relative in the order specified in section 260C.212, subdivision 2, paragraph (a), through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the individualized needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. The responsible social services agency must select services for a child and the child's family by collaborating with the child's family and, if appropriate, the child. At each stage of the proceedings ~~where~~ when the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) ~~it~~ the agency has made reasonable efforts to prevent placement of the child in foster care, including that the agency considered or established a safety plan according to paragraph (d), clause (1);

(2) ~~it~~ the agency has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) the agency has made reasonable efforts to finalize a permanent plan for the child pursuant to paragraph (e);

~~(3) it~~ (4) the agency has made reasonable efforts to finalize an alternative permanent home for the child, and ~~considers~~ considered permanent alternative homes for the child

~~inside or outside~~ in or out of the state, preferably with a relative in the order specified in section 260C.212, subdivision 2, paragraph (a); or

~~(4)~~ (5) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts that the agency believes demonstrate that there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require the agency to make reasonable efforts for reunification after a hearing according to section 260C.163, ~~where~~ if the court finds that there is not clear and convincing evidence of the facts upon which the court based ~~its~~ the court's prima facie determination. ~~In this case when~~ If there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 260E.03, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made by the agency, the court shall consider whether services to the child and family were:

(1) selected in collaboration with the child's family and, if appropriate, the child;

(2) tailored to the individualized needs of the child and child's family;

~~(1)~~ (3) relevant to the safety ~~and~~, protection, and well-being of the child;

~~(2)~~ (4) adequate to meet the individualized needs of the child and family;

~~(3)~~ (5) culturally appropriate;

~~(4)~~ (6) available and accessible;

~~(5)~~ (7) consistent and timely; and

~~(6)~~ (8) realistic under the circumstances.

In the alternative, the court may determine that the provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for the treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or the child's individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose ~~its~~ the agency's decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses ~~its~~ the agency's decision to proceed ~~on~~ with both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 16. Minnesota Statutes 2020, section 260C.001, subdivision 3, is amended to read:

Subd. 3. **Permanency, termination of parental rights, and adoption.** The purpose of the laws relating to permanency, termination of parental rights, and children who come under the guardianship of the commissioner of human services is to ensure that:

(1) when required and appropriate, reasonable efforts have been made by the social services agency to reunite the child with the child's parents in a home that is safe and permanent;

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement according to the requirements of section 260C.212, subdivision 2, preferably ~~with adoptive parents~~ with a relative through an adoption or a transfer of permanent legal and physical custody or, if that is not possible or in the best interests of the child, ~~a fit and willing relative through transfer of permanent legal and physical custody to that relative~~ with a nonrelative caregiver through adoption; and

(3) when a child is under the guardianship of the commissioner of human services, reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

Nothing in this section requires reasonable efforts to prevent placement or to reunify the child with the parent or guardian to be made in circumstances where the court has determined that the child has been subjected to egregious harm, when the child is an abandoned infant, the parent has involuntarily lost custody of another child through a proceeding under section 260C.515, subdivision 4, or similar law of another state, the parental rights of the parent to a sibling have been involuntarily terminated, or the court has determined that reasonable efforts or further reasonable efforts to reunify the child with the parent or guardian would be futile.

The paramount consideration in all proceedings for permanent placement of the child under sections 260C.503 to 260C.521, or the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

Sec. 17. Minnesota Statutes 2020, section 260C.007, subdivision 27, is amended to read:

Subd. 27. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption; the legal parent, guardian, or custodian of the child's siblings; or an individual who is an important friend of the child or of the child's parent or custodian, including an

individual with whom the child has resided or had significant contact or who has a significant relationship to the child or the child's parent or custodian.

Sec. 18. Minnesota Statutes 2020, section 260C.151, subdivision 6, is amended to read:

Subd. 6. **Immediate custody.** If the court makes individualized, explicit findings, based on the notarized petition or sworn affidavit, that there are reasonable grounds to believe that the child is in surroundings or conditions ~~which~~ that endanger the child's health, safety, or welfare that require that responsibility for the child's care and custody be immediately assumed by the responsible social services agency and that continuation of the child in the custody of the parent or guardian is contrary to the child's welfare, the court may order that the officer serving the summons take the child into immediate custody for placement of the child in foster care, preferably with a relative. In ordering that responsibility for the care, custody, and control of the child be assumed by the responsible social services agency, the court is ordering emergency protective care as that term is defined in the juvenile court rules.

Sec. 19. Minnesota Statutes 2020, section 260C.152, subdivision 5, is amended to read:

Subd. 5. **Notice to foster parents and preadoptive parents and relatives.** The foster parents, if any, of a child and any preadoptive parent or relative providing care for the child must be provided notice of and a right to be heard in any review or hearing to be held with respect to the child. Any other relative may also request, and must be granted, a notice and the ~~opportunity~~ right to be heard under this section. This subdivision does not require that a foster parent, preadoptive parent, ~~or~~ relative providing care for the child, or any other relative be made a party to a review or hearing solely on the basis of the notice and right to be heard.

Sec. 20. Minnesota Statutes 2020, section 260C.175, subdivision 2, is amended to read:

Subd. 2. **Notice to parent or custodian and child; emergency placement with relative.** ~~Whenever~~ (a) At the time that a peace officer takes a child into custody for relative placement or shelter care ~~or relative placement~~ pursuant to subdivision 1, section 260C.151, subdivision 5, or section 260C.154, the officer shall notify the child's parent or custodian and the child, if the child is ten years of age or older, that under section 260C.181, subdivision 2, the parent or custodian or the child may request ~~that~~ to place the child ~~be placed~~ with a relative ~~or a designated caregiver under chapter 257A~~ as defined in section 260C.007, subdivision 27, instead of in a shelter care facility.

(b) When a child who is not alleged to be delinquent is taken into custody pursuant to subdivision 1, clause (1) or (2), item (ii), and placement with an identified relative is requested, the peace officer shall coordinate with the responsible social services agency to ensure the child's safety and well-being and comply with section 260C.181, subdivision 2.

(c) The officer also shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social services agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will ~~in fact~~ assist the parent or custodian.

Sec. 21. Minnesota Statutes 2020, section 260C.176, subdivision 2, is amended to read:

Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child taken into custody and placed in a relative's home or shelter care facility ~~or relative's home~~ by a peace officer pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), may be held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260C.178 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997, chapter 239, article 10, sections 2 to 26, in which case the court may extend the period of detention for an additional seven days, within which time the social services agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition.

Sec. 22. Minnesota Statutes 2020, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time that the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue to be in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines that there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child:

(1) into the care of the child's noncustodial parent and order the noncustodial parent to comply with any conditions that the court determines appropriate to ensure the safety and care of the child, including requiring the noncustodial parent to cooperate with paternity establishment proceedings if the noncustodial parent has not been adjudicated the child's father; or

(2) into foster care as defined in section 260C.007, subdivision 18, under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules ~~or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father~~. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that ~~it~~ the agency has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. The court shall not make a reasonable efforts determination under this clause unless the court is satisfied that the agency has sufficiently demonstrated to the court that there were no services or other efforts that the agency was able to provide at the time of the hearing enabling the child to safely remain home or to safely return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered ~~which~~ that would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

(f) If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

~~(f)~~ (g) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the

parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

~~(g)~~ (h) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

~~(h)~~ (i) When a petition to terminate parental rights is required under section 260C.301, subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.507, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(i)~~ (j) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).

~~(j)~~ (k) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social

services agency for the purpose of complying with sections 260C.150, 260C.151, 260C.212, 260C.215, 260C.219, and 260C.221.

~~(k)~~ (l) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

~~(l)~~ (m) When the court has ordered the child into the care of a noncustodial parent or in foster care ~~or into the home of a noncustodial parent~~, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 260E.26, and Minnesota Rules, part 9560.0228.

Sec. 23. Minnesota Statutes 2020, section 260C.181, subdivision 2, is amended to read:

Subd. 2. **Least restrictive setting.** Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative~~, a designated caregiver under chapter 257A,~~ or, if no placement is available with a relative, in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes.

Sec. 24. Minnesota Statutes 2020, section 260C.193, subdivision 3, is amended to read:

Subd. 3. **Best interests of the child.** (a) The policy of the state is to ensure that the best interests of children in foster care, who experience a transfer of permanent legal and physical

custody to a relative under section 260C.515, subdivision 4, or adoption under this chapter, are met by:

(1) considering placement of a child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a); and

(2) requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected home will serve the needs of the child.

(b) No later than three months after a child is ordered to be removed from the care of a parent in the hearing required under section 260C.202, the court shall review and enter findings regarding whether the responsible social services agency ~~made~~:

(1) ~~diligent efforts~~ exercised due diligence to identify ~~and~~, search for, notify, and engage relatives as required under section 260C.221; and

(2) made a placement consistent with section 260C.212, subdivision 2, that is based on an individualized determination ~~as required under section 260C.212, subdivision 2,~~ of the child's needs to select a home that meets the needs of the child.

(c) If the court finds that the agency has not ~~made efforts~~ exercised due diligence as required under section 260C.221, ~~and~~ the court shall order the agency to make reasonable efforts. If there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child to be placed with the relative consistent with the child's best interests.

(d) If the agency's efforts under section 260C.221 are found by the court to be sufficient, the court shall order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to appropriately engage relatives who subsequently come to the agency's attention. A court's finding that the agency has made reasonable efforts under this paragraph does not relieve the agency of the duty to continue notifying relatives who come to the agency's attention and engaging and considering relatives who respond to the notice under section 260C.221 in child placement and case planning decisions.

(e) If the child's birth parent ~~or parents~~ explicitly ~~request~~ requests that a specific relative ~~or important friend~~ not be considered for placement of the child, the court shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of section 260C.221. The court shall not waive relative search, notice, and consideration requirements, unless section 260C.139 applies. If the child's birth parent ~~or~~

~~parents express~~ expresses a preference for placing the child in a foster or adoptive home of the same or a similar religious background ~~to~~ as that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

(f) Placement of a child ~~cannot~~ must not be delayed or denied based on race, color, or national origin of the foster parent or the child.

(g) Whenever possible, siblings requiring foster care placement ~~should~~ shall be placed together unless it is determined not to be in the best interests of one or more of the siblings after weighing the benefits of separate placement against the benefits of sibling connections for each sibling. The agency shall consider section 260C.008 when making this determination. If siblings were not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied that the agency has made reasonable efforts to place siblings together, the court must order the agency to make further reasonable efforts. If siblings are not placed together, the court shall order the responsible social services agency to implement the plan for visitation among siblings required as part of the out-of-home placement plan under section 260C.212.

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

Sec. 25. Minnesota Statutes 2020, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. **Dispositions.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, ~~it~~ the court shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, the father must cooperate with paternity establishment proceedings regarding the child in the

appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in the father's home; and

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the responsible social services agency. In making a foster care placement ~~for~~ of a child whose custody has been transferred under this subdivision, the agency shall make an individualized determination of how the placement is in the child's best interests using the placement consideration order for relatives~~,~~ and the best interest factors in section 260C.212, subdivision 2~~, paragraph (b)~~, and may include a child colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190; or

(3) order a trial home visit without modifying the transfer of legal custody to the responsible social services agency under clause (2). Trial home visit means the child is returned to the care of the parent or guardian from whom the child was removed for a period not to exceed six months. During the period of the trial home visit, the responsible social services agency:

(i) shall continue to have legal custody of the child, which means that the agency may see the child in the parent's home, at school, in a child care facility, or other setting as the agency deems necessary and appropriate;

(ii) shall continue to have the ability to access information under section 260C.208;

(iii) shall continue to provide appropriate services to both the parent and the child during the period of the trial home visit;

(iv) without previous court order or authorization, may terminate the trial home visit in order to protect the child's health, safety, or welfare and may remove the child to foster care;

(v) shall advise the court and parties within three days of the termination of the trial home visit when a visit is terminated by the responsible social services agency without a court order; and

(vi) shall prepare a report for the court when the trial home visit is terminated whether by the agency or court order ~~which~~ that describes the child's circumstances during the trial

home visit and recommends appropriate orders, if any, for the court to enter to provide for the child's safety and stability. In the event a trial home visit is terminated by the agency by removing the child to foster care without prior court order or authorization, the court shall conduct a hearing within ten days of receiving notice of the termination of the trial home visit by the agency and shall order disposition under this subdivision or commence permanency proceedings under sections 260C.503 to 260C.515. The time period for the hearing may be extended by the court for good cause shown and if it is in the best interests of the child as long as the total time the child spends in foster care without a permanency hearing does not exceed 12 months;

(4) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a physical or mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the court may order the child's parent, guardian, or custodian to provide it. The court may order the child's health plan company to provide mental health services to the child. Section 62Q.535 applies to an order for mental health services directed to the child's health plan company. If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(5) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules

for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to $100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child or of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at

the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

Sec. 26. Minnesota Statutes 2020, section 260C.201, subdivision 2, is amended to read:

Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

(1) why the best interests and safety of the child are served by the disposition and case plan ordered;

(2) what alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(3) when legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the relative and sibling placement considerations and best interest factors in section 260C.212, subdivision 2~~, paragraph (b)~~, or the appropriateness of a child colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190;

(4) whether reasonable efforts to finalize the permanent plan for the child consistent with section 260.012 were made including reasonable efforts:

(i) to prevent the child's placement and to reunify the child with the parent or guardian from whom the child was removed at the earliest time consistent with the child's safety. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

(ii) to identify and locate any noncustodial or nonresident parent of the child and to assess such parent's ability to provide day-to-day care of the child, and, where appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide day-to-day care of the child as required under section 260C.219, unless such services are not required under section 260.012 or 260C.178, subdivision 1~~;~~. The court's findings must include a description of the agency's efforts to:

(A) identify and locate the child's noncustodial or nonresident parent;

(B) assess the noncustodial or nonresident parent's ability to provide day-to-day care of the child; and

(C) if appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide the child's day-to-day care, including efforts to engage the noncustodial or nonresident parent in assuming care and responsibility of the child;

(iii) to make the diligent search for relatives and provide the notices required under section 260C.221; a finding made pursuant to a hearing under section 260C.202 that the agency has made diligent efforts to conduct a relative search and has appropriately engaged relatives who responded to the notice under section 260C.221 and other relatives, who came to the attention of the agency after notice under section 260C.221 was sent, in placement and case planning decisions fulfills the requirement of this item;

(iv) to identify and make a foster care placement of the child, considering the order in section 260C.212, subdivision 2, paragraph (a), in the home of an unlicensed relative, according to the requirements of section 245A.035, a licensed relative, or other licensed foster care provider, who will commit to being the permanent legal parent or custodian for the child in the event reunification cannot occur, but who will actively support the reunification plan for the child. If the court finds that the agency has not appropriately considered relatives for placement of the child, the court shall order the agency to comply with section 260C.212, subdivision 2, paragraph (a). The court may order the agency to continue considering relatives for placement of the child regardless of the child's current placement setting; and

(v) to place siblings together in the same home or to ensure visitation is occurring when siblings are separated in foster care placement and visitation is in the siblings' best interests under section 260C.212, subdivision 2, paragraph (d); and

(5) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the written findings shall also set forth:

(i) whether the child has mental health needs that must be addressed by the case plan;

(ii) what consideration was given to the diagnostic and functional assessments performed by the child's mental health professional and to health and mental health care professionals' treatment recommendations;

(iii) what consideration was given to the requests or preferences of the child's parent or guardian with regard to the child's interventions, services, or treatment; and

(iv) what consideration was given to the cultural appropriateness of the child's treatment or services.

(b) If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to develop a permanency plan for the child that includes a primary plan ~~which~~ that is for reunification with the child's parent or guardian and a secondary plan ~~which~~ that is for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner.

Sec. 27. Minnesota Statutes 2020, section 260C.202, is amended to read:

**260C.202 COURT REVIEW OF FOSTER CARE.**

(a) If the court orders a child placed in foster care, the court shall review the out-of-home placement plan and the child's placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is not required if the court has returned the child home, ordered the child permanently placed away from the parent under

sections 260C.503 to 260C.521, or terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship of the commissioner, shall be governed by section 260C.607. When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

(b) No later than three months after the child's placement in foster care, the court shall review agency efforts to search for and notify relatives pursuant to section 260C.221, and order that the agency's efforts begin immediately, or continue, if the agency has failed to perform, or has not adequately performed, the duties under that section. The court must order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to consider relatives for foster care placement consistent with section 260C.221. Notwithstanding a court's finding that the agency has made reasonable efforts to search for and notify relatives under section 260C.221, the court may order the agency to continue making reasonable efforts to search for, notify, engage ~~other~~, and consider relatives who came to the agency's attention after sending the initial notice under section 260C.221 ~~was sent~~.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under section 260C.201, subdivisions 6 and 7.

(d) When the court ~~orders transfer of~~ transfers the custody of a child to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the parents of the provisions of sections 260C.204 and 260C.503 to 260C.521, as required under juvenile court rules.

(e) When a child remains in or returns to foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall at least annually conduct the review required under section 260C.203.

Sec. 28. Minnesota Statutes 2020, section 260C.203, is amended to read:

**260C.203 ADMINISTRATIVE OR COURT REVIEW OF PLACEMENTS.**

(a) Unless the court is conducting the reviews required under section 260C.202, there shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated

by the responsible social services agency at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1; 260C.202; 260C.204; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

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

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

(2) the continuing necessity for and appropriateness of the placement, including whether the placement is consistent with the child's best interests and other placement considerations, including relative and sibling placement considerations under section 260C.212, subdivision 2;

(3) the extent of compliance with the out-of-home placement plan required under section 260C.212, subdivisions 1 and 1a, including services and resources that the agency has provided to the child and child's parents, services and resources that other agencies and individuals have provided to the child and child's parents, and whether the out-of-home placement plan is individualized to the needs of the child and child's parents;

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

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

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

(d) When a child is age 14 or older:

(1) in addition to any administrative review conducted by the responsible social services agency, at the in-court review required under section 260C.317, subdivision 3, clause (3), or 260C.515, subdivision 5 or 6, the court shall review the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (12), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care; and

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 29. Minnesota Statutes 2020, section 260C.204, is amended to read:

**260C.204 PERMANENCY PROGRESS REVIEW FOR CHILDREN IN FOSTER CARE FOR SIX MONTHS.**

(a) When a child continues in placement out of the home of the parent or guardian from whom the child was removed, no later than six months after the child's placement the court shall conduct a permanency progress hearing to review:

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

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

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

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

(b) When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

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

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

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

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

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

(ii) continue the matter up to a total of six additional months. If the child has not returned home by the end of the additional six months, the court must conduct a hearing according to sections 260C.503 to 260C.521.

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

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

(ii) to consider, identify, recruit, and support one or more permanency resources from the child's relatives and foster parent, consistent with section 260C.212, subdivision 2, paragraph (a), to be the legally permanent home in the event the child cannot be returned to the parent. Any relative or the child's foster parent may ask the court to order the agency to consider them for permanent placement of the child in the event the child cannot be returned to the parent. A relative or foster parent who wants to be considered under this item shall cooperate with the background study required under section 245C.08, if the individual has not already done so, and with the home study process required under chapter 245A for providing child foster care and for adoption under section 259.41. The home study referred to in this item shall be a single-home study in the form required by the commissioner of human services or similar study required by the individual's state of residence when the subject of the study is not a resident of Minnesota. The court may order the responsible social services agency to make a referral under the Interstate Compact on the Placement of Children when necessary to obtain a home study for an individual who wants to be considered for transfer of permanent legal and physical custody or adoption of the child; and

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

(e) Following the review under this section:

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

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

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

Sec. 30. Minnesota Statutes 2021 Supplement, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

(b) An out-of-home placement plan means a written document ~~which~~ individualized to the needs of the child and the child's parents or guardians that is prepared by the responsible social services agency jointly with ~~the parent or parents or guardian of the child~~ the child's parents or guardians and in consultation with the child's guardian ad litem~~,~~; the child's tribe, if the child is an Indian child~~,~~; the child's foster parent or representative of the foster care facility~~,~~; and, ~~where~~ when appropriate, the child. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards. The responsible social services agency may reject an individual selected by the child if the agency has good cause to believe that the individual would not act in the best interest of the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. For a child 18 years of age or older, the responsible social services agency shall involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

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

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

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

(c) The out-of-home placement plan shall be explained by the responsible social services agency to all persons involved in ~~its~~ the plan's implementation, including the child who has signed the plan, and shall set forth:

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

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

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

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

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

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

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize adoption as the permanency plan for the child through reasonable efforts to place the child for adoption pursuant to section 260C.605. At a minimum, the documentation must include consideration of whether adoption is in the best interests of the child, and child-specific recruitment efforts such as a relative search, consideration of relatives for adoptive placement, and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the transfer of permanent legal and physical custody to a relative as the permanency plan for the child. This documentation must support the requirements of the kinship placement agreement under section 256N.22 and must include the reasonable efforts used to determine that it is not appropriate for the child to return home or be adopted, and reasons why permanent placement with a relative through a Northstar kinship assistance arrangement is in the child's best interest; how the child meets the eligibility requirements for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's relative foster parent and reasons why the relative foster parent chose not to pursue adoption, if applicable; and agency efforts to discuss with the child's parent or parents the permanent transfer of permanent legal and physical custody or the reasons why these efforts were not made;

(8) efforts to ensure the child's educational stability while in foster care for a child who attained the minimum age for compulsory school attendance under state law and is enrolled full time in elementary or secondary school, or instructed in elementary or secondary education at home, or instructed in an independent study elementary or secondary program, or incapable of attending school on a full-time basis due to a medical condition that is documented and supported by regularly updated information in the child's case plan. Educational stability efforts include:

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

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

(9) the educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a statement about how the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; and

(v) any other relevant educational information;

(10) the efforts by the responsible social services agency to ensure the oversight and continuity of health care services for the foster child, including:

(i) the plan to schedule the child's initial health screens;

(ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, shall be monitored and treated while the child is in foster care;

(iii) how the child's medical information shall be updated and shared, including the child's immunizations;

(iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;

(v) who is responsible for oversight of the child's prescription medications;

(vi) how physicians or other appropriate medical and nonmedical professionals shall be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and

(vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;

(11) the health records of the child including information available regarding:

(i) the names and addresses of the child's health care and dental care providers;

(ii) a record of the child's immunizations;

(iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;

(iv) the child's medications; and

(v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;

(12) an independent living plan for a child 14 years of age or older, developed in consultation with the child. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards in subdivision 14. The plan should include, but not be limited to, the following objectives:

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;

(iv) money management, including the responsibility of the responsible social services agency to ensure that the child annually receives, at no cost to the child, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;

(v) planning for housing;

(vi) social and recreational skills;

(vii) establishing and maintaining connections with the child's family and community; and

(viii) regular opportunities to engage in age-appropriate or developmentally appropriate activities typical for the child's age group, taking into consideration the capacities of the individual child;

(13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes;

(14) for a child 14 years of age or older, a signed acknowledgment that describes the child's rights regarding education, health care, visitation, safety and protection from exploitation, and court participation; receipt of the documents identified in section 260C.452; and receipt of an annual credit report. The acknowledgment shall state that the rights were explained in an age-appropriate manner to the child; and

(15) for a child placed in a qualified residential treatment program, the plan must include the requirements in section 260C.708.

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

(e) After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

(f) Upon the child's discharge from foster care, the responsible social services agency must provide the child's parent, adoptive parent, or permanent legal and physical custodian, and the child, if the child is 14 years of age or older, with a current copy of the child's health and education record. If a child meets the conditions in subdivision 15, paragraph (b), the agency must also provide the child with the child's social and medical history. The responsible social services agency may give a copy of the child's health and education record and social and medical history to a child who is younger than 14 years of age, if it is appropriate and if subdivision 15, paragraph (b), applies.

Sec. 31. Minnesota Statutes 2021 Supplement, section 260C.212, subdivision 2, is amended to read:

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

(1) with an individual who is related to the child by blood, marriage, or adoption, including the legal parent, guardian, or custodian of the child's ~~siblings~~ sibling; or

(2) with an individual who is an important friend ~~with whom the child has resided or had significant contact~~ of the child or the child's parent or custodian, including an individual with whom the child has resided or had significant contact or who has a significant relationship to the child or the child's parent or custodian.

For an Indian child, the agency shall follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(b) Among the factors the agency shall consider in determining the current and future needs of the child are the following:

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

(2) the medical needs of the child;

(3) the educational needs of the child;

(4) the developmental needs of the child;

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

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

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

(8) the child's interests and talents;

(9) the child's ~~relationship to current caretakers,~~ current and long-term needs regarding relationships with parents, siblings, ~~and~~ relatives, and other caretakers;

(10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences; and

(11) for an Indian child, the best interests of an Indian child as defined in section 260.755, subdivision 2a.

When placing a child in foster care or in a permanent placement based on an individualized determination of the child's needs, the agency must not use one factor in this paragraph to the exclusion of all others, and the agency shall consider that the factors in paragraph (b) may be interrelated.

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

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

siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, the following requirements must be satisfied before the approval of a foster or adoptive placement in a related or unrelated home: (1) a completed background study under section 245C.08; and (2) a completed review of the written home study required under section 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or adoptive parent to ensure the placement will meet the needs of the individual child.

(f) The agency must determine whether colocation with a parent who is receiving services in a licensed residential family-based substance use disorder treatment program is in the child's best interests according to paragraph (b) and include that determination in the child's case plan under subdivision 1. The agency may consider additional factors not identified in paragraph (b). The agency's determination must be documented in the child's case plan before the child is colocated with a parent.

(g) The agency must establish a juvenile treatment screening team under section 260C.157 to determine whether it is necessary and appropriate to recommend placing a child in a qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

Sec. 32. Minnesota Statutes 2020, section 260C.221, is amended to read:

**260C.221 RELATIVE SEARCH AND ENGAGEMENT; PLACEMENT CONSIDERATION.**

Subdivision 1. **Relative search requirements.** (a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives of a child as well as current caregivers of the child's sibling, prior to placement or within 30 days after the child's removal from the parent, regardless of whether a child is placed in a relative's home, as required under subdivision 2. ~~The county agency shall consider placement with a relative under this section without delay and whenever the child must move from or be returned to foster care.~~ The relative search required by this section shall be comprehensive in scope. ~~After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under this paragraph, in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so.~~

(b) The relative search required by this section shall include both maternal and paternal adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians of the child's siblings; and any other adult relatives suggested by the child's parents, subject to the exceptions due to family violence in subdivision 5, paragraph ~~(c)~~ (b). The search shall also include getting information from the child in an age-appropriate manner about who the child considers to be family members and important friends with whom the child has resided or had significant contact. The relative search required under this section must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the breakup of the Indian family under United States Code, title 25, section 1912(d), and to meet placement preferences under United States Code, title 25, section 1915.

(c) The responsible social services agency has a continuing responsibility to search for and identify relatives of a child and send the notice to relatives that is required under subdivision 2, unless the court has relieved the agency of this duty under subdivision 5, paragraph (e).

Subd. 2. **Relative notice requirements.** (a) The agency may provide oral or written notice to a child's relatives. In the child's case record, the agency must document providing the required notice to each of the child's relatives. The responsible social services agency must notify relatives ~~must be notified~~:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, the order of placement that the agency will consider under section 260C.212, subdivision 2, paragraph (a), and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency and the court informed of their current address in order to receive notice in the event that a permanent placement is sought for the child and to receive notice of the permanency progress review hearing under section 260C.204. A relative who fails to provide a current address to the responsible social services agency and the court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearing under section 260C.204, until the relative provides a current address to the responsible social services agency and the court. A decision by a relative not to be identified as a potential permanent placement resource or participate in planning for the child ~~at the beginning of the case~~ shall not affect whether the relative is considered for placement of, or as a permanency resource for, the child with that relative ~~later~~ at any time in the case, and shall not be the sole basis for the court to rule out the relative as the child's placement or permanency resource;

(3) that the relative may participate in the care and planning for the child, as specified in subdivision 3, including that the opportunity for such participation may be lost by failing to respond to the notice sent under this subdivision~~. "Participate in the care and planning" includes, but is not limited to, participation in case planning for the parent and child, identifying the strengths and needs of the parent and child, supervising visits, providing respite and vacation visits for the child, providing transportation to appointments, suggesting other relatives who might be able to help support the case plan, and to the extent possible, helping to maintain the child's familiar and regular activities and contact with friends and relatives~~;

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

(5) of the relatives' right to ask to be notified of any court proceedings regarding the child, to attend the hearings, and of a relative's right ~~or opportunity~~ to be heard by the court as required under section 260C.152, subdivision 5~~.~~;

(6) that regardless of the relative's response to the notice sent under this subdivision, the agency is required to establish permanency for a child, including planning for alternative permanency options if the agency's reunification efforts fail or are not required; and

(7) that by responding to the notice, a relative may receive information about participating in a child's family and permanency team if the child is placed in a qualified residential treatment program as defined in section 260C.007, subdivision 26d.

(b) The responsible social services agency shall send the notice required under paragraph (a) to relatives who become known to the responsible social services agency, except for relatives that the agency does not contact due to safety reasons under subdivision 5, paragraph (b). The responsible social services agency shall continue to send notice to relatives notwithstanding a court's finding that the agency has made reasonable efforts to conduct a relative search.

(c) The responsible social services agency is not required to send the notice under paragraph (a) to relatives who become known to the agency after an adoption placement agreement has been fully executed under section 260C.613, subdivision 1. If such a relative wishes to be considered for adoptive placement of the child, the agency shall inform the

relative of the relative's ability to file a motion for an order for adoptive placement under section 260C.607, subdivision 6.

Subd. 3. **Relative engagement requirements.** (a) A relative who responds to the notice under subdivision 2 has the opportunity to participate in care and planning for a child, which must not be limited based solely on the relative's prior inconsistent participation or nonparticipation in care and planning for the child. Care and planning for a child may include but is not limited to:

(1) participating in case planning for the child and child's parent, including identifying services and resources that meet the individualized needs of the child and child's parent. A relative's participation in case planning may be in person, via phone call, or by electronic means;

(2) identifying the strengths and needs of the child and child's parent;

(3) asking the responsible social services agency to consider the relative for placement of the child according to subdivision 4;

(4) acting as a support person for the child, the child's parents, and the child's current caregiver;

(5) supervising visits;

(6) providing respite care for the child and having vacation visits with the child;

(7) providing transportation;

(8) suggesting other relatives who may be able to participate in the case plan or that the agency may consider for placement of the child. The agency shall send a notice to each relative identified by other relatives according to subdivision 2, paragraph (b), unless a relative received this notice earlier in the case;

(9) helping to maintain the child's familiar and regular activities and contact with the child's friends and relatives, including providing supervision of the child at family gatherings and events; and

(10) participating in the child's family and permanency team if the child is placed in a qualified residential treatment program as defined in section 260C.007, subdivision 26d.

(b) The responsible social services agency shall make reasonable efforts to contact and engage relatives who respond to the notice required under this section. Upon a request by a relative or party to the proceeding, the court may conduct a review of the agency's reasonable efforts to contact and engage relatives who respond to the notice. If the court

finds that the agency did not make reasonable efforts to contact and engage relatives who respond to the notice, the court may order the agency to make reasonable efforts to contact and engage relatives who respond to the notice in care and planning for the child.

Subd. 4. **Placement considerations.** (a) The responsible social services agency shall consider placing a child with a relative under this section without delay and when the child:

(1) enters foster care;

(2) must be moved from the child's current foster setting;

(3) must be permanently placed away from the child's parent; or

(4) returns to foster care after permanency has been achieved for the child.

(b) The agency shall consider placing a child with relatives:

(1) in the order specified in section 260C.212, subdivision 2, paragraph (a); and

(2) based on the child's best interests using the factors in section 260C.212, subdivision 2.

(c) The agency shall document how the agency considered relatives in the child's case record.

(d) Any relative who requests to be a placement option for a child in foster care has the right to be considered for placement of the child according to section 260C.212, subdivision 2, paragraph (a), unless the court finds that placing the child with a specific relative would endanger the child, sibling, parent, guardian, or any other family member under subdivision 5, paragraph (b).

(e) When adoption is the responsible social services agency's permanency goal for the child, the agency shall consider adoptive placement of the child with a relative in the order specified under section 260C.212, subdivision 2, paragraph (a).

Subd. 5. **Data disclosure; court review.** ~~(c)~~ (a) A responsible social services agency may disclose private data, as defined in section 13.02 and chapter 260E, to relatives of the child for the purpose of locating and assessing a suitable placement and may use any reasonable means of identifying and locating relatives including the Internet or other electronic means of conducting a search. The agency shall disclose data that is necessary to facilitate possible placement with relatives and to ensure that the relative is informed of the needs of the child so the relative can participate in planning for the child and be supportive of services to the child and family.

(b) If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information and shall use other resources to identify the child's maternal and paternal relatives. If a parent makes an explicit request that a specific relative not be contacted or considered for placement due to safety reasons, including past family or domestic violence, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child ~~and~~. The agency shall not contact the specific relative when the juvenile court finds that contacting or placing the child with the specific relative would endanger the parent, guardian, child, sibling, or any family member. Unless section 260C.139 applies to the child's case, a court shall not waive or relieve the responsible social services agency of reasonable efforts to:

(1) conduct a relative search;

(2) notify relatives;

(3) contact and engage relatives in case planning; and

(4) consider relatives for placement of the child.

(c) Notwithstanding chapter 13, the agency shall disclose data to the court about particular relatives that the agency has identified, contacted, or considered for the child's placement for the court to review the agency's due diligence.

(d) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in ~~section~~ sections 260C.193 and 260C.202, the agency shall report to the court:

(1) ~~its~~ the agency's efforts to identify maternal and paternal relatives of the child and to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under ~~paragraph (a)~~ subdivision 2; and

(2) ~~its~~ the agency's decision regarding placing the child with a relative as required under section 260C.212, subdivision 2~~, and to ask~~. If the responsible social services agency decides that relative placement is not in the child's best interests at the time of the hearing, the agency shall inform the court of the agency's decision, including:

(i) why the agency decided against relative placement of the child; and

(ii) the agency's efforts to engage relatives ~~to visit or maintain contact with the child in order~~ as required under subdivision 3 to support family connections for the child~~, when placement with a relative is not possible or appropriate~~.

~~(e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.~~

~~(f)~~ (e) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in ~~paragraph (a)~~ subdivision 2, the court may find that the agency made reasonable efforts ~~have been made~~ to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). A finding under this paragraph does not relieve the responsible social services agency of the ongoing duty to contact, engage, and consider relatives under this section nor is it a basis for the court to rule out any relative from being a foster care or permanent placement option for the child. The agency has the continuing responsibility to:

(1) involve relatives who respond to the notice in planning for the child; and

(2) continue considering relatives for the child's placement while taking the child's short- and long-term permanency goals into consideration, according to the requirements of section 260C.212, subdivision 2.

(f) At any time during the course of juvenile protection proceedings, the court may order the agency to reopen the search for relatives when it is in the child's best interests.

(g) If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in ~~paragraph (a)~~ subdivision 2, the court may order the agency to continue its search and notice efforts and to report back to the court.

~~(g) When the placing agency determines that permanent placement proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency must send the notice provided in paragraph (h), may ask the court to modify the duty of the agency to send the notice required in paragraph (h), or may ask the court to completely relieve the agency of the requirements of paragraph (h). The relative notification requirements of paragraph (h) do not apply when the child is placed with an appropriate relative or a foster home that has committed to adopting the child or taking permanent legal and physical custody of the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, permanency, and welfare of the child.~~

(h) ~~Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (f),~~ When the agency determines that it is necessary to prepare for permanent placement determination proceedings, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to ~~the~~ relatives who responded to a

notice under this section sent at any time during the case, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. A relative's failure to respond or timely respond to the notice is not a basis for ruling out the relative from being a permanent placement option for the child should the relative request to be considered for permanent placement at a later date.

Sec. 33. Minnesota Statutes 2020, section 260C.513, is amended to read:

**260C.513 PERMANENCY DISPOSITIONS WHEN CHILD CANNOT RETURN HOME.**

(a) ~~Termination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt, are preferred permanency options for a child who cannot return home. If the court finds that termination of parental rights and guardianship to the commissioner is not in the child's best interests, the court may transfer permanent legal and physical custody of the child to a relative when that order is in the child's best interests~~ In determining a permanency disposition under section 260C.515 for a child who cannot return home, the court shall give preference to a permanency disposition that will result in the child being placed in the permanent care of a relative through a termination of parental rights and adoption, guardianship to the commissioner of human services through a consent to adopt, or a transfer of permanent legal and physical custody, consistent with the best interests of the child and section 260C.212, subdivision 2, paragraph (a). If a relative is not available to accept placement or the court finds that a permanent placement with a relative is not in the child's best interests, the court may consider a permanency disposition that may result in the child being permanently placed in the care of a nonrelative caregiver, including adoption.

(b) 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.

Sec. 34. Minnesota Statutes 2021 Supplement, section 260C.605, subdivision 1, is amended to read:

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

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

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

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

(1) considering the child's preference for an adoptive family;

~~(1)~~ (2) using age-appropriate engagement strategies to plan for adoption with the child;

~~(2)~~ (3) identifying an appropriate prospective adoptive parent for the child by updating the child's identified needs using the factors in section 260C.212, subdivision 2;

~~(3)~~ (4) making an adoptive placement that meets the child's needs by:

(i) completing or updating the relative search required under section 260C.221 and giving notice of the need for an adoptive home for the child to:

(A) relatives who have kept the agency or the court apprised of their whereabouts ~~and who have indicated an interest in adopting the child~~; or

(B) relatives of the child who are located in an updated search;

(ii) an updated search is required whenever:

(A) there is no identified prospective adoptive placement for the child notwithstanding a finding by the court that the agency made diligent efforts under section 260C.221, in a hearing required under section 260C.202;

(B) the child is removed from the home of an adopting parent; or

(C) the court determines that a relative search by the agency is in the best interests of the child;

(iii) engaging the child's relatives or current or former foster ~~parent and the child's relatives identified as an adoptive resource during the search conducted under section 260C.221,~~ parents to commit to being the prospective adoptive parent of the child, and considering the child's relatives for adoptive placement of the child in the order specified under section 260C.212, subdivision 2, paragraph (a); or

(iv) when there is no identified prospective adoptive parent:

(A) registering the child on the state adoption exchange as required in section 259.75 unless the agency documents to the court an exception to placing the child on the state adoption exchange reported to the commissioner;

(B) reviewing all families with approved adoption home studies associated with the responsible social services agency;

(C) presenting the child to adoption agencies and adoption personnel who may assist with finding an adoptive home for the child;

(D) using newspapers and other media to promote the particular child;

(E) using a private agency under grant contract with the commissioner to provide adoption services for intensive child-specific recruitment efforts; and

(F) making any other efforts or using any other resources reasonably calculated to identify a prospective adoption parent for the child;

~~(4)~~ (5) updating and completing the social and medical history required under sections 260C.212, subdivision 15, and 260C.609;

~~(5)~~ (6) making, and keeping updated, appropriate referrals required by section 260.851, the Interstate Compact on the Placement of Children;

~~(6)~~ (7) giving notice regarding the responsibilities of an adoptive parent to any prospective adoptive parent as required under section 259.35;

~~(7)~~ (8) offering the adopting parent the opportunity to apply for or decline adoption assistance under chapter 256N;

~~(8)~~ (9) certifying the child for adoption assistance, assessing the amount of adoption assistance, and ascertaining the status of the commissioner's decision on the level of payment if the adopting parent has applied for adoption assistance;

~~(9)~~ (10) placing the child with siblings. If the child is not placed with siblings, the agency must document reasonable efforts to place the siblings together, as well as the reason for separation. The agency may not cease reasonable efforts to place siblings together for final adoption until the court finds further reasonable efforts would be futile or that placement together for purposes of adoption is not in the best interests of one of the siblings; and

~~(10)~~ (11) working with the adopting parent to file a petition to adopt the child and with the court administrator to obtain a timely hearing to finalize the adoption.

Sec. 35. Minnesota Statutes 2020, section 260C.607, subdivision 2, is amended to read:

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

(1) the responsible social services agency;

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

(3) the child's guardian ad litem;

(4) counsel appointed for the child pursuant to section 260C.163, subdivision 3;

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

(6) the current foster or adopting parent of the child;

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

(8) the Indian child's tribe.

Sec. 36. Minnesota Statutes 2020, section 260C.607, subdivision 5, is amended to read:

Subd. 5. **Required placement by responsible social services agency.** (a) No petition for adoption shall be filed for a child under the guardianship of the commissioner unless the child sought to be adopted has been placed for adoption with the adopting parent by the responsible social services agency as required under section 260C.613, subdivision 1. The court may order the agency to make an adoptive placement using standards and procedures under subdivision 6.

(b) Any relative or the child's foster parent who believes the responsible agency has not reasonably considered the relative's or foster parent's request to be considered for adoptive

placement as required under section 260C.212, subdivision 2, and who wants to be considered for adoptive placement of the child shall bring a request for consideration to the attention of the court during a review required under this section. The child's guardian ad litem and the child may also bring a request for a relative or the child's foster parent to be considered for adoptive placement. After hearing from the agency, the court may order the agency to take appropriate action regarding the relative's or foster parent's request for consideration under section 260C.212, subdivision 2, paragraph (b).

Sec. 37. Minnesota Statutes 2021 Supplement, section 260C.607, subdivision 6, is amended to read:

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

(1) has an adoption home study under section 259.41 or 260C.611 approving the relative or foster parent for adoption ~~and has~~. If the relative or foster parent does not have an adoption home study, an affidavit attesting to efforts to complete an adoption home study may be filed with the motion. The affidavit must be signed by the relative or foster parent and the responsible social services agency or licensed child-placing agency completing the adoption home study. The relative or foster parent must also have been a resident of Minnesota for at least six months before filing the motion; the court may waive the residency requirement for the moving party if there is a reasonable basis to do so; or

(2) is not a resident of Minnesota, but has an approved adoption home study by an agency licensed or approved to complete an adoption home study in the state of the individual's residence and the study is filed with the motion for adoptive placement. If the relative or foster parent does not have an adoption home study in the relative or foster parent's state of residence, an affidavit attesting to efforts to complete an adoption home study may be filed with the motion instead. The affidavit must be signed by the relative or foster parent and the agency completing the adoption home study.

(b) The motion shall be filed with the court conducting reviews of the child's progress toward adoption under this section. The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement. The motion must be served according to the requirements for motions

under the Minnesota Rules of Juvenile Protection Procedure and shall be made on all individuals and entities listed in subdivision 2.

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

(d) At the evidentiary hearing, the responsible social services agency shall proceed first with evidence about the reason for not making the adoptive placement proposed by the moving party. When the agency presents evidence regarding the child's current relationship with the identified adoptive placement resource, the court must consider the agency's efforts to support the child's relationship with the moving party consistent with section 260C.221. The moving party then has the burden of proving by a preponderance of the evidence that the agency has been unreasonable in failing to make the adoptive placement.

(e) The court shall review and enter findings regarding whether the agency, in making an adoptive placement decision for the child:

(1) considered relatives for adoptive placement in the order specified under section 260C.212, subdivision 2, paragraph (a); and

(2) assessed how the identified adoptive placement resource and the moving party are each able to meet the child's current and future needs, based on an individualized determination of the child's needs, as required under sections 260C.212, subdivision 2, and 260C.613, subdivision 1, paragraph (b).

~~(c)~~ (f) At the conclusion of the evidentiary hearing, if the court finds that the agency has been unreasonable in failing to make the adoptive placement and that the ~~relative or the child's foster parent~~ moving party is the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b), the court may:

(1) order the responsible social services agency to make an adoptive placement in the home of the ~~relative or the child's foster parent.~~ moving party if the moving party has an approved adoption home study; or

(2) order the responsible social services agency to place the child in the home of the moving party upon approval of an adoption home study. The agency must promote and support the child's ongoing visitation and contact with the moving party until the child is placed in the moving party's home. The agency must provide an update to the court after 90 days, including progress and any barriers encountered. If the moving party does not have

an approved adoption home study within 180 days, the moving party and the agency must inform the court of any barriers to obtaining the approved adoption home study during a review hearing under this section. If the court finds that the moving party is unable to obtain an approved adoption home study, the court must dismiss the order for adoptive placement under this subdivision and order the agency to continue making reasonable efforts to finalize the adoption of the child as required under section 260C.605.

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

(1) make reasonable efforts to obtain a fully executed adoption placement agreement, including assisting the moving party with the adoption home study process;

(2) work with the moving party regarding eligibility for adoption assistance as required under chapter 256N; and

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

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

Sec. 38. Minnesota Statutes 2020, section 260C.613, subdivision 1, is amended to read:

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

(b) The responsible social services agency shall use an individualized determination of the child's current and future needs, pursuant to section 260C.212, subdivision 2, paragraph (b), to determine the most suitable adopting parent for the child in the child's best interests. The responsible social services agency must consider adoptive placement of the child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a).

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

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

Sec. 39. Minnesota Statutes 2020, section 260C.613, subdivision 5, is amended to read:

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

Sec. 40. Minnesota Statutes 2020, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

(7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(8) the Department of Labor and Industry and the Commerce Fraud Bureau in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;

(9) the Department of Human Services and the Office of Inspector General and its agents within the Department of Human Services, including county fraud investigators, for investigations related to recipient or provider fraud and employees of providers when the provider is suspected of committing public assistance fraud;

(10) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program and other cash assistance programs, the Supplemental Nutrition Assistance Program (SNAP), and the Supplemental Nutrition Assistance Program Employment and Training program by providing data on recipients and former recipients of Supplemental Nutrition Assistance Program ~~(SNAP)~~ benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under chapter 256D;

(11) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(12) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(13) the United States Immigration and Customs Enforcement has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(14) the Department of Health for the purposes of epidemiologic investigations;

(15) the Department of Corrections for the purposes of case planning and internal research for preprobation, probation, and postprobation employment tracking of offenders sentenced to probation and preconfinement and postconfinement employment tracking of committed offenders;

(16) the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201; and

(17) the Office of Higher Education for purposes of supporting program improvement, system evaluation, and research initiatives including the Statewide Longitudinal Education Data System.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 41. Laws 2021, First Special Session chapter 7, article 10, section 1, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective June 1, ~~2022~~ 2023.

Sec. 42. Laws 2021, First Special Session chapter 7, article 10, section 3, is amended to read:

Sec. 3. **LEGISLATIVE TASK FORCE; CHILD PROTECTION.**

(a) A legislative task force is created to:

~~(1) review the efforts being made to implement the recommendations of the Governor's Task Force on the Protection of Children;~~

~~(2) expand the efforts into related areas of the child welfare system;~~

~~(3) work with the commissioner of human services and community partners to establish and evaluate child protection grants to address disparities in child welfare pursuant to Minnesota Statutes, section 256E.28;~~

~~(4) review and recommend alternatives to law enforcement responding to a maltreatment report by removing the child and evaluate situations in which it may be appropriate for a social worker or other child protection worker to remove the child from the home;~~

~~(5)~~ (1) evaluate current statutes governing mandatory reporters, consider the modification of mandatory reporting requirements for private or public youth recreation programs, and, if necessary, introduce legislation by February 15, ~~2022~~ 2023, to implement appropriate modifications; and

~~(6) evaluate and consider the intersection of educational neglect and the child protection system; and~~

~~(7)~~ (2) identify additional areas within the child welfare system that need to be addressed by the legislature.

(b) Members of the legislative task force shall include:

(1) six members from the house of representatives appointed by the speaker of the house, including three from the majority party and three from the minority party; and

(2) six members from the senate, including three members appointed by the senate majority leader and three members appointed by the senate minority leader.

(c) Members of the task force shall serve a term that expires on December 31 of the ~~even-numbered~~ odd-numbered year following the year they are appointed. The speaker of the house and the majority leader of the senate shall each appoint a chair and vice-chair from the membership of the task force. The chair shall rotate after each meeting. The task force must meet at least quarterly.

(d) Initial appointments to the task force shall be made by July 15, ~~2021~~ 2022. The chair shall convene the first meeting of the task force by August 15, ~~2021~~ 2022.

(e) The task force may provide oversight and monitoring of:

(1) the efforts by the Department of Human Services, counties, and Tribes to implement laws related to child protection;

(2) efforts by the Department of Human Services, counties, and Tribes to implement the recommendations of the Governor's Task Force on the Protection of Children;

(3) efforts by agencies including but not limited to the Department of Education, the Housing Finance Agency, the Department of Corrections, and the Department of Public Safety, to work with the Department of Human Services to assure safety and well-being for children at risk of harm or children in the child welfare system; and

(4) efforts by the Department of Human Services, other agencies, counties, and Tribes to implement best practices to ensure every child is protected from maltreatment and neglect and to ensure every child has the opportunity for healthy development.

~~(f) The task force, in cooperation with the commissioner of human services, shall issue a report to the legislature and governor by February 1, 2024. The report must contain information on the progress toward implementation of changes to the child protection system, recommendations for additional legislative changes and procedures affecting child protection and child welfare, and funding needs to implement recommended changes.~~

~~(g)~~ (f) This section expires December 31, ~~2024~~ 2025.

Sec. 43. Laws 2021, First Special Session chapter 8, article 6, section 1, subdivision 7, is amended to read:

Subd. 7. **Report.** (a) No later than February 1, 2022, the task force shall submit an initial report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over housing and preventing homelessness on its findings and recommendations.

(b) No later than ~~August 31~~ December 15, 2022, the task force shall submit a final report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over housing and preventing homelessness on its findings and recommendations.

Sec. 44. **DIRECTION TO COMMISSIONER; PAPERWORK REDUCTION FOR CHILD PROTECTION CASES.**

By January 15, 2024, the commissioner of human services must consult with counties, local social services agencies, and Minnesota's Tribal governments on its continuing efforts to make department operations more efficient and effective by streamlining and minimizing required paperwork for child protection cases. The consultation with the counties, local social services agencies, and Minnesota's Tribal governments should include a discussion of a proposed timeline to implement the improvements and of procedures for soliciting and incorporating ongoing input from counties and Minnesota's Tribal governments regarding

implementation of improvements to maximize benefits and utility for children in placement, foster care providers, Tribes, counties, and private child placing agencies.

## ARTICLE 2
## BEHAVIORAL HEALTH

Section 1. Minnesota Statutes 2021 Supplement, section 15.01, is amended to read:

**15.01 DEPARTMENTS OF THE STATE.**

The following agencies are designated as the departments of the state government: the Department of Administration; the Department of Agriculture; the Department of Behavioral Health; the Department of Commerce; the Department of Corrections; the Department of Education; the Department of Employment and Economic Development; the Department of Health; the Department of Human Rights; the Department of Information Technology Services; the Department of Iron Range Resources and Rehabilitation; the Department of Labor and Industry; the Department of Management and Budget; the Department of Military Affairs; the Department of Natural Resources; the Department of Public Safety; the Department of Human Services; the Department of Revenue; the Department of Transportation; the Department of Veterans Affairs; and their successor departments.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 2. Minnesota Statutes 2021 Supplement, section 15.06, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** This section applies to the following departments or agencies: the Departments of Administration, Agriculture, Behavioral Health, Commerce, Corrections, Education, Employment and Economic Development, Health, Human Rights, Labor and Industry, Management and Budget, Natural Resources, Public Safety, Human Services, Revenue, Transportation, and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the Office of Commissioner of Iron Range Resources and Rehabilitation; the Department of Information Technology Services; the Bureau of Mediation Services; and their successor departments and agencies. The heads of the foregoing departments or agencies are "commissioners."

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 3. Minnesota Statutes 2020, section 15A.0815, subdivision 2, is amended to read:

Subd. 2. **Group I salary limits.** The salary for a position listed in this subdivision shall not exceed 133 percent of the salary of the governor. This limit must be adjusted annually on January 1. The new limit must equal the limit for the prior year increased by the percentage increase, if any, in the Consumer Price Index for all urban consumers from October of the second prior year to October of the immediately prior year. The commissioner of management and budget must publish the limit on the department's website. This subdivision applies to the following positions:

Commissioner of administration;

Commissioner of agriculture;

Commissioner of behavioral health;

Commissioner of education;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of health;

Commissioner, Minnesota Office of Higher Education;

Commissioner, Housing Finance Agency;

Commissioner of human rights;

Commissioner of human services;

Commissioner of labor and industry;

Commissioner of management and budget;

Commissioner of natural resources;

Commissioner, Pollution Control Agency;

Commissioner of public safety;

Commissioner of revenue;

Commissioner of employment and economic development;

Commissioner of transportation; and

Commissioner of veterans affairs.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 4. Minnesota Statutes 2021 Supplement, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the Departments of Administration; Agriculture; Behavioral Health; Commerce; Corrections; Education; Employment and Economic Development; Explore Minnesota Tourism; Management and Budget; Health; Human Rights; Labor and Industry; Natural Resources; Public Safety; Human Services; Revenue; Transportation; and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the State Board of Investment; the Office of Administrative Hearings; the Department of Information Technology Services; the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the Minnesota Office of Higher Education; the Perpich Center for Arts Education; and the Minnesota Zoological Board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 5. Minnesota Statutes 2021 Supplement, section 62A.673, subdivision 2, is amended to read:

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

(b) "Distant site" means a site at which a health care provider is located while providing health care services or consultations by means of telehealth.

(c) "Health care provider" means a health care professional who is licensed or registered by the state to perform health care services within the provider's scope of practice and in accordance with state law. A health care provider includes a mental health professional ~~as defined~~ under section ~~245.462, subdivision 18, or 245.4871, subdivision 27~~ 245I.04, subdivision 2; a mental health practitioner ~~as defined~~ under section ~~245.462, subdivision 17, or 245.4871, subdivision 26~~ 245I.04, subdivision 4; a clinical trainee under section 245I.04, subdivision 6; a treatment coordinator under section 245G.11, subdivision 7; an alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under section 245G.11, subdivision 8.

(d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

(e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental plans that provide indemnity-based benefits, regardless of expenses incurred, and are designed to pay benefits directly to the policy holder.

(f) "Originating site" means a site at which a patient is located at the time health care services are provided to the patient by means of telehealth. For purposes of store-and-forward technology, the originating site also means the location at which a health care provider transfers or transmits information to the distant site.

(g) "Store-and-forward technology" means the asynchronous electronic transfer or transmission of a patient's medical information or data from an originating site to a distant site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

(h) "Telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communications to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant

site. Until July 1, 2023, telehealth also includes audio-only communication between a health care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does not include communication between health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission. Telehealth does not include communication between a health care provider and a patient that consists solely of an e-mail or facsimile transmission. Telehealth does not include telemonitoring services as defined in paragraph (i).

(i) "Telemonitoring services" means the remote monitoring of clinical data related to the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits the data electronically to a health care provider for analysis. Telemonitoring is intended to collect an enrollee's health-related data for the purpose of assisting a health care provider in assessing and monitoring the enrollee's medical condition or status.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 6. Minnesota Statutes 2020, section 62N.25, subdivision 5, is amended to read:

Subd. 5. **Benefits.** Community integrated service networks must offer the health maintenance organization benefit set, as defined in chapter 62D, and other laws applicable to entities regulated under chapter 62D. Community networks and chemical dependency facilities under contract with a community network shall use the assessment criteria in ~~Minnesota Rules, parts 9530.6600 to 9530.6655,~~ section 245G.05 when assessing enrollees for chemical dependency treatment.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 7. Minnesota Statutes 2020, section 62Q.1055, is amended to read:

**62Q.1055 CHEMICAL DEPENDENCY.**

All health plan companies shall use the assessment criteria in ~~Minnesota Rules, parts 9530.6600 to 9530.6655,~~ section 245G.05 when assessing and ~~placing~~ treating enrollees for chemical dependency treatment.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 8. Minnesota Statutes 2020, section 62Q.47, is amended to read:

**62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY SERVICES.**

(a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism, mental health, or chemical dependency services, must comply with the requirements of this section.

(b) Cost-sharing requirements and benefit or service limitations for outpatient mental health and outpatient chemical dependency and alcoholism services, except for persons ~~placed in~~ seeking chemical dependency services under ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for outpatient medical services.

(c) Cost-sharing requirements and benefit or service limitations for inpatient hospital mental health and inpatient hospital and residential chemical dependency and alcoholism services, except for persons ~~placed in~~ seeking chemical dependency services under ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for inpatient hospital medical services.

(d) A health plan company must not impose an NQTL with respect to mental health and substance use disorders in any classification of benefits unless, under the terms of the health plan as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health and substance use disorders in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the NQTL with respect to medical and surgical benefits in the same classification.

(e) All health plans must meet the requirements of the federal Mental Health Parity Act of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal guidance or regulations issued under, those acts.

(f) The commissioner may require information from health plan companies to confirm that mental health parity is being implemented by the health plan company. Information required may include comparisons between mental health and substance use disorder treatment and other medical conditions, including a comparison of prior authorization

requirements, drug formulary design, claim denials, rehabilitation services, and other information the commissioner deems appropriate.

(g) Regardless of the health care provider's professional license, if the service provided is consistent with the provider's scope of practice and the health plan company's credentialing and contracting provisions, mental health therapy visits and medication maintenance visits shall be considered primary care visits for the purpose of applying any enrollee cost-sharing requirements imposed under the enrollee's health plan.

(h) By June 1 of each year, beginning June 1, 2021, the commissioner of commerce, in consultation with the commissioner of health, shall submit a report on compliance and oversight to the chairs and ranking minority members of the legislative committees with jurisdiction over health and commerce. The report must:

(1) describe the commissioner's process for reviewing health plan company compliance with United States Code, title 42, section 18031(j), any federal regulations or guidance relating to compliance and oversight, and compliance with this section and section 62Q.53;

(2) identify any enforcement actions taken by either commissioner during the preceding 12-month period regarding compliance with parity for mental health and substance use disorders benefits under state and federal law, summarizing the results of any market conduct examinations. The summary must include: (i) the number of formal enforcement actions taken; (ii) the benefit classifications examined in each enforcement action; and (iii) the subject matter of each enforcement action, including quantitative and nonquantitative treatment limitations;

(3) detail any corrective action taken by either commissioner to ensure health plan company compliance with this section, section 62Q.53, and United States Code, title 42, section 18031(j); and

(4) describe the information provided by either commissioner to the public about alcoholism, mental health, or chemical dependency parity protections under state and federal law.

The report must be written in nontechnical, readily understandable language and must be made available to the public by, among other means as the commissioners find appropriate, posting the report on department websites. Individually identifiable information must be excluded from the report, consistent with state and federal privacy protections.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 9. Minnesota Statutes 2021 Supplement, section 148F.11, subdivision 1, is amended to read:

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychologists and licensed psychological practitioners; members of the clergy provided such services are provided within the scope of regular ministries; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed professional clinical counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; Upper Midwest Indian Council on Addictive Disorders (UMICAD) certified counselors when providing services to Native American people; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and ~~individuals defined in section 256B.0623, subdivision 5, clauses (1) to (6),~~ staff persons providing co-occurring substance use disorder treatment in adult mental health rehabilitative programs certified or licensed by the Department of Human Services under section 245I.23, 256B.0622, or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold himself or herself out to the public by any title or description stating or implying that he or she is engaged in the practice of alcohol and drug counseling, or that he or she is licensed to engage in the practice of alcohol and drug counseling, unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the titles in paragraph (a).

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2020, section 148F.11, is amended by adding a subdivision to read:

Subd. 2a. **Former students.** (a) A former student may practice alcohol and drug counseling for 90 days after the former student's degree conferral date from an accredited school or educational program or after the last date the former student received credit for an alcohol and drug counseling course from an accredited school or educational program. The former student's practice under this section must be supervised by a supervisor.

(b) The former student's right to practice under this section automatically expires after 90 days from the former student's degree conferral date or date of last course credit for an alcohol and drug counseling course, whichever occurs last.

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

Sec. 11. Minnesota Statutes 2020, section 169A.70, subdivision 3, is amended to read:

Subd. 3. **Assessment report.** (a) The assessment report must be on a form prescribed by the commissioner and shall contain an evaluation of the convicted defendant concerning the defendant's prior traffic and criminal record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a diagnosis of the nature of the offender's chemical and alcohol involvement;

(2) an assessment of the severity level of the involvement;

(3) a recommended level of care for the offender in accordance with the criteria contained in ~~rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules)~~ section 245G.05;

(4) an assessment of the offender's placement needs;

(5) recommendations for other appropriate remedial action or care, including aftercare services in section 254B.01, subdivision 3, that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them; and

(6) a specific explanation why no level of care or action was recommended, if applicable.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 12. Minnesota Statutes 2020, section 169A.70, subdivision 4, is amended to read:

Subd. 4. **Assessor standards; rules; assessment time limits.** A chemical use assessment required by this section must be conducted by an assessor appointed by the court. The assessor must meet the training and qualification requirements of ~~rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules)~~ section 245G.11, subdivisions 1 and 5. Notwithstanding section 13.82 (law enforcement data), the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. ~~An assessor providing an assessment under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider, except as authorized under section 254A.19, subdivision 3. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.~~ An appointment for the defendant to undergo the assessment must be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility must be determined under chapter 256G.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 13. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 2, is amended to read:

Subd. 2. **Diagnostic assessment.** ~~Providers~~ A provider of services governed by this section must complete a diagnostic assessment of a client according to the standards of section 245I.10~~, subdivisions 4 to 6~~.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 14. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 3, is amended to read:

Subd. 3. **Individual treatment plans.** ~~Providers~~ A provider of services governed by this section must complete an individual treatment plan for a client according to the standards of section 245I.10, subdivisions 7 and 8.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 15. Minnesota Statutes 2021 Supplement, section 245.4871, subdivision 21, is amended to read:

Subd. 21. **Individual treatment plan.** (a) "Individual treatment plan" means the formulation of planned services that are responsive to the needs and goals of a client. An individual treatment plan must be completed according to section 245I.10, subdivisions 7 and 8.

(b) A children's residential facility licensed under Minnesota Rules, chapter 2960, is exempt from the requirements of section 245I.10, subdivisions 7 and 8. Instead, the individual treatment plan must:

(1) include a written plan of intervention, treatment, and services for a child with an emotional disturbance that the service provider develops under the clinical supervision of a mental health professional on the basis of a diagnostic assessment;

(2) be developed in conjunction with the family unless clinically inappropriate; and

(3) identify goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 16. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 2, is amended to read:

Subd. 2. **Diagnostic assessment.** ~~Providers~~ A provider of services governed by this section ~~shall~~ must complete a diagnostic assessment of a client according to the standards

of section 245I.10~~, subdivisions 4 to 6~~. Notwithstanding the required timelines for completing a diagnostic assessment in section 245I.10, a children's residential facility licensed under Minnesota Rules, chapter 2960, that provides mental health services to children must, within ten days of the client's admission: (1) complete the client's diagnostic assessment; or (2) review and update the client's diagnostic assessment with a summary of the child's current mental health status and service needs if a diagnostic assessment is available that was completed within 180 days preceding admission and the client's mental health status has not changed markedly since the diagnostic assessment.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 17. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 3, is amended to read:

Subd. 3. **Individual treatment plans.** ~~Providers~~ A provider of services governed by this section ~~shall~~ must complete an individual treatment plan for a client according to the standards of section 245I.10, subdivisions 7 and 8. A children's residential facility licensed according to Minnesota Rules, chapter 2960, is exempt from the requirements in section 245I.10, subdivisions 7 and 8. Instead, the facility must involve the child and the child's family in all phases of developing and implementing the individual treatment plan to the extent appropriate and must review the individual treatment plan every 90 days after intake.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 18. Minnesota Statutes 2020, section 245.4882, is amended by adding a subdivision to read:

Subd. 6. **Crisis admissions and stabilization.** (a) A child may be referred for residential treatment services under this section for the purpose of crisis stabilization by:

(1) a mental health professional as defined in section 245I.04, subdivision 2;

(2) a physician licensed under chapter 147 who is assessing a child in an emergency department; or

(3) a member of a mobile crisis team who meets the qualifications under section 256B.0624, subdivision 5.

(b) A provider making a referral under paragraph (a) must conduct an assessment of the child's mental health needs and make a determination that the child is experiencing a mental health crisis and is in need of residential treatment services under this section.

(c) A child may receive services under this subdivision for up to 30 days and must be subject to the screening and admissions criteria and processes under section 245.4885 thereafter.

(d) For a child eligible for medical assistance, the commissioner shall reimburse counties for all costs incurred for the child receiving children's residential crisis stabilization services, including room and board costs.

Sec. 19. Minnesota Statutes 2021 Supplement, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the case of an emergency, all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if county funds are used to pay for the child's services. An emergency includes when a child is in need of and has been referred for crisis stabilization services under section 245.4882, subdivision 6. A child who has been referred to residential treatment for crisis stabilization services in a residential treatment center is not required to undergo an assessment under this section.

(b) The county board shall determine the appropriate level of care for a child when county-controlled funds are used to pay for the child's residential treatment under this chapter, including residential treatment provided in a qualified residential treatment program as defined in section 260C.007, subdivision 26d. When a county board does not have responsibility for a child's placement and the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care for the child. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act, Public Law 93-638, are used for the child, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care for the child. When more than one entity bears responsibility for a child's coverage, the entities shall coordinate level of care determination activities for the child to the extent possible.

(c) The child's level of care determination shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's needs.

(d) When a level of care determination is conducted, the county board or other entity may not determine that a screening of a child, referral, or admission to a residential treatment facility is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment of a child that evaluates the child's family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care to the child. The validated tool must be approved by the commissioner of human services and may be the validated tool approved for the child's assessment under section 260C.704 if the juvenile treatment screening team recommended placement of the child in a qualified residential treatment program. If a diagnostic assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether these services are available and accessible to the child and the child's family. The child and the child's family must be invited to any meeting where the level of care determination is discussed and decisions regarding residential treatment are made. The child and the child's family may invite other relatives, friends, or advocates to attend these meetings.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

(f) The level of care determination, placement decision, and recommendations for mental health services must be documented in the child's record and made available to the child's family, as appropriate.

Sec. 20. Minnesota Statutes 2021 Supplement, section 245.4889, subdivision 1, is amended to read:

Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to make grants from available appropriations to assist:

(1) counties;

(2) Indian tribes;

(3) children's collaboratives under section 124D.23 or 245.493; or

(4) mental health service providers.

(b) The following services are eligible for grants under this section:

(1) services to children with emotional disturbances as defined in section 245.4871, subdivision 15, and their families;

(2) transition services under section 245.4875, subdivision 8, for young adults under age 21 and their families;

(3) respite care services for children with emotional disturbances or severe emotional disturbances who are at risk of out-of-home placement or already in out-of-home placement in family foster settings as defined in chapter 245A and at risk of change in out-of-home placement or placement in a residential facility or other higher level of care. Allowable activities and expenses for respite care services are defined under subdivision 4. A child is not required to have case management services to receive respite care services;

(4) children's mental health crisis services;

(5) mental health services for people from cultural and ethnic minorities, including supervision of clinical trainees who are Black, indigenous, or people of color;

(6) children's mental health screening and follow-up diagnostic assessment and treatment;

(7) services to promote and develop the capacity of providers to use evidence-based practices in providing children's mental health services;

(8) school-linked mental health services under section 245.4901;

(9) building evidence-based mental health intervention capacity for children birth to age five;

(10) suicide prevention and counseling services that use text messaging statewide;

(11) mental health first aid training;

(12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an interactive website to share information and strategies to promote resilience and prevent trauma;

(13) transition age services to develop or expand mental health treatment and supports for adolescents and young adults 26 years of age or younger;

(14) early childhood mental health consultation;

(15) evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis, and a public awareness campaign on the signs and symptoms of psychosis;

(16) psychiatric consultation for primary care practitioners; ~~and~~

(17) providers to begin operations and meet program requirements when establishing a new children's mental health program. These may be start-up grants~~.~~; and

(18) evidence-informed interventions for youth and young adults who are at risk of developing a mood disorder or are experiencing an emerging mood disorder, including major depression and bipolar disorders, and a public awareness campaign on the signs and symptoms of mood disorders in youth and young adults.

(c) Services under paragraph (b) must be designed to help each child to function and remain with the child's family in the community and delivered consistent with the child's treatment plan. Transition services to eligible young adults under this paragraph must be designed to foster independent living in the community.

(d) As a condition of receiving grant funds, a grantee shall obtain all available third-party reimbursement sources, if applicable.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 21. Minnesota Statutes 2020, section 245.4889, is amended by adding a subdivision to read:

Subd. 4. **Respite care services.** Respite care services under subdivision 1, paragraph (b), clause (3), include hourly or overnight stays at a licensed foster home or with a qualified

and approved family member or friend and may occur at a child's or provider's home. Respite care services may also include the following activities and expenses:

(1) recreational, sport, and nonsport extracurricular activities and programs for the child including camps, clubs, lessons, group outings, sports, or other activities and programs;

(2) family activities, camps, and retreats that the family does together and provide a break from the family's circumstance;

(3) cultural programs and activities for the child and family designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background; and

(4) costs of transportation, food, supplies, and equipment directly associated with approved respite care services and expenses necessary for the child and family to access and participate in respite care services.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 22. Minnesota Statutes 2021 Supplement, section 245.735, subdivision 3, is amended to read:

Subd. 3. **Certified community behavioral health clinics.** (a) The commissioner shall establish a state certification process for certified community behavioral health clinics (CCBHCs) that satisfy all federal requirements necessary for CCBHCs certified under this section to be eligible for reimbursement under medical assistance, without service area limits based on geographic area or region. The commissioner shall consult with CCBHC stakeholders before establishing and implementing changes in the certification process and requirements. Entities that choose to be CCBHCs must:

(1) comply with state licensing requirements and other requirements issued by the commissioner;

(2) employ or contract for clinic staff who have backgrounds in diverse disciplines, including licensed mental health professionals and licensed alcohol and drug counselors, and staff who are culturally and linguistically trained to meet the needs of the population the clinic serves;

(3) ensure that clinic services are available and accessible to individuals and families of all ages and genders and that crisis management services are available 24 hours per day;

(4) establish fees for clinic services for individuals who are not enrolled in medical assistance using a sliding fee scale that ensures that services to patients are not denied or limited due to an individual's inability to pay for services;

(5) comply with quality assurance reporting requirements and other reporting requirements, including any required reporting of encounter data, clinical outcomes data, and quality data;

(6) provide crisis mental health and substance use services, withdrawal management services, emergency crisis intervention services, and stabilization services through existing mobile crisis services; screening, assessment, and diagnosis services, including risk assessments and level of care determinations; person- and family-centered treatment planning; outpatient mental health and substance use services; targeted case management; psychiatric rehabilitation services; peer support and counselor services and family support services; and intensive community-based mental health services, including mental health services for members of the armed forces and veterans. CCBHCs must directly provide the majority of these services to enrollees, but may coordinate some services with another entity through a collaboration or agreement, pursuant to paragraph (b);

(7) provide coordination of care across settings and providers to ensure seamless transitions for individuals being served across the full spectrum of health services, including acute, chronic, and behavioral needs. Care coordination may be accomplished through partnerships or formal contracts with:

(i) counties, health plans, pharmacists, pharmacies, rural health clinics, federally qualified health centers, inpatient psychiatric facilities, substance use and detoxification facilities, or community-based mental health providers; and

(ii) other community services, supports, and providers, including schools, child welfare agencies, juvenile and criminal justice agencies, Indian health services clinics, tribally licensed health care and mental health facilities, urban Indian health clinics, Department of Veterans Affairs medical centers, outpatient clinics, drop-in centers, acute care hospitals, and hospital outpatient clinics;

(8) be certified as a mental health ~~clinics~~ clinic under section ~~245.69, subdivision 2~~ 245I.20;

(9) comply with standards established by the commissioner relating to CCBHC screenings, assessments, and evaluations;

(10) be licensed to provide substance use disorder treatment under chapter 245G;

(11) be certified to provide children's therapeutic services and supports under section 256B.0943;

(12) be certified to provide adult rehabilitative mental health services under section 256B.0623;

(13) be enrolled to provide mental health crisis response services under ~~sections~~ section 256B.0624 ~~and 256B.0944~~;

(14) be enrolled to provide mental health targeted case management under section 256B.0625, subdivision 20;

(15) comply with standards relating to mental health case management in Minnesota Rules, parts 9520.0900 to 9520.0926;

(16) provide services that comply with the evidence-based practices described in paragraph (e); and

(17) comply with standards relating to peer services under sections 256B.0615, 256B.0616, and 245G.07, subdivision 1, paragraph (a), clause (5), as applicable when peer services are provided.

(b) If a certified CCBHC is unable to provide one or more of the services listed in paragraph (a), clauses (6) to (17), the CCBHC may contract with another entity that has the required authority to provide that service and that meets the following criteria as a designated collaborating organization:

(1) the entity has a formal agreement with the CCBHC to furnish one or more of the services under paragraph (a), clause (6);

(2) the entity provides assurances that it will provide services according to CCBHC service standards and provider requirements;

(3) the entity agrees that the CCBHC is responsible for coordinating care and has clinical and financial responsibility for the services that the entity provides under the agreement; and

(4) the entity meets any additional requirements issued by the commissioner.

(c) Notwithstanding any other law that requires a county contract or other form of county approval for certain services listed in paragraph (a), clause (6), a clinic that otherwise meets CCBHC requirements may receive the prospective payment under section 256B.0625, subdivision 5m, for those services without a county contract or county approval. As part of the certification process in paragraph (a), the commissioner shall require a letter of support

from the CCBHC's host county confirming that the CCBHC and the county or counties it serves have an ongoing relationship to facilitate access and continuity of care, especially for individuals who are uninsured or who may go on and off medical assistance.

(d) When the standards listed in paragraph (a) or other applicable standards conflict or address similar issues in duplicative or incompatible ways, the commissioner may grant variances to state requirements if the variances do not conflict with federal requirements for services reimbursed under medical assistance. If standards overlap, the commissioner may substitute all or a part of a licensure or certification that is substantially the same as another licensure or certification. The commissioner shall consult with stakeholders, as described in subdivision 4, before granting variances under this provision. For the CCBHC that is certified but not approved for prospective payment under section 256B.0625, subdivision 5m, the commissioner may grant a variance under this paragraph if the variance does not increase the state share of costs.

(e) The commissioner shall issue a list of required evidence-based practices to be delivered by CCBHCs, and may also provide a list of recommended evidence-based practices. The commissioner may update the list to reflect advances in outcomes research and medical services for persons living with mental illnesses or substance use disorders. The commissioner shall take into consideration the adequacy of evidence to support the efficacy of the practice, the quality of workforce available, and the current availability of the practice in the state. At least 30 days before issuing the initial list and any revisions, the commissioner shall provide stakeholders with an opportunity to comment.

(f) The commissioner shall recertify CCBHCs at least every three years. The commissioner shall establish a process for decertification and shall require corrective action, medical assistance repayment, or decertification of a CCBHC that no longer meets the requirements in this section or that fails to meet the standards provided by the commissioner in the application and certification process.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 23. Minnesota Statutes 2020, section 245A.19, is amended to read:

**245A.19 HIV TRAINING IN ~~CHEMICAL DEPENDENCY~~ SUBSTANCE USE DISORDER TREATMENT PROGRAM.**

(a) Applicants and license holders for ~~chemical dependency~~ substance use disorder residential and nonresidential programs must demonstrate compliance with HIV minimum standards ~~prior to~~ before their application ~~being~~ is complete. The HIV minimum standards contained in the HIV-1 Guidelines for ~~chemical dependency~~ substance use disorder treatment and care programs in Minnesota are not subject to rulemaking.

(b) ~~Ninety days after April 29, 1992,~~ The applicant or license holder shall orient all ~~chemical dependency~~ substance use disorder treatment staff and clients to the HIV minimum standards. ~~Thereafter,~~ Orientation shall be provided to all staff and clients~~,~~ within 72 hours of employment or admission to the program. In-service training shall be provided to all staff on at least an annual basis and the license holder shall maintain records of training and attendance.

(c) The license holder shall maintain a list of referral sources for the purpose of making necessary referrals of clients to HIV-related services. The list of referral services shall be updated at least annually.

(d) Written policies and procedures, consistent with HIV minimum standards, shall be developed and followed by the license holder. All policies and procedures concerning HIV minimum standards shall be approved by the commissioner. The commissioner ~~shall provide training on HIV minimum standards to applicants~~ must outline the content required for the annual staff training under paragraph (b).

(e) The commissioner may permit variances from the requirements in this section. License holders seeking variances must follow the procedures in section 245A.04, subdivision 9.

Sec. 24. **[245A.26] CHILDREN'S RESIDENTIAL FACILITY CRISIS STABILIZATION SERVICES.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Clinical trainee" means a staff person who is qualified under section 245I.04, subdivision 6.

(c) "License holder" means an individual, organization, or government entity that was issued a license by the commissioner of human services under this chapter for residential

mental health treatment for children with emotional disturbance according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0580 to 2960.0700, or shelter care services according to Minnesota Rules, parts 2960.0010 to 2960.0120 and 2960.0510 to 2960.0530.

(d) "Mental health professional" means an individual who is qualified under section 245I.04, subdivision 2.

Subd. 2. **Scope and applicability.** (a) This section establishes additional licensing requirements for a children's residential facility to provide children's residential crisis stabilization services to a child who is experiencing a mental health crisis and is in need of residential treatment services.

(b) A children's residential facility may provide residential crisis stabilization services only if the facility is licensed to provide:

(1) residential mental health treatment for children with emotional disturbance according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0580 to 2960.0700; or

(2) shelter care services according to Minnesota Rules, parts 2960.0010 to 2960.0120 and 2960.0510 to 2960.0530.

(c) If a child receives residential crisis stabilization services for 35 days or fewer in a facility licensed according to paragraph (b), clause (1), the facility is not required to complete a diagnostic assessment or treatment plan under Minnesota Rules, parts 2960.0180, subpart 2, and 2960.0600.

(d) If a child receives residential crisis stabilization services for 35 days or fewer in a facility licensed according to paragraph (b), clause (2), the facility is not required to develop a plan for meeting the child's immediate needs under Minnesota Rules, part 2960.0520, subpart 3.

Subd. 3. **Eligibility for services.** An individual is eligible for children's residential crisis stabilization services if the individual is under 19 years of age and meets the eligibility criteria for crisis services under section 256B.0624, subdivision 3.

Subd. 4. **Required services; providers.** (a) A license holder providing residential crisis stabilization services must continually follow a child's individual crisis treatment plan to improve the child's functioning.

(b) The license holder must offer and have the capacity to directly provide the following treatment services to a child:

(1) crisis stabilization services as described in section 256B.0624, subdivision 7;

(2) mental health services as specified in the child's individual crisis treatment plan and according to the child's treatment needs;

(3) health services and medication administration, if applicable; and

(4) referrals for the child to community-based treatment providers and support services for the child's transition from residential crisis stabilization to another treatment setting.

(c) Children's residential crisis stabilization services must be provided by a qualified staff person listed in section 256B.0624, subdivision 8, according to the scope of practice for the individual staff person's position.

Subd. 5. **Assessment and treatment planning.** (a) Within 24 hours of a child's admission for residential crisis stabilization, the license holder must assess the child and document the child's immediate needs, including the child's:

(1) health and safety, including the need for crisis assistance; and

(2) need for connection to family and other natural supports.

(b) Within 24 hours of a child's admission for residential crisis stabilization, the license holder must complete a crisis treatment plan for the child, according to the requirements for a crisis treatment plan under section 256B.0624, subdivision 11. The license holder must base the child's crisis treatment plan on the child's referral information and the assessment of the child's immediate needs under paragraph (a). A mental health professional or a clinical trainee under the supervision of a mental health professional must complete the crisis treatment plan. A crisis treatment plan completed by a clinical trainee must contain documentation of approval, as defined in section 245I.02, subdivision 2, by a mental health professional within five business days of initial completion by the clinical trainee.

(c) A mental health professional must review a child's crisis treatment plan each week and document the weekly reviews in the child's client file.

(d) For a client receiving children's residential crisis stabilization services who is 18 years of age or older, the license holder must complete an individual abuse prevention plan for the client, pursuant to section 245A.65, subdivision 2, as part of the client's crisis treatment plan.

Subd. 6. **Staffing requirements.** Staff members of facilities providing services under this section must have access to a mental health professional or clinical trainee within 30 minutes, either in person or by telephone. The license holder must maintain a current schedule of available mental health professionals or clinical trainees and include contact information

for each mental health professional or clinical trainee. The schedule must be readily available to all staff members.

Sec. 25. Minnesota Statutes 2020, section 245F.03, is amended to read:

**245F.03 APPLICATION.**

(a) This chapter establishes minimum standards for withdrawal management programs licensed by the commissioner that serve one or more unrelated persons.

(b) This chapter does not apply to a withdrawal management program licensed as a hospital under sections 144.50 to 144.581. A withdrawal management program located in a hospital licensed under sections 144.50 to 144.581 that chooses to be licensed under this chapter is deemed to be in compliance with section 245F.13.

~~(c) Minnesota Rules, parts 9530.6600 to 9530.6655, do not apply to withdrawal management programs licensed under this chapter.~~

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 26. Minnesota Statutes 2020, section 245F.04, subdivision 1, is amended to read:

Subdivision 1. **General application and license requirements.** An applicant for licensure as a clinically managed withdrawal management program or medically monitored withdrawal management program must meet the following requirements, except where otherwise noted. All programs must comply with federal requirements and the general requirements in sections 626.557 and 626.5572 and chapters 245A, 245C, and 260E. A withdrawal management program must be located in a hospital licensed under sections 144.50 to 144.581, or must be a supervised living facility with a class A or B license from the Department of Health under Minnesota Rules, parts 4665.0100 to 4665.9900.

Sec. 27. Minnesota Statutes 2020, section 245G.01, is amended by adding a subdivision to read:

Subd. 13b. **Guest speaker.** "Guest speaker" means an individual who works under the direct observation of the license holder to present to clients on topics in which the guest speaker has expertise and that the license holder has determined to be beneficial to a client's recovery. Tribally licensed programs have autonomy to identify the qualifications of their guest speakers.

Sec. 28. Minnesota Statutes 2020, section 245G.05, subdivision 2, is amended to read:

Subd. 2. **Assessment summary.** (a) An alcohol and drug counselor must complete an assessment summary within three calendar days from the day of service initiation for a residential program and within three calendar days on which a treatment session has been provided from the day of service initiation for a client in a nonresidential program. The comprehensive assessment summary is complete upon a qualified staff member's dated signature. If the comprehensive assessment is used to authorize the treatment service, the alcohol and drug counselor must prepare an assessment summary on the same date the comprehensive assessment is completed. If the comprehensive assessment and assessment summary are to authorize treatment services, the assessor must determine appropriate level of care and services for the client using the ~~dimensions in Minnesota Rules, part 9530.6622~~ criteria established in section 254B.04, subdivision 4, and document the recommendations.

(b) An assessment summary must include:

(1) a risk description according to section 245G.05 for each dimension listed in paragraph (c);

(2) a narrative summary supporting the risk descriptions; and

(3) a determination of whether the client has a substance use disorder.

(c) An assessment summary must contain information relevant to treatment service planning and recorded in the dimensions in clauses (1) to (6). The license holder must consider:

(1) Dimension 1, acute intoxication/withdrawal potential; the client's ability to cope with withdrawal symptoms and current state of intoxication;

(2) Dimension 2, biomedical conditions and complications; the degree to which any physical disorder of the client would interfere with treatment for substance use, and the client's ability to tolerate any related discomfort. The license holder must determine the impact of continued substance use on the unborn child, if the client is pregnant;

(3) Dimension 3, emotional, behavioral, and cognitive conditions and complications; the degree to which any condition or complication is likely to interfere with treatment for substance use or with functioning in significant life areas and the likelihood of harm to self or others;

(4) Dimension 4, readiness for change; the support necessary to keep the client involved in treatment service;

(5) Dimension 5, relapse, continued use, and continued problem potential; the degree to which the client recognizes relapse issues and has the skills to prevent relapse of either substance use or mental health problems; and

(6) Dimension 6, recovery environment; whether the areas of the client's life are supportive of or antagonistic to treatment participation and recovery.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 29. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision to read:

Subd. 2a. **Client record documentation requirements.** (a) The license holder must document in the client record any significant event that occurs at the program within 24 hours of the event. A significant event is an event that impacts the client's treatment plan or the client's relationship with other clients, staff, or the client's family.

(b) A residential treatment program must document in the client record the following items within 24 hours that each occurs:

(1) medical and other appointments the client attended if known by the provider;

(2) concerns related to medications that are not documented in the medication administration record; and

(3) concerns related to attendance for treatment services, including the reason for any client absence from a treatment service.

Sec. 30. Minnesota Statutes 2020, section 245G.06, subdivision 3, is amended to read:

Subd. 3. ~~**Documentation of treatment services;**~~ **Treatment plan review.** (a) ~~A review of all treatment services must be documented weekly and include a review of:~~

~~(1) care coordination activities;~~

~~(2) medical and other appointments the client attended;~~

~~(3) issues related to medications that are not documented in the medication administration record; and~~

~~(4) issues related to attendance for treatment services, including the reason for any client absence from a treatment service.~~

~~(b) A note must be entered immediately following any significant event. A significant event is an event that impacts the client's relationship with other clients, staff, the client's family, or the client's treatment plan.~~

~~(c)~~ A treatment plan review must be entered in a client's file ~~weekly or after each treatment service, whichever is less frequent, by the staff member providing the service~~ by an alcohol and drug counselor at least every 28 calendar days; when there is a significant change in the client's situation, functioning, or service methods; or at the request of the client. The review must indicate the span of time covered by the review and each of the six dimensions listed in section 245G.05, subdivision 2, paragraph (c). The review must:

(1) ~~indicate the date, type, and amount of each treatment service provided and the client's response to each service;~~

~~(2)~~ address each goal in the treatment plan and whether the methods to address the goals are effective;

~~(3)~~ (2) include monitoring of any physical and mental health problems;

~~(4)~~ (3) document the participation of others;

~~(5)~~ (4) document staff recommendations for changes in the methods identified in the treatment plan and whether the client agrees with the change; and

~~(6)~~ (5) include a review and evaluation of the individual abuse prevention plan according to section 245A.65.

~~(d)~~ (b) Each entry in a client's record must be accurate, legible, signed, and dated. A late entry must be clearly labeled "late entry." A correction to an entry must be made in a way in which the original entry can still be read.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 31. Minnesota Statutes 2020, section 245G.12, is amended to read:

**245G.12 PROVIDER POLICIES AND PROCEDURES.**

A license holder must develop a written policies and procedures manual, indexed according to section 245A.04, subdivision 14, paragraph (c), that provides staff members immediate access to all policies and procedures and provides a client and other authorized parties access to all policies and procedures. The manual must contain the following materials:

(1) assessment and treatment planning policies, including screening for mental health concerns and treatment objectives related to the client's identified mental health concerns in the client's treatment plan;

(2) policies and procedures regarding HIV according to section 245A.19;

(3) the license holder's methods and resources to provide information on tuberculosis and tuberculosis screening to each client and to report a known tuberculosis infection according to section 144.4804;

(4) personnel policies according to section 245G.13;

(5) policies and procedures that protect a client's rights according to section 245G.15;

(6) a medical services plan according to section 245G.08;

(7) emergency procedures according to section 245G.16;

(8) policies and procedures for maintaining client records according to section 245G.09;

(9) procedures for reporting the maltreatment of minors according to chapter 260E, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;

(10) a description of treatment services that: (i) includes the amount and type of services provided; (ii) identifies which services meet the definition of group counseling under section 245G.01, subdivision 13a; ~~and~~ (iii) identifies which groups to and topics on which a guest speaker could provide services under the direct observation of a licensed alcohol and drug counselor; and (iv) defines the program's treatment week;

(11) the methods used to achieve desired client outcomes;

(12) the hours of operation; and

(13) the target population served.

Sec. 32. Minnesota Statutes 2020, section 245G.22, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Diversion" means the use of a medication for the treatment of opioid addiction being diverted from intended use of the medication.

(c) "Guest dose" means administration of a medication used for the treatment of opioid addiction to a person who is not a client of the program that is administering or dispensing the medication.

(d) "Medical director" means a practitioner licensed to practice medicine in the jurisdiction that the opioid treatment program is located who assumes responsibility for administering all medical services performed by the program, either by performing the services directly or by delegating specific responsibility to a practitioner of the opioid treatment program.

(e) "Medication used for the treatment of opioid use disorder" means a medication approved by the Food and Drug Administration for the treatment of opioid use disorder.

(f) "Minnesota health care programs" has the meaning given in section 256B.0636.

(g) "Opioid treatment program" has the meaning given in Code of Federal Regulations, title 42, section 8.12, and includes programs licensed under this chapter.

~~(h) "Placing authority" has the meaning given in Minnesota Rules, part 9530.6605, subpart 21a.~~

~~(i)~~ (h) "Practitioner" means a staff member holding a current, unrestricted license to practice medicine issued by the Board of Medical Practice or nursing issued by the Board of Nursing and is currently registered with the Drug Enforcement Administration to order or dispense controlled substances in Schedules II to V under the Controlled Substances Act, United States Code, title 21, part B, section 821. Practitioner includes an advanced practice registered nurse and physician assistant if the staff member receives a variance by the state opioid treatment authority under section 254A.03 and the federal Substance Abuse and Mental Health Services Administration.

~~(j)~~ (i) "Unsupervised use" means the use of a medication for the treatment of opioid use disorder dispensed for use by a client outside of the program setting.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 33. Minnesota Statutes 2021 Supplement, section 245I.02, subdivision 19, is amended to read:

Subd. 19. **Level of care assessment.** "Level of care assessment" means the level of care decision support tool appropriate to the client's age. For a client five years of age or younger, a level of care assessment is the Early Childhood Service Intensity Instrument (ESCII). For a client six to 17 years of age, a level of care assessment is the Child and Adolescent Service Intensity Instrument (CASII). For a client 18 years of age or older, a level of care assessment is the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS) or another tool authorized by the commissioner.

Sec. 34. Minnesota Statutes 2021 Supplement, section 245I.02, subdivision 36, is amended to read:

Subd. 36. **Staff person.** "Staff person" means an individual who works under a license holder's direction or under a contract with a license holder. Staff person includes an intern, consultant, contractor, individual who works part-time, and an individual who does not provide direct contact services to clients but does have physical access to clients. Staff person includes a volunteer who provides treatment services to a client or a volunteer whom the license holder regards as a staff person for the purpose of meeting staffing or service delivery requirements. A staff person must be 18 years of age or older.

Sec. 35. Minnesota Statutes 2021 Supplement, section 245I.03, subdivision 9, is amended to read:

Subd. 9. **Volunteers.** ~~A~~ If a license holder uses volunteers, the license holder must have policies and procedures for using volunteers, including when ~~a~~ the license holder must submit a background study for a volunteer, and the specific tasks that a volunteer may perform.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 36. Minnesota Statutes 2021 Supplement, section 245I.04, subdivision 4, is amended to read:

Subd. 4. **Mental health practitioner qualifications.** (a) An individual who is qualified in at least one of the ways described in paragraph (b) to (d) may serve as a mental health practitioner.

(b) An individual is qualified as a mental health practitioner through relevant coursework if the individual completes at least 30 semester hours or 45 quarter hours in behavioral sciences or related fields and:

(1) has at least 2,000 hours of experience providing services to individuals with:

(i) a mental illness or a substance use disorder; or

(ii) a traumatic brain injury or a developmental disability, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to a client;

(2) is fluent in the non-English language of the ethnic group to which at least 50 percent of the individual's clients belong, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to a client;

(3) is working in a day treatment program under section 256B.0671, subdivision 3, or 256B.0943; ~~or~~

(4) has completed a practicum or internship that (i) required direct interaction with adult clients or child clients, and (ii) was focused on behavioral sciences or related fields~~.~~; or

(5) is in the process of completing a practicum or internship as part of a formal undergraduate or graduate training program in social work, psychology, or counseling.

(c) An individual is qualified as a mental health practitioner through work experience if the individual:

(1) has at least 4,000 hours of experience in the delivery of services to individuals with:

(i) a mental illness or a substance use disorder; or

(ii) a traumatic brain injury or a developmental disability, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to clients; or

(2) receives treatment supervision at least once per week until meeting the requirement in clause (1) of 4,000 hours of experience and has at least 2,000 hours of experience providing services to individuals with:

(i) a mental illness or a substance use disorder; or

(ii) a traumatic brain injury or a developmental disability, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to clients.

(d) An individual is qualified as a mental health practitioner if the individual has a master's or other graduate degree in behavioral sciences or related fields.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 37. Minnesota Statutes 2021 Supplement, section 245I.05, subdivision 3, is amended to read:

Subd. 3. **Initial training.** (a) A staff person must receive training about:

(1) vulnerable adult maltreatment under section 245A.65, subdivision 3; and

(2) the maltreatment of minor reporting requirements and definitions in chapter 260E within 72 hours of first providing direct contact services to a client.

(b) Before providing direct contact services to a client, a staff person must receive training about:

(1) client rights and protections under section 245I.12;

(2) the Minnesota Health Records Act, including client confidentiality, family engagement under section 144.294, and client privacy;

(3) emergency procedures that the staff person must follow when responding to a fire, inclement weather, a report of a missing person, and a behavioral or medical emergency;

(4) specific activities and job functions for which the staff person is responsible, including the license holder's program policies and procedures applicable to the staff person's position;

(5) professional boundaries that the staff person must maintain; and

(6) specific needs of each client to whom the staff person will be providing direct contact services, including each client's developmental status, cognitive functioning, and physical and mental abilities.

(c) Before providing direct contact services to a client, a mental health rehabilitation worker, mental health behavioral aide, or mental health practitioner ~~qualified under~~ required to receive the training according to section 245I.04, subdivision 4, must receive 30 hours of training about:

(1) mental illnesses;

(2) client recovery and resiliency;

(3) mental health de-escalation techniques;

(4) co-occurring mental illness and substance use disorders; and

(5) psychotropic medications and medication side effects.

(d) Within 90 days of first providing direct contact services to an adult client, a clinical trainee, mental health practitioner, mental health certified peer specialist, or mental health rehabilitation worker must receive training about:

(1) trauma-informed care and secondary trauma;

(2) person-centered individual treatment plans, including seeking partnerships with family and other natural supports;

(3) co-occurring substance use disorders; and

(4) culturally responsive treatment practices.

(e) Within 90 days of first providing direct contact services to a child client, a clinical trainee, mental health practitioner, mental health certified family peer specialist, mental health certified peer specialist, or mental health behavioral aide must receive training about the topics in clauses (1) to (5). This training must address the developmental characteristics of each child served by the license holder and address the needs of each child in the context of the child's family, support system, and culture. Training topics must include:

(1) trauma-informed care and secondary trauma, including adverse childhood experiences (ACEs);

(2) family-centered treatment plan development, including seeking partnership with a child client's family and other natural supports;

(3) mental illness and co-occurring substance use disorders in family systems;

(4) culturally responsive treatment practices; and

(5) child development, including cognitive functioning, and physical and mental abilities.

(f) For a mental health behavioral aide, the training under paragraph (e) must include parent team training using a curriculum approved by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 38. Minnesota Statutes 2021 Supplement, section 245I.08, subdivision 4, is amended to read:

Subd. 4. **Progress notes.** A license holder must use a progress note to document each occurrence of a mental health service that a staff person provides to a client. A progress note must include the following:

(1) the type of service;

(2) the date of service;

(3) the start and stop time of the service unless the license holder is licensed as a residential program;

(4) the location of the service;

(5) the scope of the service, including: (i) the targeted goal and objective; (ii) the intervention that the staff person provided to the client and the methods that the staff person used; (iii) the client's response to the intervention; (iv) the staff person's plan to take future actions, including changes in treatment that the staff person will implement if the intervention was ineffective; and (v) the service modality;

(6) the signature~~, printed name,~~ and credentials of the staff person who provided the service to the client;

(7) the mental health provider travel documentation required by section 256B.0625, if applicable; and

(8) significant observations by the staff person, if applicable, including: (i) the client's current risk factors; (ii) emergency interventions by staff persons; (iii) consultations with or referrals to other professionals, family, or significant others; and (iv) changes in the client's mental or physical symptoms.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 39. Minnesota Statutes 2021 Supplement, section 245I.09, subdivision 2, is amended to read:

Subd. 2. **Record retention.** A license holder must retain client records of a discharged client for a minimum of five years from the date of the client's discharge. A license holder who ~~ceases to provide treatment services to a client~~ closes a program must retain ~~the~~ a client's records for a minimum of five years from the date that the license holder stopped providing services to the client and must notify the commissioner of the location of the client records and the name of the individual responsible for storing and maintaining the client records.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 40. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 2, is amended to read:

Subd. 2. **Generally.** (a) A license holder must use a client's diagnostic assessment or crisis assessment to determine a client's eligibility for mental health services, except as provided in this section.

(b) Prior to completing a client's initial diagnostic assessment, a license holder may provide a client with the following services:

(1) an explanation of findings;

(2) neuropsychological testing, neuropsychological assessment, and psychological testing;

(3) any combination of psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed three sessions;

(4) crisis assessment services according to section 256B.0624; and

(5) ten days of intensive residential treatment services according to the assessment and treatment planning standards in section ~~245.23~~ 245I.23, subdivision 7.

(c) Based on the client's needs that a crisis assessment identifies under section 256B.0624, a license holder may provide a client with the following services:

(1) crisis intervention and stabilization services under section 245I.23 or 256B.0624; and

(2) any combination of psychotherapy sessions, group psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions within a 12-month period without prior authorization.

(d) Based on the client's needs in the client's brief diagnostic assessment, a license holder may provide a client with any combination of psychotherapy sessions, group psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions within a 12-month period without prior authorization for any new client or for an existing client who the license holder projects will need fewer than ten sessions during the next 12 months.

(e) Based on the client's needs that a hospital's medical history and presentation examination identifies, a license holder may provide a client with:

(1) any combination of psychotherapy sessions, group psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions

within a 12-month period without prior authorization for any new client or for an existing client who the license holder projects will need fewer than ten sessions during the next 12 months; and

(2) up to five days of day treatment services or partial hospitalization.

(f) A license holder must complete a new standard diagnostic assessment of a client:

(1) when the client requires services of a greater number or intensity than the services that paragraphs (b) to (e) describe;

(2) at least annually following the client's initial diagnostic assessment if the client needs additional mental health services and the client does not meet the criteria for a brief assessment;

(3) when the client's mental health condition has changed markedly since the client's most recent diagnostic assessment; or

(4) when the client's current mental health condition does not meet the criteria of the client's current diagnosis.

(g) For an existing client, the license holder must ensure that a new standard diagnostic assessment includes a written update containing all significant new or changed information about the client, and an update regarding what information has not significantly changed, including a discussion with the client about changes in the client's life situation, functioning, presenting problems, and progress with achieving treatment goals since the client's last diagnostic assessment was completed.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 41. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 6, is amended to read:

Subd. 6. **Standard diagnostic assessment; required elements.** (a) Only a mental health professional or a clinical trainee may complete a standard diagnostic assessment of a client. A standard diagnostic assessment of a client must include a face-to-face interview with a client and a written evaluation of the client. The assessor must complete a client's standard diagnostic assessment within the client's cultural context.

(b) When completing a standard diagnostic assessment of a client, the assessor must gather and document information about the client's current life situation, including the following information:

(1) the client's age;

(2) the client's current living situation, including the client's housing status and household members;

(3) the status of the client's basic needs;

(4) the client's education level and employment status;

(5) the client's current medications;

(6) any immediate risks to the client's health and safety;

(7) the client's perceptions of the client's condition;

(8) the client's description of the client's symptoms, including the reason for the client's referral;

(9) the client's history of mental health treatment; and

(10) cultural influences on the client.

(c) If the assessor cannot obtain the information that this ~~subdivision~~ paragraph requires without retraumatizing the client or harming the client's willingness to engage in treatment, the assessor must identify which topics will require further assessment during the course of the client's treatment. The assessor must gather and document information related to the following topics:

(1) the client's relationship with the client's family and other significant personal relationships, including the client's evaluation of the quality of each relationship;

(2) the client's strengths and resources, including the extent and quality of the client's social networks;

(3) important developmental incidents in the client's life;

(4) maltreatment, trauma, potential brain injuries, and abuse that the client has suffered;

(5) the client's history of or exposure to alcohol and drug usage and treatment; and

(6) the client's health history and the client's family health history, including the client's physical, chemical, and mental health history.

(d) When completing a standard diagnostic assessment of a client, an assessor must use a recognized diagnostic framework.

(1) When completing a standard diagnostic assessment of a client who is five years of age or younger, the assessor must use the current edition of the DC: 0-5 Diagnostic Classification of Mental Health and Development Disorders of Infancy and Early Childhood published by Zero to Three.

(2) When completing a standard diagnostic assessment of a client who is six years of age or older, the assessor must use the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(3) When completing a standard diagnostic assessment of a client who is five years of age or younger, an assessor must administer the Early Childhood Service Intensity Instrument (ECSII) to the client and include the results in the client's assessment.

(4) When completing a standard diagnostic assessment of a client who is six to 17 years of age, an assessor must administer the Child and Adolescent Service Intensity Instrument (CASII) to the client and include the results in the client's assessment.

(5) When completing a standard diagnostic assessment of a client who is 18 years of age or older, an assessor must use either (i) the CAGE-AID Questionnaire or (ii) the criteria in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association to screen and assess the client for a substance use disorder.

(e) When completing a standard diagnostic assessment of a client, the assessor must include and document the following components of the assessment:

(1) the client's mental status examination;

(2) the client's baseline measurements; symptoms; behavior; skills; abilities; resources; vulnerabilities; safety needs, including client information that supports the assessor's findings after applying a recognized diagnostic framework from paragraph (d); and any differential diagnosis of the client;

(3) an explanation of: (i) how the assessor diagnosed the client using the information from the client's interview, assessment, psychological testing, and collateral information about the client; (ii) the client's needs; (iii) the client's risk factors; (iv) the client's strengths; and (v) the client's responsivity factors.

(f) When completing a standard diagnostic assessment of a client, the assessor must consult the client and the client's family about which services that the client and the family

prefer to treat the client. The assessor must make referrals for the client as to services required by law.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 42. Minnesota Statutes 2021 Supplement, section 245I.20, subdivision 5, is amended to read:

Subd. 5. **Treatment supervision specified.** (a) A mental health professional must remain responsible for each client's case. The certification holder must document the name of the mental health professional responsible for each case and the dates that the mental health professional is responsible for the client's case from beginning date to end date. The certification holder must assign each client's case for assessment, diagnosis, and treatment services to a treatment team member who is competent in the assigned clinical service, the recommended treatment strategy, and in treating the client's characteristics.

(b) Treatment supervision of mental health practitioners and clinical trainees required by section 245I.06 must include case reviews as described in this paragraph. Every two months, a mental health professional must complete and document a case review of each client assigned to the mental health professional when the client is receiving clinical services from a mental health practitioner or clinical trainee. The case review must include a consultation process that thoroughly examines the client's condition and treatment, including: (1) a review of the client's reason for seeking treatment, diagnoses and assessments, and the individual treatment plan; (2) a review of the appropriateness, duration, and outcome of treatment provided to the client; and (3) treatment recommendations.

Sec. 43. Minnesota Statutes 2021 Supplement, section 245I.23, subdivision 22, is amended to read:

Subd. 22. **Additional policy and procedure requirements.** (a) In addition to the policies and procedures in section 245I.03, the license holder must establish, enforce, and maintain the policies and procedures in this subdivision.

(b) The license holder must have policies and procedures for receiving referrals and making admissions determinations about referred persons under subdivisions ~~14 to 16~~ 15 to 17.

(c) The license holder must have policies and procedures for discharging clients under subdivision ~~17~~ 18. In the policies and procedures, the license holder must identify the staff persons who are authorized to discharge clients from the program.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 44. **[245I.40] CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.**

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

(b) "Care consultation" means consultative activities and communications between mental health care providers and primary care clinical care providers, families, school support staff, and clients. Care consultation may include psychiatric consultation with primary care practitioners and mental health clinical care consultation.

(c) "Care coordination" means the activities required to coordinate care across settings and providers for the people served to ensure seamless transitions across the full spectrum of health services. Care coordination includes documenting a plan of care for medical care, behavioral health, and social services and supports in the integrated treatment plan; assisting with obtaining appointments; confirming that clients attend appointments; developing a crisis plan, tracking medication, and implementing care coordination agreements with external providers. Care coordination may include psychiatric consultation with primary care practitioners and mental health clinical care consultation.

(d) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871, subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision 20. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(e) "Clinical trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

(f) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

(g) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider

may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(h) "Day treatment program" for children means a site-based structured mental health program consisting of psychotherapy for three or more individuals and individual or group skills training provided by a team, under the treatment supervision of a mental health professional.

(i) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

(j) "Direct service time" means the time that a mental health professional, clinical trainee, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family or providing covered services through telehealth as defined under section 256B.0625, subdivision 3b. Direct service time includes time in which the provider obtains a client's history, develops a client's treatment plan, records individual treatment outcomes, or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling or maintaining clinical records.

(k) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15.

(l) "Individual treatment plan" means the plan described in section 245I.10, subdivisions 7 and 8.

(m) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a mental health behavioral aide who is qualified according to section 245I.04, subdivision 16, to assist a child to retain or generalize psychosocial skills as previously trained by a mental health professional, clinical trainee, or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 8, paragraph (b), clause (4).

(n) "Mental health certified family peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 12.

(o) "Mental health practitioner" means a staff person who is qualified according to section 245I.04, subdivision 4.

(p) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(q) "Mental health service plan development" includes:

(1) developing and revising a child's individual treatment plan, including care consultation and care coordination services; and

(2) administering and reporting the standardized outcome measurements in section 245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome measurements approved by the commissioner, as periodically needed to evaluate the effectiveness of treatment.

(r) For persons at least age 18 but under age 21, "mental illness" has the meaning given in section 245.462, subdivision 20, paragraph (a).

(s) "Psychotherapy" means the treatment described in section 256B.0671, subdivision 11.

(t) "Rehabilitative services" or "psychiatric rehabilitation services" means interventions to:

(1) restore a child or adolescent to an age-appropriate developmental trajectory that had been disrupted by a psychiatric illness; or

(2) enable the child to self-monitor, compensate for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills acquired over the course of a psychiatric illness.

Psychiatric rehabilitation services for children combine coordinated psychotherapy to address internal psychological, emotional, and intellectual processing deficits and skills training to restore personal and social functioning. Psychiatric rehabilitation services establish a progressive series of goals with each achievement building upon a prior achievement.

(u) "Skills training" means individual, family, or group training delivered by or under the supervision of a mental health professional and designed to facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory that was disrupted by a psychiatric illness or to enable the child to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the service delivery requirements under subdivision 8, paragraph (b), clause (2).

(v) "Treatment supervision" means the supervision described in section 245I.06.

Subd. 2. **Covered service components of children's therapeutic services and supports.** (a) Subject to federal approval, medical assistance covers medically necessary

children's therapeutic services and supports when the services are provided by an eligible provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(b) The service components of children's therapeutic services and supports are:

(1) patient psychotherapy, family psychotherapy, psychotherapy for crisis, and group psychotherapy;

(2) individual, family, or group skills training provided by a mental health professional, clinical trainee, or mental health practitioner;

(3) crisis planning;

(4) mental health behavioral aide services;

(5) direction of a mental health behavioral aide;

(6) mental health service plan development;

(7) children's day treatment;

(8) care coordination;

(9) care consultation;

(10) travel to and from a client's location; and

(11) individual treatment plan development.

Subd. 3. **Determination of client eligibility.** (a) Children's therapeutic services and supports include development and rehabilitative services that support a child's developmental treatment needs.

(b) A client's eligibility to receive children's therapeutic services and supports under this section shall be determined based on a standard diagnostic assessment by a mental health professional or a clinical trainee that is performed within one year before the initial start of service. The standard diagnostic assessment must:

(1) determine whether a child under age 18 has a diagnosis of emotional disturbance or, if the person is between the ages of 18 and 21, whether the person has a mental illness;

(2) document children's therapeutic services and supports as medically necessary to address an identified disability, functional impairment, and the individual client's needs and goals; and

(3) be used in the development of the individual treatment plan.

(c) Notwithstanding paragraph (b), a client may be determined to be eligible for day treatment under this section based on a hospital's medical history and presentation examination of the client.

Subd. 4. **Provider entity certification.** (a) The commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. A provider entity must be certified for the three core rehabilitation services of psychotherapy, skills training, and crisis planning. The commissioner shall recertify a provider entity every three years, allowing up to a six-month grace period for recertification after the certification anniversary. The commissioner may approve a recertification extension, in the interest of sustaining services, when a certain date for recertification is identified. The commissioner shall establish a process for decertification of a provider entity and shall require corrective action, medical assistance repayment, or decertification of a provider entity that no longer meets the requirements in this section or that fails to meet the clinical quality standards or administrative standards provided by the commissioner in the application and certification process.

(b) The commissioner must provide the following to providers for the certification, recertification, and decertification processes:

(1) a structured listing of required provider certification criteria;

(2) a formal written letter with a determination of certification, recertification, or decertification, signed by the commissioner or the appropriate division director; and

(3) a formal written communication outlining the process for necessary corrective action and follow-up by the commissioner, if applicable.

(c) For purposes of this section, a provider entity must meet the standards in this section and this chapter, as required under section 245I.011, subdivision 5, and be:

(1) an Indian health services facility or a facility owned and operated by a Tribe or Tribal organization operating as a 638 facility under Public Law 93-638, certified by the state;

(2) a county-operated entity certified by the state; or

(3) a noncounty entity certified by the state.

Subd. 5. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that

utilizes diagnostic assessment, individual treatment plans, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review, and update as necessary, the clinical policies and procedures every three years, must distribute the policies and procedures to staff initially and upon each subsequent update, and must train staff accordingly.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

(1) providing or obtaining a client's standard diagnostic assessment. When required components of the standard diagnostic assessment are not provided in an outside or independent assessment or cannot be attained immediately, the provider entity must determine the missing information within 30 days and amend the child's standard diagnostic assessment or incorporate the information into the child's individual treatment plan;

(2) developing an individual treatment plan;

(3) providing treatment supervision plans for staff according to section 245I.06. Treatment supervision does not include the authority to make or terminate court-ordered placements of the child. A treatment supervisor must be available for urgent consultation as required by the individual client's needs or the situation;

(4) requiring a mental health professional to determine the level of supervision for a behavioral health aide, and to document and sign the supervision determination in the behavioral health aide's supervision plan;

(5) ensuring the immediate accessibility of a mental health professional, clinical trainee, or mental health practitioner to the behavioral aide during service delivery;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 8; and

(7) individual treatment plan review. The review must determine the extent to which the services have met each of the goals and objectives in the treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family.

Subd. 6. **Background studies.** The requirements for background studies under section 245I.011, subdivision 4, paragraph (d), may be met by a children's therapeutic services and supports services agency through the commissioner's NETStudy system as provided under sections 245C.03, subdivision 7, and 245C.10, subdivision 8.

Subd. 7. **Provider entity administrative infrastructure requirements.** (a) An eligible provider entity shall demonstrate the availability, by means of employment or contract, of at least one backup mental health professional in the event of the primary mental health professional's absence.

(b) In addition to the policies and procedures required under section 245I.03, the policies and procedures must include:

(1) fiscal procedures, including internal fiscal control practices and a process for collecting revenue that is compliant with federal and state laws; and

(2) a client-specific treatment outcomes measurement system, including baseline measures, to measure a client's progress toward achieving mental health rehabilitation goals.

(c) A provider entity that uses a restrictive procedure with a client must meet the requirements of section 245.8261.

Subd. 8. **Qualifications of individual and team providers.** (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider must be qualified as a:

(1) mental health professional;

(2) clinical trainee;

(3) mental health practitioner;

(4) mental health certified family peer specialist; or

(5) mental health behavioral aide.

(c) A day treatment team must include one mental health professional or clinical trainee.

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) the provider's caseload size reasonably enables the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan; and

(3) a day treatment program is provided to a group of clients by a team under the treatment supervision of a mental health professional. The day treatment program must be provided in and by (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; or (iii) an entity that is certified under subdivision 4 to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The remainder of the structured treatment program may include patient, family, and group psychotherapy and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. When a day treatment group that meets the minimum group size requirement temporarily falls below the minimum group size because of a member's temporary absence, medical assistance covers a group session conducted for the group members in attendance. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.

(b) To be eligible for medical assistance payment, a provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) psychotherapy to address the child's underlying mental health disorder must be documented as part of the child's ongoing treatment. A provider must deliver, or arrange for, medically necessary psychotherapy, unless the child's parent or caregiver chooses not to receive it or the provider determines that psychotherapy is no longer medically necessary. When a provider determines that psychotherapy is no longer medically necessary, the provider must update required documentation, including but not limited to the individual treatment plan, the child's medical record, or other authorizations, to include the determination. When a provider determines that a child needs psychotherapy but psychotherapy cannot be delivered due to a shortage of licensed mental health professionals in the child's community, the provider must document the lack of access in the child's medical record;

(2) individual, family, or group skills training is subject to the following requirements:

(i) a mental health professional, clinical trainee, or mental health practitioner shall provide skills training;

(ii) skills training delivered to a child or the child's family must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

(iii) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(A) one mental health professional, clinical trainee, or mental health practitioner must work with a group of three to eight clients; or

(B) any combination of two mental health professionals, clinical trainees, or mental health practitioners must work with a group of nine to 12 clients;

(iv) a mental health professional, clinical trainee, or mental health practitioner must have taught the psychosocial skill before a mental health behavioral aide may practice that skill with the client; and

(v) for group skills training, when a skills group that meets the minimum group size requirement temporarily falls below the minimum group size because of a group member's temporary absence, the provider may conduct the session for the group members in attendance;

(3) crisis planning to a child and family must include development of a written plan that anticipates the particular factors specific to the child that may precipitate a psychiatric crisis for the child in the near future. The written plan must document actions that the family should be prepared to take to resolve or stabilize a crisis, such as advance arrangements for direct intervention and support services to the child and the child's family. Crisis planning must include preparing resources designed to address abrupt or substantial changes in the functioning of the child or the child's family when sudden change in behavior or a loss of usual coping mechanisms is observed or the child begins to present a danger to self or others;

(4) mental health behavioral aide services must be medically necessary treatment services identified in the child's individual treatment plan. To be eligible for medical assistance payment, mental health behavioral aide services must be delivered to a child who has been diagnosed with an emotional disturbance or a mental illness, as provided in subdivision 1, paragraph (m). The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment

strategies as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and

(5) mental health service plan development must be performed in consultation with the child's family and, when appropriate, with other key participants in the child's life by the child's treating mental health professional or clinical trainee or by a mental health practitioner and approved by the treating mental health professional. Treatment plan drafting consists of development, review, and revision by face-to-face or electronic communication. The provider must document events, including the time spent with the family and other key participants in the child's life to approve the individual treatment plan. Medical assistance covers service plan development before completion of the child's individual treatment plan. Service plan development is covered only if a treatment plan is completed for the child. If upon review it is determined that a treatment plan was not completed for the child, the commissioner shall recover the payment for the service plan development.

Subd. 10. **Documentation and billing.** (a) A provider entity must document the services it provides under this section. The provider entity must ensure that documentation complies with Minnesota Rules, parts 9505.2175 and 9505.2197. Services billed under this section that are not documented according to this subdivision shall be subject to monetary recovery by the commissioner. Billing for covered service components under subdivision 2, paragraph (b), must not include anything other than direct service time.

(b) Required documentation must be completed for each individual provider and service modality, for each day a child receives a service under subdivision 2, paragraph (b).

Subd. 11. **Excluded services.** The following services are not eligible for medical assistance payment as children's therapeutic services and supports:

(1) service components of children's therapeutic services and supports simultaneously provided by more than one provider entity unless prior authorization is obtained;

(2) treatment by multiple providers within the same agency at the same clock time;

(3) children's therapeutic services and supports provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

(4) mental health behavioral aide services provided by a personal care assistant who is not qualified as a mental health behavioral aide and employed by a certified children's therapeutic services and supports provider entity;

(5) service components of CTSS that are the responsibility of a residential or program license holder, including foster care providers under the terms of a service agreement or administrative rules governing licensure; and

(6) adjunctive activities that may be offered by a provider entity but are not otherwise covered by medical assistance, including a service that is primarily recreation-oriented or that is provided in a setting that is not medically supervised. This includes sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities, and tours.

Subd. 12. **Exception to excluded services.** Notwithstanding subdivision 11, up to 15 hours of children's therapeutic services and supports provided within a six-month period to a child with severe emotional disturbance who is residing in a hospital; a residential treatment facility licensed under Minnesota Rules, parts 2960.0580 to 2960.0690; a psychiatric residential treatment facility under section 256B.0625, subdivision 45a; a regional treatment center; or other institutional group setting or who is participating in a program of partial hospitalization are eligible for medical assistance payment if part of the discharge plan.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall not submit a state plan amendment to implement this section until an appropriation is enacted to cover the cost of implementing this section. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 45. Minnesota Statutes 2021 Supplement, section 254A.03, subdivision 3, is amended to read:

Subd. 3. **Rules for substance use disorder care.** (a) ~~The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of chemical dependency care for each recipient of public assistance seeking treatment for substance misuse or substance use disorder. Upon federal approval of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655,~~ An eligible vendor of comprehensive assessments under section 254B.05 may determine ~~and approve~~ the appropriate level of substance use disorder treatment for a recipient of public assistance. ~~The process for determining an individual's financial eligibility for the behavioral health fund or determining an individual's enrollment in or eligibility for a publicly subsidized health plan is not affected by the individual's choice to access a comprehensive assessment for placement.~~

(b) The commissioner shall develop and implement a utilization review process for publicly funded treatment placements to monitor and review the clinical appropriateness and timeliness of all publicly funded placements in treatment.

(c) If a screen result is positive for alcohol or substance misuse, a brief screening for alcohol or substance use disorder that is provided to a recipient of public assistance within a primary care clinic, hospital, or other medical setting or school setting establishes medical necessity and approval for an initial set of substance use disorder services identified in section 254B.05, subdivision 5. The initial set of services approved for a recipient whose screen result is positive may include any combination of up to four hours of individual or group substance use disorder treatment, two hours of substance use disorder treatment coordination, or two hours of substance use disorder peer support services provided by a qualified individual according to chapter 245G. A recipient must obtain an assessment pursuant to paragraph (a) to be approved for additional treatment services. ~~Minnesota Rules, parts 9530.6600 to 9530.6655, and~~ A comprehensive assessment pursuant to section 245G.05 ~~are not applicable~~ is not required to receive the initial set of services allowed under this subdivision. A positive screen result establishes eligibility for the initial set of services allowed under this subdivision.

(d) ~~Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655,~~ An individual may choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled provider that is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision 3~~, paragraph (d)~~. If the individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations. ~~This paragraph expires July 1, 2022.~~

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 46. Minnesota Statutes 2020, section 254A.19, subdivision 1, is amended to read:

Subdivision 1. **Persons arrested outside of ~~home~~ county of residence.** When a chemical use assessment is required ~~under Minnesota Rules, parts 9530.6600 to 9530.6655,~~ for a person who is arrested and taken into custody by a peace officer outside of the person's county of residence, the ~~assessment must be completed by the person's county of residence no later than three weeks after the assessment is initially requested. If the assessment is not performed within this time limit, the county where the person is to be sentenced shall perform the assessment~~ county where the person is detained must facilitate access to an assessor

qualified under subdivision 3. The county of financial responsibility is determined under chapter 256G.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 47. Minnesota Statutes 2020, section 254A.19, subdivision 3, is amended to read:

Subd. 3. **~~Financial conflicts of interest~~ Comprehensive assessments.** ~~(a) Except as provided in paragraph (b), (c), or (d), an assessor conducting a chemical use assessment under Minnesota Rules, parts 9530.6600 to 9530.6655, may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.~~

~~(b) A county may contract with an assessor having a conflict described in paragraph (a) if the county documents that:~~

~~(1) the assessor is employed by a culturally specific service provider or a service provider with a program designed to treat individuals of a specific age, sex, or sexual preference;~~

~~(2) the county does not employ a sufficient number of qualified assessors and the only qualified assessors available in the county have a direct or shared financial interest or a referral relationship resulting in shared financial gain with a treatment provider; or~~

~~(3) the county social service agency has an existing relationship with an assessor or service provider and elects to enter into a contract with that assessor to provide both assessment and treatment under circumstances specified in the county's contract, provided the county retains responsibility for making placement decisions.~~

~~(c) The county may contract with a hospital to conduct chemical assessments if the requirements in subdivision 1a are met.~~

~~An assessor under this paragraph may not place clients in treatment. The assessor shall gather required information and provide it to the county along with any required documentation. The county shall make all placement decisions for clients assessed by assessors under this paragraph.~~

~~(d)~~ An eligible vendor under section 254B.05 conducting a comprehensive assessment for an individual seeking treatment shall approve the nature, intensity level, and duration of treatment service if a need for services is indicated, but the individual assessed can access any enrolled provider that is licensed to provide the level of service authorized, including the provider or program that completed the assessment. If an individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements

or limitations. An eligible vendor of a comprehensive assessment must provide information, in a format provided by the commissioner, on medical assistance and the behavioral health fund to individuals seeking an assessment.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 48. Minnesota Statutes 2021 Supplement, section 254A.19, subdivision 4, is amended to read:

Subd. 4. **Civil commitments.** ~~A Rule 25 assessment, under Minnesota Rules, part 9530.6615,~~ For the purposes of determining level of care, a comprehensive assessment does not need to be completed for an individual being committed as a chemically dependent person, as defined in section 253B.02, and for the duration of a civil commitment under section ~~253B.065,~~ 253B.09~~,~~ or 253B.095 in order for a county to access the behavioral health fund under section 254B.04. The county must determine if the individual meets the financial eligibility requirements for the behavioral health fund under section 254B.04. ~~Nothing in this subdivision prohibits placement in a treatment facility or treatment program governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.~~

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 49. Minnesota Statutes 2020, section 254A.19, is amended by adding a subdivision to read:

Subd. 6. **Assessments for detoxification programs.** For detoxification programs licensed under chapter 245A according to Minnesota Rules, parts 9530.6510 to 9530.6590, a "chemical use assessment" means a comprehensive assessment and assessment summary completed according to section 245G.05 and a "chemical dependency assessor" or "assessor" means an individual who meets the qualifications of section 245G.11, subdivisions 1 and 5.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 50. Minnesota Statutes 2020, section 254A.19, is amended by adding a subdivision to read:

Subd. 7. **Assessments for children's residential facilities.** For children's residential facilities licensed under chapter 245A according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0430 to 2960.0500, a "chemical use assessment" means a comprehensive assessment and assessment summary completed according to section 245G.05 by an individual who meets the qualifications of section 245G.11, subdivisions 1 and 5.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 51. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 2a. **Behavioral health fund.** "Behavioral health fund" means money allocated for payment of treatment services under this chapter.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 52. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 2b. **Client.** "Client" means an individual who has requested substance use disorder services, or for whom substance use disorder services have been requested.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 53. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 2c. **Co-payment.** "Co-payment" means the amount an insured person is obligated to pay before the person's third-party payment source is obligated to make a payment, or the amount an insured person is obligated to pay in addition to the amount the person's third-party payment source is obligated to pay.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 54. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 4c. **Department.** "Department" means the Department of Human Services.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 55. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 4d. **Drug and alcohol abuse normative evaluation system or DAANES.** "Drug and alcohol abuse normative evaluation system" or "DAANES" means the reporting system used to collect substance use disorder treatment data across all levels of care and providers.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 56. Minnesota Statutes 2020, section 254B.01, subdivision 5, is amended to read:

Subd. 5. **Local agency.** "Local agency" means the agency designated by a board of county commissioners, a local social services agency, or a human services board ~~to make placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to 20~~ authorized under section 254B.03, subdivision 1, to determine financial eligibility for the behavioral health fund.

Sec. 57. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 6a. **Minor child.** "Minor child" means an individual under the age of 18 years.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 58. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 6b. **Policy holder.** "Policy holder" means a person who has a third-party payment policy under which a third-party payment source has an obligation to pay all or part of a client's treatment costs.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 59. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 9. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is a client's spouse or the parent of a minor child who is a client.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 60. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 10. **Third-party payment source.** "Third-party payment source" means a person, entity, or public or private agency other than medical assistance or general assistance medical care that has a probable obligation to pay all or part of the costs of a client's substance use disorder treatment.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 61. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 11. **Vendor.** "Vendor" means a provider of substance use disorder treatment services that meets the criteria established in section 254B.05 and that has applied to participate as a provider in the medical assistance program according to Minnesota Rules, part 9505.0195.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 62. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 12. **American Society of Addiction Medicine criteria or ASAM criteria.** "American Society of Addiction Medicine criteria" or "ASAM criteria" means the clinical guidelines for purposes of the assessment, treatment, placement, and transfer or discharge of individuals with substance use disorders. The ASAM criteria are contained in the current edition of the ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 63. Minnesota Statutes 2020, section 254B.01, is amended by adding a subdivision to read:

Subd. 13. **Skilled treatment services.** "Skilled treatment services" means the "treatment services" described by section 245G.07, subdivisions 1, paragraph (a), clauses (1) to (4); and 2, clauses (1) to (6). Skilled treatment services must be provided by qualified professionals as identified in section 245G.07, subdivision 3.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 64. Minnesota Statutes 2020, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **Local agency duties.** (a) Every local agency ~~shall~~ must determine financial eligibility for substance use disorder services and provide ~~chemical dependency~~ substance use disorder services to persons residing within its jurisdiction who meet criteria established by the commissioner ~~for placement in a chemical dependency residential or nonresidential treatment service~~. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, the commissioner of human services shall select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate.

~~(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.~~

~~(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655,~~ (c) An individual may choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled provider that is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision 3~~, paragraph (d)~~. If the individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations.

~~(e)~~ (d) Beginning July 1, 2022, local agencies shall not make placement location determinations.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 65. Minnesota Statutes 2021 Supplement, section 254B.03, subdivision 2, is amended to read:

Subd. 2. **Behavioral health fund payment.** (a) Payment from the behavioral health fund is limited to payments for services identified in section 254B.05, other than detoxification licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, and detoxification provided in another state that would be required to be licensed as a chemical dependency program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. Vendors receiving payments from the behavioral health fund must not require co-payment from a recipient of benefits for services provided under this subdivision. The vendor is prohibited from using the client's public benefits to offset the cost of services paid under this section. The vendor shall not require the client to use public benefits for room or board costs. This includes but is not limited to cash assistance

benefits under chapters 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP benefits is a right of a client receiving services through the behavioral health fund or through state contracted managed care entities. Payment from the behavioral health fund shall be made for necessary room and board costs provided by vendors meeting the criteria under section 254B.05, subdivision 1a, or in a community hospital licensed by the commissioner of health according to sections 144.50 to 144.56 to a client who is:

(1) determined to meet the criteria for placement in a residential chemical dependency treatment program according to rules adopted under section 254A.03, subdivision 3; and

(2) concurrently receiving a chemical dependency treatment service in a program licensed by the commissioner and reimbursed by the behavioral health fund.

~~(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made. A county may elect to use the same invoice procedures and obtain the same state payment services as are used for chemical dependency services for which state payments are made under this section if county payments are made to the state in advance of state payments to vendors. When a county uses the state system for payment, the commissioner shall make monthly billings to the county using the most recent available information to determine the anticipated services for which payments will be made in the coming month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.~~

~~(c)~~ (b) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed expansion of chemical dependency treatment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

~~(d)~~ (c) At least 60 days prior to submitting an application for new licensure under chapter 245G, the applicant must notify the county human services director in writing of the applicant's intent to open a new treatment program. The written notification must include, at a minimum:

(1) a description of the proposed treatment program; and

(2) a description of the target population to be served by the treatment program.

~~(c)~~ (d) The county human services director may submit a written statement to the commissioner, within 60 days of receiving notice from the applicant, regarding the county's support of or opposition to the opening of the new treatment program. The written statement must include documentation of the rationale for the county's determination. The commissioner shall consider the county's written statement when determining whether there is a need for the treatment program as required by paragraph ~~(c)~~ (b).

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 66. Minnesota Statutes 2020, section 254B.03, subdivision 5, is amended to read:

Subd. 5. **Rules; appeal.** The commissioner shall adopt rules as necessary to implement this chapter. ~~The commissioner shall establish an appeals process for use by recipients when services certified by the county are disputed. The commissioner shall adopt rules and standards for the appeal process to assure adequate redress for persons referred to inappropriate services.~~

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 67. Minnesota Statutes 2021 Supplement, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. **Client eligibility.** (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, who meet the income standards of section 256B.056, subdivision 4, and are not enrolled in medical assistance, are entitled to behavioral health fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(b) Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.

(c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible for room and board services under section 254B.05, subdivision 5, paragraph (b), clause ~~(12)~~ (11).

(d) A client is eligible to have substance use disorder treatment paid for with funds from the behavioral health fund if:

(1) the client is eligible for MFIP as determined under chapter 256J;

(2) the client is eligible for medical assistance as determined under Minnesota Rules, parts 9505.0010 to 9505.0150;

(3) the client is eligible for general assistance, general assistance medical care, or work readiness as determined under Minnesota Rules, parts 9500.1200 to 9500.1272; or

(4) the client's income is within current household size and income guidelines for entitled persons, as defined in this subdivision and subdivision 7.

(e) Clients who meet the financial eligibility requirement in paragraph (a) and who have a third-party payment source are eligible for the behavioral health fund if the third-party payment source pays less than 100 percent of the cost of treatment services for eligible clients.

(f) A client is ineligible to have substance use disorder treatment services paid for by the behavioral health fund if the client:

(1) has an income that exceeds current household size and income guidelines for entitled persons, as defined in this subdivision and subdivision 7; or

(2) has an available third-party payment source that will pay the total cost of the client's treatment.

(g) A client who is disenrolled from a state prepaid health plan during a treatment episode is eligible for continued treatment service paid for by the behavioral health fund until the treatment episode is completed or the client is re-enrolled in a state prepaid health plan if the client:

(1) continues to be enrolled in MinnesotaCare, medical assistance, or general assistance medical care; or

(2) is eligible according to paragraphs (a) and (b) and is determined eligible by a local agency under this section.

(h) If a county commits a client under chapter 253B to a regional treatment center for substance use disorder services and the client is ineligible for the behavioral health fund, the county is responsible for payment to the regional treatment center according to section 254B.05, subdivision 4.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 68. Minnesota Statutes 2020, section 254B.04, subdivision 2a, is amended to read:

Subd. 2a. **Eligibility for ~~treatment in residential settings~~ room and board services for persons in outpatient substance use disorder treatment.** ~~Notwithstanding provisions of Minnesota Rules, part 9530.6622, subparts 5 and 6, related to an assessor's discretion in making placements to residential treatment settings,~~ A person eligible for room and board services under ~~this~~ section 254B.05, subdivision 5, paragraph (b), clause (12), must score at level 4 on assessment dimensions related to readiness to change, relapse, continued use, or recovery environment ~~in order~~ to be assigned to services with a room and board component reimbursed under this section. Whether a treatment facility has been designated an institution for mental diseases under United States Code, title 42, section 1396d, shall not be a factor in making placements.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 69. Minnesota Statutes 2020, section 254B.04, is amended by adding a subdivision to read:

Subd. 4. **Assessment criteria and risk descriptions.** (a) The level of care determination must follow criteria approved by the commissioner.

(b) Dimension 1: the vendor must use the criteria in Dimension 1 to determine a client's acute intoxication and withdrawal potential.

(1) "0" The client displays full functioning with good ability to tolerate and cope with withdrawal discomfort. The client displays no signs or symptoms of intoxication or withdrawal or diminishing signs or symptoms.

(2) "1" The client can tolerate and cope with withdrawal discomfort. The client displays mild to moderate intoxication or signs and symptoms interfering with daily functioning but does not immediately endanger self or others. The client poses minimal risk of severe withdrawal.

(3) "2" The client has some difficulty tolerating and coping with withdrawal discomfort. The client's intoxication may be severe, but the client responds to support and treatment such that the client does not immediately endanger self or others. The client displays moderate signs and symptoms with moderate risk of severe withdrawal.

(4) "3" The client tolerates and copes with withdrawal discomfort poorly. The client has severe intoxication, such that the client endangers self or others, or has intoxication that has not abated with less intensive services. The client displays severe signs and symptoms, risk

of severe but manageable withdrawal, or worsening withdrawal despite detoxification at a less intensive level.

(5) "4" The client is incapacitated with severe signs and symptoms. The client displays severe withdrawal and is a danger to self or others.

(c) Dimension 2: the vendor must use the criteria in Dimension 2 to determine a client's biomedical conditions and complications.

(1) "0" The client displays full functioning with good ability to cope with physical discomfort.

(2) "1" The client tolerates and copes with physical discomfort and is able to get the services that the client needs.

(3) "2" The client has difficulty tolerating and coping with physical problems or has other biomedical problems that interfere with recovery and treatment. The client neglects or does not seek care for serious biomedical problems.

(4) "3" The client tolerates and copes poorly with physical problems or has poor general health. The client neglects the client's medical problems without active assistance.

(5) "4" The client is unable to participate in substance use disorder treatment and has severe medical problems, has a condition that requires immediate intervention, or is incapacitated.

(d) Dimension 3: the vendor must use the criteria in Dimension 3 to determine a client's emotional, behavioral, and cognitive conditions and complications.

(1) "0" The client has good impulse control and coping skills and presents no risk of harm to self or others. The client functions in all life areas and displays no emotional, behavioral, or cognitive problems or the problems are stable.

(2) "1" The client has impulse control and coping skills. The client presents a mild to moderate risk of harm to self or others or displays symptoms of emotional, behavioral, or cognitive problems. The client has a mental health diagnosis and is stable. The client functions adequately in significant life areas.

(3) "2" The client has difficulty with impulse control and lacks coping skills. The client has thoughts of suicide or harm to others without means; however, the thoughts may interfere with participation in some activities. The client has difficulty functioning in significant life areas. The client has moderate symptoms of emotional, behavioral, or cognitive problems. The client is able to participate in most treatment activities.

(4) "3" The client has a severe lack of impulse control and coping skills. The client also has frequent thoughts of suicide or harm to others, including a plan and the means to carry out the plan. In addition, the client is severely impaired in significant life areas and has severe symptoms of emotional, behavioral, or cognitive problems that interfere with the client's participation in treatment activities.

(5) "4" The client has severe emotional or behavioral symptoms that place the client or others at acute risk of harm. The client also has intrusive thoughts of harming self or others. The client is unable to participate in treatment activities.

(e) Dimension 4: the vendor must use the criteria in Dimension 4 to determine a client's readiness for change.

(1) "0" The client admits to problems and is cooperative, motivated, ready to change, committed to change, and engaged in treatment as a responsible participant.

(2) "1" The client is motivated with active reinforcement to explore treatment and strategies for change but ambivalent about the client's illness or need for change.

(3) "2" The client displays verbal compliance but lacks consistent behaviors, has low motivation for change, and is passively involved in treatment.

(4) "3" The client displays inconsistent compliance, has minimal awareness of either the client's addiction or mental disorder, and is minimally cooperative.

(5) "4" The client is:

(i) noncompliant with treatment and has no awareness of addiction or mental disorder and does not want or is unwilling to explore change or is in total denial of the client's illness and its implications; or

(ii) dangerously oppositional to the extent that the client is a threat of imminent harm to self and others.

(f) Dimension 5: the vendor must use the criteria in Dimension 5 to determine a client's relapse, continued substance use, and continued problem potential.

(1) "0" The client recognizes risk well and is able to manage potential problems.

(2) "1" The client recognizes relapse issues and prevention strategies, but displays some vulnerability for further substance use or mental health problems.

(3) "2" The client has minimal recognition and understanding of relapse and recidivism issues and displays moderate vulnerability for further substance use or mental health problems. The client has some coping skills inconsistently applied.

(4) "3" The client has poor recognition and understanding of relapse and recidivism issues and displays moderately high vulnerability for further substance use or mental health problems. The client has few coping skills and rarely applies coping skills.

(5) "4" The client has no coping skills to arrest mental health or addiction illnesses or to prevent relapse. The client has no recognition or understanding of relapse and recidivism issues and displays high vulnerability for further substance use or mental health problems.

(g) Dimension 6: the vendor must use the criteria in Dimension 6 to determine a client's recovery environment.

(1) "0" The client is engaged in structured, meaningful activity and has a supportive significant other, family, and living environment.

(2) "1" The client has passive social network support or the client's family and significant other are not interested in the client's recovery. The client is engaged in structured, meaningful activity.

(3) "2" The client is engaged in structured, meaningful activity, but the client's peers, family, significant other, and living environment are unsupportive, or there is criminal justice system involvement by the client or among the client's peers or significant other or in the client's living environment.

(4) "3" The client is not engaged in structured, meaningful activity and the client's peers, family, significant other, and living environment are unsupportive, or there is significant criminal justice system involvement.

(5) "4" The client has:

(i) a chronically antagonistic significant other, living environment, family, or peer group or long-term criminal justice system involvement that is harmful to the client's recovery or treatment progress; or

(ii) an actively antagonistic significant other, family, work, or living environment, with an immediate threat to the client's safety and well-being.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 70. Minnesota Statutes 2020, section 254B.04, is amended by adding a subdivision to read:

Subd. 5. **Scope and applicability.** This section governs administration of the behavioral health fund, establishes the criteria to be applied by local agencies to determine a client's

financial eligibility under the behavioral health fund, and determines a client's obligation to pay for substance use disorder treatment services.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 71. Minnesota Statutes 2020, section 254B.04, is amended by adding a subdivision to read:

Subd. 6. **Local agency responsibility to provide services.** The local agency may employ individuals to conduct administrative activities and facilitate access to substance use disorder treatment services.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 72. Minnesota Statutes 2020, section 254B.04, is amended by adding a subdivision to read:

Subd. 7. **Local agency to determine client financial eligibility.** (a) The local agency shall determine a client's financial eligibility for the behavioral health fund according to subdivision 1 with the income calculated prospectively for one year from the date of comprehensive assessment. The local agency shall pay for eligible clients according to chapter 256G. The local agency shall enter the financial eligibility span within ten calendar days of request. Client eligibility must be determined using forms prescribed by the commissioner. The local agency must determine a client's eligibility as follows:

(1) The local agency must determine the client's income. A client who is a minor child must not be deemed to have income available to pay for substance use disorder treatment, unless the minor child is responsible for payment under section 144.347 for substance use disorder treatment services sought under section 144.343, subdivision 1.

(2) The local agency must determine the client's household size according to the following:

(i) If the client is a minor child, the household size includes the following persons living in the same dwelling unit:

(A) the client;

(B) the client's birth or adoptive parents; and

(C) the client's siblings who are minors.

(ii) If the client is an adult, the household size includes the following persons living in the same dwelling unit:

(A) the client;

(B) the client's spouse;

(C) the client's minor children; and

(D) the client's spouse's minor children.

(iii) Household size includes a person listed in items (i) and (ii) who is in out-of-home placement if a person listed in item (i) or (ii) is contributing to the cost of care of the person in out-of-home placement.

(3) The local agency must determine the client's current prepaid health plan enrollment and the availability of a third-party payment source, including the availability of total or partial payment and the amount of co-payment.

(4) The local agency must provide the required eligibility information to the commissioner in the manner specified by the commissioner.

(5) The local agency must require the client and policyholder to conditionally assign to the department the client's and policyholder's rights and the rights of minor children to benefits or services provided to the client if the commissioner is required to collect from a third-party payment source.

(b) The local agency must redetermine a client's eligibility for the behavioral health fund every 12 months.

(c) A client, responsible relative, and policyholder must provide income or wage verification and household size verification under paragraph (a), clause (3), and must make an assignment of third-party payment rights under paragraph (a), clause (5). If a client, responsible relative, or policyholder does not comply with this subdivision, the client is ineligible for behavioral health fund payment for substance use disorder treatment, and the client and responsible relative are obligated to pay the full cost of substance use disorder treatment services provided to the client.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 73. Minnesota Statutes 2020, section 254B.04, is amended by adding a subdivision to read:

Subd. 8. **Client fees.** A client whose household income is within current household size and income guidelines for entitled persons as defined in subdivision 1 must pay no fee.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 74. Minnesota Statutes 2020, section 254B.04, is amended by adding a subdivision to read:

Subd. 9. **Vendor must participate in DAANES.** To be eligible for payment under the behavioral health fund, a vendor must participate in DAANES or submit to the commissioner the information required in DAANES in the format specified by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 75. Minnesota Statutes 2021 Supplement, section 254B.05, subdivision 4, is amended to read:

Subd. 4. **Regional treatment centers.** Regional treatment center chemical dependency treatment units are eligible vendors. The commissioner may expand the capacity of chemical dependency treatment units beyond the capacity funded by direct legislative appropriation to serve individuals who are referred for treatment by counties and whose treatment will be paid for by funding under this chapter or other funding sources. Notwithstanding the provisions of sections 254B.03 to ~~254B.041~~ 254B.04, payment for any person committed at county request to a regional treatment center under chapter 253B for chemical dependency treatment and determined to be ineligible under the behavioral health fund, shall become the responsibility of the county.

Sec. 76. Minnesota Statutes 2021 Supplement, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance use disorder services and service enhancements funded under this chapter.

(b) Eligible substance use disorder treatment services include:

~~(1) outpatient treatment services that are licensed according to sections 245G.01 to 245G.17, or applicable tribal license;~~

(1) outpatient treatment services licensed under sections 245G.01 to 245G.17, or applicable Tribal license, including:

(i) ASAM 1.0 outpatient: zero to eight hours per week of skilled treatment services for adults and zero to five hours per week for adolescents. Peer recovery and treatment coordination may be provided beyond the skilled treatment service hours allowable per week; and

(ii) ASAM 2.1 intensive outpatient: nine or more hours per week of skilled treatment services for adults and six or more hours per week for adolescents in accordance with the limitations in paragraph (h). Peer recovery and treatment coordination may be provided beyond the skilled treatment service hours allowable per week;

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) ~~care~~treatment coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);

(5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

(6) medication-assisted therapy services that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable tribal license;

~~(7) medication-assisted therapy plus enhanced treatment services that meet the requirements of clause (6) and provide nine hours of clinical services each week;~~

~~(8)~~ (7) high, medium, and low intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license ~~which~~that provide, respectively, 30, 15, and five hours of clinical services each treatment week. For purposes of this section, residential treatment services provided by a program that meets the American Society of Addiction Medicine (ASAM) level 3.3 standards for care, must be considered high intensity, including when the program makes and appropriately documents clinically supported modifications to, or reductions in, the hours of services provided to better meet the needs of individuals with cognitive deficits;

~~(9)~~ (8) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

~~(10)~~ (9) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license;

~~(11)~~ (10) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, ~~which~~that provide

30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

~~(12)~~ (11) room and board facilities that meet the requirements of subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and one of the following additional requirements:

(1) programs that serve parents with their children if the program:

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503; or

(B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific or culturally responsive programs as defined in section 254B.01, subdivision 4a;

(3) disability responsive programs as defined in section 254B.01, subdivision 4b;

(4) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; or

(5) programs that offer services to individuals with co-occurring mental health and chemical dependency problems if:

(i) the program meets the co-occurring requirements in section 245G.20;

(ii) ~~25 percent of~~ the program employs sufficient counseling staff who are licensed mental health professionals~~, as defined in section 245.462, subdivision 18, clauses (1) to (6)~~ under section 245I.04, subdivision 2, or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and ~~licensed~~ mental health professional under section 245I.04, subdivision 2~~, except that no more than 50 percent of~~

~~the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring~~ to meet the need for client services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance abuse disorders and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) ~~In order to~~To be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the chemical dependency facility of the child care provider's current licensure to provide child care services. Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in section 245G.19.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, substance use disorder services that are otherwise covered as direct face-to-face services may be provided via telehealth as defined in section 256B.0625, subdivision 3b. The use of telehealth to deliver services must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

(h) Payment for outpatient substance use disorder services that are licensed according to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless prior authorization of a greater number of hours is obtained from the commissioner.

(i) Programs using a qualified guest speaker must maintain documentation of the person's qualifications to present to clients on a topic the programs has determined to be of value to its clients. A qualified counselor must be present during the delivery of content and must be responsible for documentation of the group.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 77. Minnesota Statutes 2021 Supplement, section 256B.0622, subdivision 2, is amended to read:

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

(b) "ACT team" means the group of interdisciplinary mental health staff who work as a team to provide assertive community treatment.

(c) "Assertive community treatment" means intensive nonresidential treatment and rehabilitative mental health services provided according to the assertive community treatment model. Assertive community treatment provides a single, fixed point of responsibility for treatment, rehabilitation, and support needs for clients. Services are offered 24 hours per day, seven days per week, in a community-based setting.

(d) "Individual treatment plan" means a plan described by section 245I.10, subdivisions 7 and 8.

(e) "Crisis assessment and intervention" means ~~mental health~~ mobile crisis response services ~~as defined in~~ under section 256B.0624~~, subdivision 2~~.

(f) "Individual treatment team" means a minimum of three members of the ACT team who are responsible for consistently carrying out most of a client's assertive community treatment services.

(g) "Primary team member" means the person who leads and coordinates the activities of the individual treatment team and is the individual treatment team member who has primary responsibility for establishing and maintaining a therapeutic relationship with the client on a continuing basis.

(h) "Certified rehabilitation specialist" means a staff person who is qualified according to section 245I.04, subdivision 8.

(i) "Clinical trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

(j) "Mental health certified peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 10.

(k) "Mental health practitioner" means a staff person who is qualified according to section 245I.04, subdivision 4.

(l) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(m) "Mental health rehabilitation worker" means a staff person who is qualified according to section 245I.04, subdivision 14.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 78. Minnesota Statutes 2021 Supplement, section 256B.0671, subdivision 6, is amended to read:

Subd. 6. **Dialectical behavior therapy.** (a) Subject to federal approval, medical assistance covers intensive mental health outpatient treatment for dialectical behavior therapy for adults. A dialectical behavior therapy provider must make reasonable and good faith efforts to report individual client outcomes to the commissioner using instruments and protocols that are approved by the commissioner.

(b) "Dialectical behavior therapy" means an evidence-based treatment approach that a mental health professional or clinical trainee provides to a client or a group of clients in an intensive outpatient treatment program using a combination of individualized rehabilitative and psychotherapeutic interventions. A dialectical behavior therapy program involves: individual dialectical behavior therapy, group skills training, telephone coaching, and team consultation meetings.

(c) To be eligible for dialectical behavior therapy, a client must:

~~(1) be 18 years of age or older;~~

~~(2)~~ (1) have mental health needs that available community-based services cannot meet or that the client must receive concurrently with other community-based services;

~~(3)~~ (2) have either:

(i) a diagnosis of borderline personality disorder; or

(ii) multiple mental health diagnoses, exhibit behaviors characterized by impulsivity or intentional self-harm, and be at significant risk of death, morbidity, disability, or severe dysfunction in multiple areas of the client's life;

~~(4)~~ (3) be cognitively capable of participating in dialectical behavior therapy as an intensive therapy program and be able and willing to follow program policies and rules to ensure the safety of the client and others; and

~~(5)~~ (4) be at significant risk of one or more of the following if the client does not receive dialectical behavior therapy:

(i) having a mental health crisis;

(ii) requiring a more restrictive setting such as hospitalization;

(iii) decompensating; or

(iv) engaging in intentional self-harm behavior.

(d) Individual dialectical behavior therapy combines individualized rehabilitative and psychotherapeutic interventions to treat a client's suicidal and other dysfunctional behaviors and to reinforce a client's use of adaptive skillful behaviors. A mental health professional or clinical trainee must provide individual dialectical behavior therapy to a client. A mental health professional or clinical trainee providing dialectical behavior therapy to a client must:

(1) identify, prioritize, and sequence the client's behavioral targets;

(2) treat the client's behavioral targets;

(3) assist the client in applying dialectical behavior therapy skills to the client's natural environment through telephone coaching outside of treatment sessions;

(4) measure the client's progress toward dialectical behavior therapy targets;

(5) help the client manage mental health crises and life-threatening behaviors; and

(6) help the client learn and apply effective behaviors when working with other treatment providers.

(e) Group skills training combines individualized psychotherapeutic and psychiatric rehabilitative interventions conducted in a group setting to reduce the client's suicidal and other dysfunctional coping behaviors and restore function. Group skills training must teach the client adaptive skills in the following areas: (1) mindfulness; (2) interpersonal effectiveness; (3) emotional regulation; and (4) distress tolerance.

(f) Group skills training must be provided by two mental health professionals or by a mental health professional co-facilitating with a clinical trainee or a mental health practitioner. Individual skills training must be provided by a mental health professional, a clinical trainee, or a mental health practitioner.

(g) Before a program provides dialectical behavior therapy to a client, the commissioner must certify the program as a dialectical behavior therapy provider. To qualify for certification as a dialectical behavior therapy provider, a provider must:

(1) allow the commissioner to inspect the provider's program;

(2) provide evidence to the commissioner that the program's policies, procedures, and practices meet the requirements of this subdivision and chapter 245I;

(3) be enrolled as a MHCP provider; and

(4) have a manual that outlines the program's policies, procedures, and practices that meet the requirements of this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 79. Minnesota Statutes 2020, section 256B.0757, subdivision 1, is amended to read:

Subdivision 1. **Provision of coverage.** (a) The commissioner shall provide medical assistance coverage of behavioral health home services for eligible individuals with chronic conditions who select a designated provider as the individual's behavioral health home.

(b) The commissioner shall implement this section in compliance with the requirements of the state option to provide behavioral health homes for enrollees with chronic conditions, as provided under the Patient Protection and Affordable Care Act, Public Law 111-148, sections 2703 and 3502. Terms used in this section have the meaning provided in that act.

(c) The commissioner shall establish behavioral health homes to serve populations with serious mental illness who meet the eligibility requirements described under subdivision 2. The behavioral health home services provided by behavioral health homes shall focus on both the behavioral and the physical health of these populations.

Sec. 80. Minnesota Statutes 2020, section 256B.0757, subdivision 2, is amended to read:

Subd. 2. **Eligible individual.** (a) The commissioner may elect to develop behavioral health home models in accordance with United States Code, title 42, section 1396w-4.

(b) An individual is eligible for behavioral health home services under this section if the individual is eligible for medical assistance under this chapter and has a condition that meets the definition of mental illness as described in section 245.462, subdivision 20, paragraph (a), or emotional disturbance as defined in section 245.4871, subdivision 15, clause (2). The commissioner shall establish criteria for determining continued eligibility.

Sec. 81. Minnesota Statutes 2020, section 256B.0757, subdivision 3, is amended to read:

Subd. 3. **Behavioral health home services.** (a) Behavioral health home services means comprehensive and timely high-quality services that are provided by a behavioral health home. These services include:

(1) comprehensive care management;

(2) care coordination and health promotion;

(3) comprehensive transitional care, including appropriate follow-up, from inpatient to other settings;

(4) patient and family support, including authorized representatives;

(5) referral to community and social support services, if relevant; and

(6) use of health information technology to link services, as feasible and appropriate.

(b) The commissioner shall maximize the number and type of services included in this subdivision to the extent permissible under federal law, including physician, outpatient, mental health treatment, and rehabilitation services necessary for comprehensive transitional care following hospitalization.

Sec. 82. Minnesota Statutes 2020, section 256B.0757, subdivision 4, is amended to read:

Subd. 4. **Designated provider.** Behavioral health home services are voluntary and an eligible individual may choose any designated provider. The commissioner shall establish designated providers to serve as behavioral health homes and provide the services described in subdivision 3 to individuals eligible under subdivision 2. The commissioner shall apply for grants as provided under section 3502 of the Patient Protection and Affordable Care Act to establish behavioral health homes and provide capitated payments to designated providers. For purposes of this section, "designated provider" means a provider, clinical practice or clinical group practice, rural clinic, community health center, community mental health center, or any other entity that is determined by the commissioner to be qualified to be a behavioral health home for eligible individuals. This determination must be based on

documentation evidencing that the designated provider has the systems and infrastructure in place to provide behavioral health home services and satisfies the qualification standards established by the commissioner in consultation with stakeholders and approved by the Centers for Medicare and Medicaid Services.

Sec. 83. Minnesota Statutes 2020, section 256B.0757, subdivision 5, is amended to read:

Subd. 5. **Payments.** The commissioner shall make payments to each designated provider for the provision of behavioral health home services described in subdivision 3 to each eligible individual under subdivision 2 that selects the behavioral health home as a provider.

Sec. 84. Minnesota Statutes 2020, section 256B.0757, subdivision 8, is amended to read:

Subd. 8. **Evaluation and continued development.** (a) For continued certification under this section, behavioral health homes must meet process, outcome, and quality standards developed and specified by the commissioner. The commissioner shall collect data from behavioral health homes as necessary to monitor compliance with certification standards.

(b) The commissioner may contract with a private entity to evaluate patient and family experiences, health care utilization, and costs.

(c) The commissioner shall utilize findings from the implementation of behavioral health homes to determine populations to serve under subsequent health home models for individuals with chronic conditions.

Sec. 85. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 1, is amended to read:

Subdivision 1. **Required covered service components.** (a) Subject to federal approval, medical assistance covers medically necessary intensive treatment services when the services are provided by a provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(b) Intensive treatment services to children with mental illness residing in foster family settings that comprise specific required service components provided in clauses (1) to (6) are reimbursed by medical assistance when they meet the following standards:

(1) psychotherapy provided by a mental health professional or a clinical trainee;

(2) crisis planning;

(3) individual, family, and group psychoeducation services provided by a mental health professional or a clinical trainee;

(4) clinical care consultation provided by a mental health professional or a clinical trainee;

(5) individual treatment plan development as defined in ~~Minnesota Rules, part 9505.0371, subpart 7~~ section 245I.10, subdivisions 7 and 8; and

(6) service delivery payment requirements as provided under subdivision 4.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 86. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 2, is amended to read:

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

(a) "Intensive nonresidential rehabilitative mental health services" means child rehabilitative mental health services as defined in section 256B.0943, except that these services are provided by a multidisciplinary staff using a total team approach consistent with assertive community treatment, as adapted for youth, and are directed to recipients who are eight years of age or older and under 26 years of age who require intensive services to prevent admission to an inpatient psychiatric hospital or placement in a residential treatment facility or who require intensive services to step down from inpatient or residential care to community-based care.

(b) "Co-occurring mental illness and substance use disorder" means a dual diagnosis of at least one form of mental illness and at least one substance use disorder. Substance use disorders include alcohol or drug abuse or dependence, excluding nicotine use.

(c) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

(d) "Medication education services" means services provided individually or in groups, which focus on:

(1) educating the client and client's family or significant nonfamilial supporters about mental illness and symptoms;

(2) the role and effects of medications in treating symptoms of mental illness; and

(3) the side effects of medications.

Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, or registered nurses with certification in psychiatric and mental health care.

(e) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(f) "Provider agency" means a for-profit or nonprofit organization established to administer an assertive community treatment for youth team.

(g) "Substance use disorders" means one or more of the disorders defined in the diagnostic and statistical manual of mental disorders, current edition.

(h) "Transition services" means:

(1) activities, materials, consultation, and coordination that ensures continuity of the client's care in advance of and in preparation for the client's move from one stage of care or life to another by maintaining contact with the client and assisting the client to establish provider relationships;

(2) providing the client with knowledge and skills needed posttransition;

(3) establishing communication between sending and receiving entities;

(4) supporting a client's request for service authorization and enrollment; and

(5) establishing and enforcing procedures and schedules.

~~A youth's transition from the children's mental health system and services to the adult mental health system and services and return to the client's home and entry or re-entry into community-based mental health services following discharge from an out-of-home placement or inpatient hospital stay.~~

(i) "Treatment team" means all staff who provide services to recipients under this section.

(j) "Family peer specialist" means a staff person who is qualified under section 256B.0616.

Sec. 87. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 6, is amended to read:

Subd. 6. **Service standards.** The standards in this subdivision apply to intensive nonresidential rehabilitative mental health services.

(a) The treatment team must use team treatment, not an individual treatment model.

(b) Services must be available at times that meet client needs.

(c) Services must be age-appropriate and meet the specific needs of the client.

(d) The level of care assessment as defined in section 245I.02, subdivision 19, and functional assessment as defined in section 245I.02, subdivision 17, must be updated at least every ~~90 days~~ six months or prior to discharge from the service, whichever comes first.

(e) The treatment team must complete an individual treatment plan for each client, according to section 245I.10, subdivisions 7 and 8, and the individual treatment plan must:

(1) be completed in consultation with the client's current therapist and key providers and provide for ongoing consultation with the client's current therapist to ensure therapeutic continuity and to facilitate the client's return to the community. For clients under the age of 18, the treatment team must consult with parents and guardians in developing the treatment plan;

(2) if a need for substance use disorder treatment is indicated by validated assessment:

(i) identify goals, objectives, and strategies of substance use disorder treatment;

(ii) develop a schedule for accomplishing substance use disorder treatment goals and objectives; and

(iii) identify the individuals responsible for providing substance use disorder treatment services and supports; and

(3) provide for the client's transition out of intensive nonresidential rehabilitative mental health services by defining the team's actions to assist the client and subsequent providers in the transition to less intensive or "stepped down" services~~; and~~.

~~(4) notwithstanding section 245I.10, subdivision 8, be reviewed at least every 90 days and revised to document treatment progress or, if progress is not documented, to document changes in treatment.~~

(f) The treatment team shall actively and assertively engage the client's family members and significant others by establishing communication and collaboration with the family and significant others and educating the family and significant others about the client's mental illness, symptom management, and the family's role in treatment, unless the team knows or has reason to suspect that the client has suffered or faces a threat of suffering any physical or mental injury, abuse, or neglect from a family member or significant other.

(g) For a client age 18 or older, the treatment team may disclose to a family member, other relative, or a close personal friend of the client, or other person identified by the client, the protected health information directly relevant to such person's involvement with the client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the client is present, the treatment team shall obtain the client's agreement, provide the client with an opportunity to object, or reasonably infer from the circumstances, based on the exercise of professional judgment, that the client does not object. If the client is not present or is unable, by incapacity or emergency circumstances, to agree or object, the treatment team may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the client and, if so, disclose only the protected health information that is directly relevant to the family member's, relative's, friend's, or client-identified person's involvement with the client's health care. The client may orally agree or object to the disclosure and may prohibit or restrict disclosure to specific individuals.

(h) The treatment team shall provide interventions to promote positive interpersonal relationships.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 88. Minnesota Statutes 2021 Supplement, section 256B.69, subdivision 9f, is amended to read:

Subd. 9f. **Annual report on provider reimbursement rates.** (a) The commissioner, by December 15 of each year, ~~beginning December 15, 2021,~~ shall submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance a report on managed care and county-based purchasing plan provider reimbursement rates.

(b) The report must include, for each managed care and county-based purchasing plan, the mean and median provider reimbursement rates by county for the calendar year preceding the reporting year, for the five most common billing codes statewide across all plans, in each of the following provider service categories if within the county there are more than three medical assistance enrolled providers providing the specific service within the specific category:

(1) physician prenatal services;

(2) physician preventive services;

(3) physician services other than prenatal or preventive;

(4) dental services;

(5) inpatient hospital services;

(6) outpatient hospital services; ~~and~~

(7) mental health services; and

(8) substance use disorder services.

(c) The commissioner shall also include in the report:

(1) the mean and median reimbursement rates across all plans by county for the calendar year preceding the reporting year for the billing codes and provider service categories described in paragraph (b); and

(2) the mean and median fee-for-service reimbursement rates by county for the calendar year preceding the reporting year for the billing codes and provider service categories described in paragraph (b).

Sec. 89. Minnesota Statutes 2020, section 256D.09, subdivision 2a, is amended to read:

Subd. 2a. **Vendor payments for drug dependent persons.** If, at the time of application or at any other time, there is a reasonable basis for questioning whether a person applying for or receiving financial assistance is drug dependent, as defined in section 254A.02, subdivision 5, the person shall be referred for a chemical health assessment, and only emergency assistance payments or general assistance vendor payments may be provided until the assessment is complete and the results of the assessment made available to the county agency. A reasonable basis for referring an individual for an assessment exists when:

(1) the person has required detoxification two or more times in the past 12 months;

(2) the person appears intoxicated at the county agency as indicated by two or more of the following:

(i) the odor of alcohol;

(ii) slurred speech;

(iii) disconjugate gaze;

(iv) impaired balance;

(v) difficulty remaining awake;

(vi) consumption of alcohol;

(vii) responding to sights or sounds that are not actually present;

(viii) extreme restlessness, fast speech, or unusual belligerence;

(3) the person has been involuntarily committed for drug dependency at least once in the past 12 months; or

(4) the person has received treatment, including domiciliary care, for drug abuse or dependency at least twice in the past 12 months.

The assessment and determination of drug dependency, if any, must be made by an assessor qualified under ~~Minnesota Rules, part 9530.6615, subpart 2~~ section 245G.11, subdivisions 1 and 5, to perform an assessment of chemical use. The county shall only provide emergency general assistance or vendor payments to an otherwise eligible applicant or recipient who is determined to be drug dependent, except up to 15 percent of the grant amount the person would otherwise receive may be paid in cash. Notwithstanding subdivision 1, the commissioner of human services shall also require county agencies to provide assistance only in the form of vendor payments to all eligible recipients who assert chemical dependency as a basis for eligibility under section 256D.05, subdivision 1, paragraph (a), clauses (1) and (5).

The determination of drug dependency shall be reviewed at least every 12 months. If the county determines a recipient is no longer drug dependent, the county may cease vendor payments and provide the recipient payments in cash.

Sec. 90. Minnesota Statutes 2021 Supplement, section 256L.03, subdivision 2, is amended to read:

Subd. 2. **Alcohol and drug dependency.** Beginning July 1, 1993, covered health services shall include individual outpatient treatment of alcohol or drug dependency by a qualified health professional or outpatient program.

Persons who may need chemical dependency services under the provisions of this chapter ~~shall be assessed by a local agency~~ must be offered access by a local agency to a comprehensive assessment as defined under section ~~254B.01~~ 245G.05, and under the assessment provisions of section 254A.03, subdivision 3. A local agency or managed care plan under contract with the Department of Human Services must ~~place~~ offer services to a person in need of chemical dependency services ~~as provided in Minnesota Rules, parts 9530.6600 to 9530.6655~~ based on the recommendations of section 245G.05. Persons who are recipients of medical benefits under the provisions of this chapter and who are financially eligible for behavioral health fund services provided under the provisions of chapter 254B

shall receive chemical dependency treatment services under the provisions of chapter 254B only if:

(1) they have exhausted the chemical dependency benefits offered under this chapter; or

(2) an assessment indicates that they need a level of care not provided under the provisions of this chapter.

Recipients of covered health services under the children's health plan, as provided in Minnesota Statutes 1990, section 256.936, and as amended by Laws 1991, chapter 292, article 4, section 17, and recipients of covered health services enrolled in the children's health plan or the MinnesotaCare program after October 1, 1992, pursuant to Laws 1992, chapter 549, article 4, sections 5 and 17, are eligible to receive alcohol and drug dependency benefits under this subdivision.

Sec. 91. Minnesota Statutes 2020, section 256L.12, subdivision 8, is amended to read:

Subd. 8. **Chemical dependency assessments.** The managed care plan shall be responsible for assessing the need and ~~placement for~~ provision of chemical dependency services according to criteria set forth in ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05.

Sec. 92. Minnesota Statutes 2021 Supplement, section 256P.01, subdivision 6a, is amended to read:

Subd. 6a. **Qualified professional.** (a) For illness, injury, or incapacity, a "qualified professional" means a licensed physician, physician assistant, advanced practice registered nurse, physical therapist, occupational therapist, or licensed chiropractor, according to their scope of practice.

(b) For developmental disability, learning disability, and intelligence testing, a "qualified professional" means a licensed physician, physician assistant, advanced practice registered nurse, licensed independent clinical social worker, licensed psychologist, certified school psychologist, or certified psychometrist working under the supervision of a licensed psychologist.

(c) For mental health, a "qualified professional" means a licensed physician, advanced practice registered nurse, or qualified mental health professional under section 245I.04, subdivision 2.

(d) For substance use disorder, a "qualified professional" means a licensed physician, a qualified mental health professional under section ~~245.462, subdivision 18, clauses (1) to (6)~~ 245I.04, subdivision 2, or an individual as defined in section 245G.11, subdivision 3, 4, or 5.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 93. **[256T.01] DEPARTMENT OF BEHAVIORAL HEALTH.**

The Department of Behavioral Health is created. The governor shall appoint the commissioner of behavioral health under section 15.06. The commissioner shall administer:

(1) the behavioral health services under the medical assistance program under chapters 256 and 256B;

(2) the behavioral health services under the MinnesotaCare program under chapter 256L;

(3) mental health and chemical dependency services under chapters 245, 245G, 253C, 254A, and 254B; and

(4) behavioral health quality, behavioral health analysis, behavioral health economics, and related data collection initiatives under chapters 62J, 62U, and 144.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 94. **[256T.02] TRANSFER OF DUTIES.**

(a) Section 15.039 applies to the transfer of duties required by this chapter.

(b) The commissioner of administration, with the approval of the governor, may issue reorganization orders under section 16B.37 as necessary to carry out the transfer of duties required by this chapter. The provision of section 16B.37, subdivision 1, stating that transfers under section 16B.37 may be made only to an agency that has been in existence for at least one year does not apply to transfers to an agency created by this chapter.

(c) The initial salary for the commissioner of behavioral health is the same as the salary for the commissioner of health. The salary may be changed in the manner specified in section 15A.0815.

(d) For an employee affected by the transfer of duties required by this chapter, the seniority accrued by the employee at the employee's former agency transfers to the employee's new agency.

(e) The commissioner of management and budget must ensure that the aggregate cost for the commissioner of behavioral health is not more than the aggregate cost during the transition of creating the Department of Behavioral Health as it currently exists under the Department of Human Services and the Department of Health immediately before the effective date of this chapter, excluding any appropriation made during this legislative session.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 95. Minnesota Statutes 2020, section 260B.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall order a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications must comply with section 245G.11, subdivisions 1 and 5, and the assessment criteria ~~shall~~ must comply with ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ section 245G.05. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment ~~and placement~~ must comply with all provisions of ~~Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030~~ sections 245G.05 and 254B.04. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of $100.

The court shall order a children's mental health screening conducted when a child is found to be delinquent. The screening shall be conducted with a screening instrument approved by the commissioner of human services and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. If the screening indicates a need for assessment, the local social services agency, in consultation with the child's family, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 96. Minnesota Statutes 2020, section 260B.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The local social services agency shall establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or ~~Minnesota Rules, parts 9530.6600 to 9530.6655~~ chapter 254B, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate. The team may be the same team as defined in section 260C.157, subdivision 3.

(b) If the court, prior to, or as part of, a final disposition, proposes to place a child:

(1) for the primary purpose of treatment for an emotional disturbance, and residential placement is consistent with section 260.012, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A; or

(2) in any out-of-home setting potentially exceeding 30 days in duration, including a post-dispositional placement in a facility licensed by the commissioner of corrections or human services, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either:

(i) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or

(ii) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

Sec. 97. Minnesota Statutes 2021 Supplement, section 260C.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings under this chapter and chapter 260D, for a child to receive treatment for an emotional disturbance, a developmental disability, or related condition in a residential treatment facility licensed by the commissioner of human services under chapter 245A, or licensed or approved by a Tribe. A screening team is not required for a child to be in: (1) a residential facility specializing in prenatal, postpartum, or parenting support; (2) a facility specializing in high-quality residential care and supportive services to children and youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; (3) supervised settings for youth who are 18 years of age or older and living independently; or (4) a licensed residential family-based treatment facility for substance abuse consistent with section 260C.190. Screenings are also not required when a child must be placed in a facility due to an emotional crisis or other mental health emergency.

(b) The responsible social services agency shall conduct screenings within 15 days of a request for a screening, unless the screening is for the purpose of residential treatment and

the child is enrolled in a prepaid health program under section 256B.69, in which case the agency shall conduct the screening within ten working days of a request. The responsible social services agency shall convene the juvenile treatment screening team, which may be constituted under section 245.4885 ~~or~~, 254B.05, or 256B.092 ~~or Minnesota Rules, parts 9530.6600 to 9530.6655~~. The team shall consist of social workers; persons with expertise in the treatment of juveniles who are emotionally disturbed, chemically dependent, or have a developmental disability; and the child's parent, guardian, or permanent legal custodian. The team may include the child's relatives as defined in section 260C.007, subdivisions 26b and 27, the child's foster care provider, and professionals who are a resource to the child's family such as teachers, medical or mental health providers, and clergy, as appropriate, consistent with the family and permanency team as defined in section 260C.007, subdivision 16a. Prior to forming the team, the responsible social services agency must consult with the child's parents, the child if the child is age 14 or older, and, if applicable, the child's Tribe to obtain recommendations regarding which individuals to include on the team and to ensure that the team is family-centered and will act in the child's best interests. If the child, child's parents, or legal guardians raise concerns about specific relatives or professionals, the team should not include those individuals. This provision does not apply to paragraph (c).

(c) If the agency provides notice to Tribes under section 260.761, and the child screened is an Indian child, the responsible social services agency must make a rigorous and concerted effort to include a designated representative of the Indian child's Tribe on the juvenile treatment screening team, unless the child's Tribal authority declines to appoint a representative. The Indian child's Tribe may delegate its authority to represent the child to any other federally recognized Indian Tribe, as defined in section 260.755, subdivision 12. The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835, apply to this section.

(d) If the court, prior to, or as part of, a final disposition or other court order, proposes to place a child with an emotional disturbance or developmental disability or related condition in residential treatment, the responsible social services agency must conduct a screening. If the team recommends treating the child in a qualified residential treatment program, the agency must follow the requirements of sections 260C.70 to 260C.714.

The court shall ascertain whether the child is an Indian child and shall notify the responsible social services agency and, if the child is an Indian child, shall notify the Indian child's Tribe as paragraph (c) requires.

(e) When the responsible social services agency is responsible for placing and caring for the child and the screening team recommends placing a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1) begin the assessment and processes required in section 260C.704 without delay; and (2) conduct a relative search according to section 260C.221 to assemble the child's family and permanency team under section 260C.706. Prior to notifying relatives regarding the family and permanency team, the responsible social services agency must consult with the child's parent or legal guardian, the child if the child is age 14 or older, and, if applicable, the child's Tribe to ensure that the agency is providing notice to individuals who will act in the child's best interests. The child and the child's parents may identify a culturally competent qualified individual to complete the child's assessment. The agency shall make efforts to refer the assessment to the identified qualified individual. The assessment may not be delayed for the purpose of having the assessment completed by a specific qualified individual.

(f) When a screening team determines that a child does not need treatment in a qualified residential treatment program, the screening team must:

(1) document the services and supports that will prevent the child's foster care placement and will support the child remaining at home;

(2) document the services and supports that the agency will arrange to place the child in a family foster home; or

(3) document the services and supports that the agency has provided in any other setting.

(g) When the Indian child's Tribe or Tribal health care services provider or Indian Health Services provider proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or co-occurring emotional disturbance and chemical dependency, the Indian child's Tribe or the Tribe delegated by the child's Tribe shall submit necessary documentation to the county juvenile treatment screening team, which must invite the Indian child's Tribe to designate a representative to the screening team.

(h) The responsible social services agency must conduct and document the screening in a format approved by the commissioner of human services.

Sec. 98. Minnesota Statutes 2020, section 260E.20, subdivision 1, is amended to read:

Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child, and supporting and preserving family life whenever possible.

(b) If the report alleges a violation of a criminal statute involving maltreatment or child endangerment under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of the agency's investigation or assessment.

(c) In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred.

(d) When necessary, the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living.

(e) In performing any of these duties, the local welfare agency shall maintain an appropriate record.

(f) In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence.

(g) If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency ~~shall conduct a chemical use~~ must coordinate a comprehensive assessment pursuant to ~~Minnesota Rules, part 9530.6615~~ section 245G.05.

(h) The agency may use either a family assessment or investigation to determine whether the child is safe when responding to a report resulting from birth match data under section 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

Sec. 99. Minnesota Statutes 2020, section 299A.299, subdivision 1, is amended to read:

Subdivision 1. **Establishment of team.** A county, a multicounty organization of counties formed by an agreement under section 471.59, or a city with a population of no more than 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical abuse prevention team may include, but not be limited to, representatives of health, mental health, public health, law enforcement, educational, social service, court service, community

education, religious, and other appropriate agencies, and parent and youth groups. For purposes of this section, "chemical abuse" has the meaning given in ~~Minnesota Rules, part 9530.6605, subpart 6~~ section 254A.02, subdivision 6a. When possible the team must coordinate its activities with existing local groups, organizations, and teams dealing with the same issues the team is addressing.

Sec. 100. Laws 2021, First Special Session chapter 7, article 11, section 38, is amended to read:

Sec. 38. **DIRECTION TO THE COMMISSIONER; SUBSTANCE USE DISORDER TREATMENT PAPERWORK REDUCTION.**

(a) The commissioner of human services, in consultation with counties, tribes, managed care organizations, substance use disorder treatment professional associations, and other relevant stakeholders, shall develop, assess, and recommend systems improvements to minimize regulatory paperwork and improve systems for substance use disorder programs licensed under Minnesota Statutes, chapter 245A, and regulated under Minnesota Statutes, chapters 245F and 245G, and Minnesota Rules, chapters 2960 and 9530. The commissioner of human services shall make available any resources needed from other divisions within the department to implement systems improvements.

(b) The commissioner of health shall make available needed information and resources from the Division of Health Policy.

(c) The Office of MN.IT Services shall provide advance consultation and implementation of the changes needed in data systems.

(d) The commissioner of human services shall contract with a vendor that has experience with developing statewide system changes for multiple states at the payer and provider levels. If the commissioner, after exercising reasonable diligence, is unable to secure a vendor with the requisite qualifications, the commissioner may select the best qualified vendor available. When developing recommendations, the commissioner shall consider input from all stakeholders. The commissioner's recommendations shall maximize benefits for clients and utility for providers, regulatory agencies, and payers.

(e) The commissioner of human services and the contracted vendor shall follow the recommendations from the report issued in response to Laws 2019, First Special Session chapter 9, article 6, section 76.

(f) ~~By December 15, 2022~~ Within two years of contracting with a qualified vendor according to paragraph (d), the commissioner of human services shall take steps to implement paperwork reductions and systems improvements within the commissioner's authority and submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a report that includes recommendations for changes in statutes that would further enhance systems improvements to reduce paperwork. The report shall include a summary of the approaches developed and assessed by the commissioner of human services and stakeholders and the results of any assessments conducted.

Sec. 101. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; ACCESS TO BEHAVIORAL HEALTH SERVICES FOR OLDER ADULTS.**

The commissioner of human services, in consultation with Minnesota counties, shall develop modifications to existing covered medical assistance and waiver services to authorize behavioral health services for adults 65 years of age and older and who are under the protection of a court order through civil commitment. By January 1, 2023, the commissioner must provide to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over direct care and treatment any draft legislation as may be necessary to implement the new or modified covered services.

Sec. 102. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; BEHAVIORAL HEALTH FUND ALLOCATION.**

The commissioner of human services, in consultation with counties and Tribal Nations, must make recommendations on an updated allocation to local agencies from funds allocated under Minnesota Statutes, section 254B.02, subdivision 5. The commissioner must submit the recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy by January 1, 2024.

Sec. 103. **REVISOR INSTRUCTION.**

(a) The revisor of statutes shall change the term "chemical dependency" or similar terms to "substance use disorder" wherever the term appears in Minnesota Statutes. The revisor may make grammatical changes related to the term change.

(b) The revisor of statutes, in consultation with staff from the House Research Department; House Fiscal Analysis; the Office of Senate Counsel, Research, and Fiscal

Analysis; and the respective departments shall prepare legislation for introduction in the 2023 legislative session proposing the statutory changes needed to implement the transfers of duties required by this act.

(c) The revisor of statutes shall make necessary cross-reference changes and remove statutory cross-references in Minnesota Statutes to conform with the repealer in section 104, paragraphs (d) and (e). The revisor may make technical and other necessary changes to language and sentence structure to preserve the meaning of the text.

**EFFECTIVE DATE.** Paragraph (b) is effective July 1, 2022.

Sec. 104. **REPEALER.**

(a) Minnesota Statutes 2020, sections 169A.70, subdivision 6; 245G.22, subdivision 19; 254A.02, subdivision 8a; 254A.04; 254A.16, subdivision 6; 254A.19, subdivisions 1a and 2; 254B.04, subdivisions 2b and 2c; 254B.041, subdivision 2; and 254B.14, subdivisions 1, 2, 3, 4, and 6, are repealed.

(b) Minnesota Statutes 2021 Supplement, sections 254A.19, subdivision 5; and 254B.14, subdivision 5, are repealed.

(c) Minnesota Rules, parts 9530.7000, subparts 1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17a, 19, 20, and 21; 9530.7005; 9530.7010; 9530.7012; 9530.7015, subparts 1, 2a, 4, 5, and 6; 9530.7020, subparts 1, 1a, and 2; 9530.7021; 9530.7022, subpart 1; 9530.7025; and 9530.7030, subpart 1, are repealed.

(d) Minnesota Statutes 2020, section 256B.0943, subdivisions 8, 8a, 10, 12, and 13, are repealed.

(e) Minnesota Statutes 2021 Supplement, section 256B.0943, subdivisions 1, 2, 3, 4, 5, 5a, 6, 7, 9, and 11, are repealed.

**EFFECTIVE DATE.** Paragraphs (d) and (e) are effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall not submit a state plan amendment to implement this section until an appropriation is enacted to cover the cost of implementing section 44.

# ARTICLE 3
# COMMUNITY SUPPORTS

Section 1. Minnesota Statutes 2021 Supplement, section 245A.03, subdivision 7, is amended to read:

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

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

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

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

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

~~(5) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:~~

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

~~(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency; or~~

~~(6)~~ (5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 and residing in the customized living setting before July 1, 2022, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2023. This exception is available when:

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

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

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

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

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

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

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

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant

or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

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

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

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

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

initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

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

Sec. 2. Minnesota Statutes 2020, section 245A.11, subdivision 2, is amended to read:

Subd. 2. **Permitted single-family residential use.** (a) Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

(b) Unless otherwise provided in any town, municipal, or county zoning regulation, a licensed residential program in an intermediate care facility for persons with developmental disabilities with a licensed capacity of seven to eight persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a conditional use or special use permit to assure proper maintenance and operation of the residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the persons being served by the program.

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

Sec. 3. Minnesota Statutes 2020, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **Adult foster care and community residential setting license capacity.** (a) The commissioner shall issue adult foster care and community residential setting licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders,

except that the commissioner may issue a license with a capacity ~~of five~~ up to six beds, including roomers and boarders, according to paragraphs (b) to ~~(g)~~ (f).

(b) The license holder may have a maximum license capacity of ~~five~~ six if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(c) The commissioner may grant variances to paragraph (b) to allow a facility with a licensed capacity of up to ~~five~~ six persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(d) The commissioner may grant variances to paragraph (a) to allow the use of an additional bed, up to five, for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(e) The commissioner may grant a variance to paragraph (b) to allow for the use of an additional bed, up to ~~five~~ six, for respite services, as defined in section 245A.02, for persons with disabilities, regardless of age, if the variance complies with sections 245A.03, subdivision 7, and 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located. Respite care may be provided under the following conditions:

(1) staffing ratios cannot be reduced below the approved level for the individuals being served in the home on a permanent basis;

(2) no more than two different individuals can be accepted for respite services in any calendar month and the total respite days may not exceed 120 days per program in any calendar year;

(3) the person receiving respite services must have his or her own bedroom, which could be used for alternative purposes when not used as a respite bedroom, and cannot be the room of another person who lives in the facility; and

(4) individuals living in the facility must be notified when the variance is approved. The provider must give 60 days' notice in writing to the residents and their legal representatives prior to accepting the first respite placement. Notice must be given to residents at least two days prior to service initiation, or as soon as the license holder is able if they receive notice

of the need for respite less than two days prior to initiation, each time a respite client will be served, unless the requirement for this notice is waived by the resident or legal guardian.

(f) The commissioner ~~may issue~~ shall increase the licensed capacity of an adult foster care or community residential setting license ~~with~~ up to a capacity of ~~five~~ six adults if the fifth or sixth bed does not increase the overall statewide capacity of licensed adult foster care or community residential setting beds in homes that are not the primary residence of the license holder, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule or the community residential settings requirements in chapter 245D;

(2) the five-bed or six-bed living arrangement is specified for each resident in the resident's:

(i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required; and

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to remain living in the home and that the resident's refusal to consent would not have resulted in service termination~~; and~~

~~(4) the facility was licensed for adult foster care before March 1, 2016.~~

~~(g) The commissioner shall not issue a new adult foster care license under paragraph (f) after December 31, 2020~~. The commissioner shall allow a facility ~~with an adult foster care license issued under paragraph (f) before December 31, 2020,~~ to continue with ~~a~~ an increased capacity ~~of five adults~~ if the license holder continues to comply with the requirements in this paragraph ~~(f)~~.

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

Sec. 4. Minnesota Statutes 2020, section 245A.11, is amended by adding a subdivision to read:

Subd. 2c. **Residential programs in intermediate care facilities; license capacity.** Notwithstanding subdivision 4 and section 252.28, subdivision 3, for a licensed residential program in an intermediate care facility for persons with developmental disabilities located in a single-family home and in a town, municipal, or county zoning authority that will permit a licensed capacity of seven or eight persons in a single-family home, the commissioner may increase the licensed capacity of the program to seven or eight if the seventh or eighth bed does not increase the overall statewide capacity in intermediate care facilities for persons with developmental disabilities. If the licensed capacity of a residential program in an intermediate care facility for persons with developmental disabilities is increased under this subdivision, the capacity of the license may remain at the increased number of persons.

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

Sec. 5. Minnesota Statutes 2020, section 245D.10, subdivision 3a, is amended to read:

Subd. 3a. **Service termination.** (a) The license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must permit each person to remain in the program or to continue receiving services and must not terminate services unless:

(1) the termination is necessary for the person's welfare and the ~~facility~~ provider cannot meet the person's needs;

(2) the safety of the person or others ~~in the program~~ is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the person or others;

(3) the health of the person or others ~~in the program~~ would otherwise be endangered;

(4) the ~~program~~ provider has not been paid for services;

(5) the ~~program~~ provider ceases to operate;

(6) the person has been terminated by the lead agency from waiver eligibility; or

(7) for state-operated community-based services, the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1).

(c) Prior to giving notice of service termination, the license holder must document actions taken to minimize or eliminate the need for termination. Action taken by the license holder must include, at a minimum:

(1) consultation with the person and the person's support team or expanded support team to identify and resolve issues leading to issuance of the termination notice;

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to notices of service termination issued under paragraph (b), clauses (4) and (7); ~~and~~

(3) for state-operated community-based services terminating services under paragraph (b), clause (7), the state-operated community-based services must engage in consultation with the person and the person's support team or expanded support team to:

(i) identify that the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1);

(ii) provide notice of intent to issue a termination of services to the lead agency when a finding has been made that a person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1);

(iii) assist the lead agency and case manager in developing a person-centered transition plan to a private community-based provider to ensure continuity of care; and

(iv) coordinate with the lead agency to ensure the private community-based service provider is able to meet the person's needs and criteria established in a person's person-centered transition plan~~.~~; and

(4) providing the person, the person's legal representative, and the person's extended support team with:

(i) a statement that the person or the person's legal representative may contact the Office of Ombudsman for Mental Health and Developmental Disabilities or the Office of Ombudsman for Long-Term Care to request an advocate to assist regarding the termination; and

(ii) the telephone number, e-mail address, website address, mailing address, and street address for the state and applicable regional Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

(d) The notice of service termination must meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and the case manager in writing of the intended service termination. If the service termination is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), the license holder must also notify ~~the commissioner~~ in writing the commissioner, the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities; and

(2) the notice must include:

(i) the reason for the action;

(ii) ~~except for a service termination under paragraph (b), clause (5),~~ a summary of actions taken to minimize or eliminate the need for service termination or temporary service suspension as required under paragraph (c), and why these measures failed to prevent the termination or suspension;

(iii) the person's right to appeal the termination of services under section 256.045, subdivision 3, paragraph (a); and

(iv) the person's right to seek a temporary order staying the termination of services according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

(e) Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given at least 90 days prior to termination of services under paragraph (b), clause (7), and 60 days prior to termination when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c)~~, and~~. Notice of the proposed termination of service, including those situations that began with temporary service suspension, must be given at least 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension under subdivision 3.

(f) During the service termination notice period, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care;

(2) provide information requested by the person or case manager; and

(3) maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

(g) For notices issued under paragraph (b), clause (7), the lead agency shall provide notice to the commissioner and state-operated services at least 30 days before the conclusion of the 90-day termination period, if an appropriate alternative provider cannot be secured. Upon receipt of this notice, the commissioner and state-operated services shall reassess whether a private community-based service can meet the person's needs. If the commissioner determines that a private provider can meet the person's needs, state-operated services shall, if necessary, extend notice of service termination until placement can be made. If the commissioner determines that a private provider cannot meet the person's needs, state-operated services shall rescind the notice of service termination and re-engage with the lead agency in service planning for the person.

(h) For notices issued under paragraph (b), if the lead agency has not finalized an alternative program or service that will meet the assessed needs of the individual receiving services 30 days before the effective date of the termination period for services under paragraph (b), clause (7), or section 245D.03, subdivision 1, paragraph (c), the lead agency shall provide written notice to the commissioner. Upon receipt of this notice, the commissioner shall provide technical assistance as necessary to the lead agency until the lead agency finalizes an alternative placement or service that will meet the assessed needs of the individual. After assessing the circumstance, the commissioner is authorized to require the license holder to continue services until the lead agency finalizes an alternative program or service.

~~(h)~~ (i) For state-operated community-based services, the license holder shall prioritize the capacity created within the existing service site by the termination of services under paragraph (b), clause (7), to serve persons described in section 252.50, subdivision 5, paragraph (a), clause (1).

Sec. 6. Minnesota Statutes 2020, section 245D.12, is amended to read:

**245D.12 INTEGRATED COMMUNITY SUPPORTS; SETTING CAPACITY REPORT.**

(a) The license holder providing integrated community support, as defined in section 245D.03, subdivision 1, paragraph (c), clause (8), must submit a setting capacity report to the commissioner to ensure the identified location of service delivery meets the criteria of the home and community-based service requirements as specified in section 256B.492.

(b) The license holder shall provide the setting capacity report on the forms and in the manner prescribed by the commissioner. The report must include:

(1) the address of the multifamily housing building where the license holder delivers integrated community supports and owns, leases, or has a direct or indirect financial relationship with the property owner;

(2) the total number of living units in the multifamily housing building described in clause (1) where integrated community supports are delivered;

(3) the total number of living units in the multifamily housing building described in clause (1), including the living units identified in clause (2); ~~and~~

(4) the total number of people who could reside in the living units in the multifamily housing building described in clause (2) and receive integrated community supports; and

~~(4)~~ (5) the percentage of living units that are controlled by the license holder in the multifamily housing building by dividing clause (2) by clause (3).

(c) Only one license holder may deliver integrated community supports at the address of the multifamily housing building.

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

Sec. 7. Minnesota Statutes 2020, section 256.01, is amended by adding a subdivision to read:

Subd. 12b. **Department of Human Services systemic critical incident review team.** (a) The commissioner may establish a Department of Human Services systemic critical incident review team to review critical incidents reported as required under section 626.557 for which the Department of Human Services is responsible under section 626.5572, subdivision 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident, the systemic critical incident review team shall identify systemic influences to the incident rather than determining the culpability of any actors involved in the incident. The systemic

critical incident review may assess the entire critical incident process from the point of an entity reporting the critical incident through the ongoing case management process. Department staff shall lead and conduct the reviews and may utilize county staff as reviewers. The systemic critical incident review process may include but is not limited to:

(1) data collection about the incident and actors involved. Data may include the critical incident report under review; previous incident reports pertaining to the person receiving services; the service provider's policies and procedures applicable to the incident; the coordinated service and support plan as defined in section 245D.02, subdivision 4b, for the person receiving services; or an interview of an actor involved in the critical incident or the review of the critical incident. Actors may include:

(i) staff of the provider agency;

(ii) lead agency staff administering home and community-based services delivered by the provider;

(iii) Department of Human Services staff with oversight of home and community-based services;

(iv) Department of Health staff with oversight of home and community-based services;

(v) members of the community including advocates, legal representatives, health care providers, pharmacy staff, or others with knowledge of the incident or the actors in the incident; and

(vi) staff from the office of the ombudsman for mental health and developmental disabilities;

(2) systemic mapping of the critical incident. The team conducting the systemic mapping of the incident may include any actors identified in clause (1), designated representatives of other provider agencies, regional teams, and representatives of the local regional quality council identified in section 256B.097; and

(3) analysis of the case for systemic influences.

Data collected by the critical incident review team shall be aggregated and provided to regional teams, participating regional quality councils, and the commissioner. The regional teams and quality councils shall analyze the data and make recommendations to the commissioner regarding systemic changes that would decrease the number and severity of critical incidents in the future or improve the quality of the home and community-based service system.

(b) Cases selected for the systemic critical incident review process shall be selected by a selection committee among the following critical incident categories:

(1) cases of caregiver neglect identified in section 626.5572, subdivision 17;

(2) cases involving financial exploitation identified in section 626.5572, subdivision 9;

(3) incidents identified in section 245D.02, subdivision 11;

(4) incidents identified in Minnesota Rules, part 9544.0110; and

(5) service terminations reported to the department in accordance with section 245D.10, subdivision 3a.

(c) The systemic critical incident review under this section shall not replace the process for screening or investigating cases of alleged maltreatment of an adult under section 626.557. The department may select cases for systemic critical incident review, under the jurisdiction of the commissioner, reported for suspected maltreatment and closed following initial or final disposition.

(d) A member of the systemic critical incident review team shall not disclose what transpired during the review, except to carry out the duties of the review. The proceedings and records of the review team are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state, or a county agency arising out of the matters that the team is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because the information, documents, and records were assessed or presented during proceedings of the review team. A person who presented information before the systemic critical incident review team or who is a member of the team shall not be prevented from testifying about matters within the person's knowledge. In a civil or criminal proceeding, a person shall not be questioned about the person's presentation of information to the review team or opinions formed by the person as a result of the review.

Sec. 8. Minnesota Statutes 2020, section 256.0112, is amended by adding a subdivision to read:

Subd. 11. **Contracts for case management services.** (a) Any contract between a local agency and a private agency for the purchase of case management services must include provisions requiring a process to evaluate the performance of individual case managers, including service recipient input during reassessments under section 256B.0911. As a part

of this process, the private agency must also have a process by which a service recipient can request and be offered a different case manager.

(b) Any contract between a local agency and a private agency for the purchase of case management services must include provisions stating that continued use of individual case managers who have received substandard performance evaluations to provide case management services to medical assistance enrollees constitutes materially deficient quality of service and is a breach of the contract. Such a contract must also include provisions authorizing the local agency to enforce appropriate remedies and sanctions for materially deficient quality of service resulting from continued use of individual case managers who have received substandard performance reviews.

(c) All current contracts between a local agency and a private agency for the purchase of case management services must be updated by July 31, 2023, to reflect the new requirements under this subdivision.

**EFFECTIVE DATE.** This section is effective for all new contracts between a local agency and a private agency for the purchase of case management services entered into on or after August 1, 2022.

Sec. 9. Minnesota Statutes 2020, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food and Nutrition Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead investigative agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under chapter 260E is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under chapter 260E, after the individual or facility has exercised the right to administrative reconsideration under chapter 260E;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services judge shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment;

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food and Nutrition Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, ~~from~~ by a licensed provider of any residential supports ~~and~~ or services ~~as defined~~ listed in section 245D.03, subdivision 1, ~~paragraph~~ paragraphs (b) and (c), ~~clause (3),~~ that is not otherwise subject to appeal under subdivision 4a;

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914; or

(14) a person issued a notice of service termination under section 245A.11, subdivision 11, that is not otherwise subject to appeal under subdivision 4a.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

(f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not

request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(g) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(h) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

(i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

Sec. 10. Minnesota Statutes 2020, section 256B.057, subdivision 12, is amended to read:

Subd. 12. **Presumptive eligibility determinations made by qualified hospitals; presumptive eligibility process for home and community-based waiver services.** (a) The commissioner shall establish a process to qualify hospitals that are participating providers under the medical assistance program to determine presumptive eligibility for medical assistance for applicants who may have a basis of eligibility using the modified adjusted gross income methodology as defined in section 256B.056, subdivision 1a, paragraph (b), clause (1).

(b) The commissioner shall establish a presumptive eligibility process for home and community-based waiver services applicants and alternative care applicants. The process must allow counties, home and community-based services providers, hospitals, and other agencies, including local area agencies on aging, to determine presumptive eligibility under a Medicaid state plan or waiver authorities.

(c) Prior to July 1, 2023, the commissioner of human services shall seek federal approval for an amendment to applicable 1915(c) home and community-based waivers to establish a presumptive eligibility process for home and community-based waiver services under this section.

**EFFECTIVE DATE** This section is effective July 1, 2024, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 3b, is amended to read:

Subd. 3b. **Telehealth services.** (a) Medical assistance covers medically necessary services and consultations delivered by a health care provider through telehealth in the same manner as if the service or consultation was delivered through in-person contact. Services or consultations delivered through telehealth shall be paid at the full allowable rate.

(b) The commissioner may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service through telehealth. The attestation may include that the health care provider:

(1) has identified the categories or types of services the health care provider will provide through telehealth;

(2) has written policies and procedures specific to services delivered through telehealth that are regularly reviewed and updated;

(3) has policies and procedures that adequately address patient safety before, during, and after the service is delivered through telehealth;

(4) has established protocols addressing how and when to discontinue telehealth services; and

(5) has an established quality assurance process related to delivering services through telehealth.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service delivered through telehealth to a medical assistance enrollee. Health care service records for services delivered through telehealth must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

(1) the type of service delivered through telehealth;

(2) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(3) the health care provider's basis for determining that telehealth is an appropriate and effective means for delivering the service to the enrollee;

(4) the mode of transmission used to deliver the service through telehealth and records evidencing that a particular mode of transmission was utilized;

(5) the location of the originating site and the distant site;

(6) if the claim for payment is based on a physician's consultation with another physician through telehealth, the written opinion from the consulting physician providing the telehealth consultation; and

(7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) Telehealth visits, as described in this subdivision provided through audio and visual communication~~,~~ or accessible video-based platforms may ~~be used to~~ satisfy the face-to-face requirement for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

~~(e) For mental health services or assessments delivered through telehealth that are based on an individual treatment plan, the provider may document the client's verbal approval or electronic written approval of the treatment plan or change in the treatment plan in lieu of the client's signature in accordance with Minnesota Rules, part 9505.0371.~~

~~(f)~~ (e) For purposes of this subdivision, unless otherwise covered under this chapter:

(1) "telehealth" means the delivery of health care services or consultations through the use of real-time two-way interactive audio and visual communication to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or as specified by law;

(2) "health care provider" means a health care provider as defined under section 62A.673, a community paramedic as defined under section 144E.001, subdivision 5f, a community health worker who meets the criteria under subdivision 49, paragraph (a), a mental health certified peer specialist under section ~~256B.0615, subdivision 5~~ 245I.04, subdivision 10, a mental health certified family peer specialist under section ~~256B.0616, subdivision 5~~ 245I.04,

subdivision 12, a mental health rehabilitation worker under section ~~256B.0623, subdivision 5, paragraph (a), clause (4), and paragraph (b)~~ 245I.04, subdivision 14, a mental health behavioral aide under section ~~256B.0943, subdivision 7, paragraph (b), clause (3)~~ 245I.04, subdivision 16, a treatment coordinator under section 245G.11, subdivision 7, an alcohol and drug counselor under section 245G.11, subdivision 5, a recovery peer under section 245G.11, subdivision 8; and

(3) "originating site," "distant site," and "store-and-forward technology" have the meanings given in section 62A.673, subdivision 2.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 12. Minnesota Statutes 2020, section 256B.0659, subdivision 19, is amended to read:

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

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

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

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

(4) ~~effective January 1, 2010,~~ supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. **[256B.0909] LONG-TERM CARE DECISION REVIEWS.**

Subdivision 1. **Notice of intent to deny, reduce, suspend, or terminate required.** At least ten calendar days prior to issuing a written notice of action, a lead agency must provide

in a format accessible to the person or the person's legal representative, if any, a notice of the lead agency's intent to deny, reduce, suspend, or terminate the person's access to or eligibility for:

(1) home and community-based waivers, including level of care determinations, under sections 256B.092 and 256B.49;

(2) specific home and community-based services available under sections 256B.092 and 256B.49;

(3) consumer-directed community supports;

(4) the following state plan services:

(i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;

(ii) consumer support grants under section 256.476; or

(iii) community first services and supports under section 256B.85;

(5) semi-independent living services under section 252.275;

(6) relocation targeted case management services available under section 256B.0621, subdivision 2, clause (4);

(7) case management services targeted to vulnerable adults or people with developmental disabilities under section 256B.0924;

(8) case management services targeted to people with developmental disabilities under Minnesota Rules, part 9525.0016; and

(9) necessary diagnostic information to gain access to or determine eligibility under clauses (5) to (8).

Subd. 2. **Opportunity to respond required.** A lead agency must provide the person, or the person's legal representative, if any, the opportunity to respond to the agency's intent to deny, reduce, suspend, or terminate eligibility or access to the services described in subdivision 1. A lead agency must provide the person or the person's legal representative, if any, ten days to respond. If the person or the person's legal representative, if any, responds, the agency must initiate a decision review.

Subd. 3. **Decision review.** (a) A lead agency must initiate a decision review for any person who responds under subdivision 2.

(b) The lead agency must conduct the decision review in a manner that allows an opportunity for interactive communication between the person and a representative of the

lead agency who has specific knowledge of the proposed decision and the basis for the decision. The interactive communication must be in a format that is accessible to the recipient, and may include a phone call, written exchange, in-person meeting, or other format as chosen by the person or the person's legal representative, if any.

(c) During the decision review, the representative of the lead agency must provide a thorough explanation of the lead agency's intent to deny, reduce, suspend, or terminate eligibility or access to the services described in subdivision 1 and provide the person or the person's legal representative, if any, an opportunity to ask questions about the decision. If the lead agency's explanation of the decision is based on a misunderstanding of the person's circumstances, incomplete information, missing documentation, or similar missing or inaccurate information, the lead agency must provide the person or the person's legal representative, if any, an opportunity to provide clarifying or additional information.

(d) A person with a representative is not required to participate in the decision review. A person may also have someone of the person's choosing participate in the decision review.

Subd. 4. **Continuation of services.** During the decision review and until the lead agency issues a written notice of action to deny, reduce, suspend, or terminate the eligibility or access, the person must continue to receive covered services.

Subd. 5. **Notice of action.** Following a decision review, a lead agency may issue a notice of action to deny, reduce, suspend, or terminate the eligibility or access after considering the discussions and information provided during the decision review.

Subd. 6. **Appeal rights.** Nothing in this section affects a person's appeal rights under section 245.045.

Sec. 14. Minnesota Statutes 2021 Supplement, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment ~~in order~~ to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 20 calendar days after the date on which an assessment was requested or recommended. Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person requesting personal care assistance services. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of this requirement. Assessments must be conducted according to paragraphs (b) to (r).

(b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct the assessment. For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(c) The MnCHOICES assessment provided by the commissioner to lead agencies must be used to complete a comprehensive, conversation-based, person-centered assessment. The assessment must include the health, psychological, functional, environmental, and social needs of the individual necessary to develop a person-centered community support plan that meets the individual's needs and preferences.

(d) Except as provided in paragraph (r), the assessment must be conducted by a certified assessor in a face-to-face conversational interview with the person being assessed. The person's legal representative must provide input during the assessment process and may do so remotely if requested. At the request of the person, other individuals may participate in the assessment to provide information on the needs, strengths, and preferences of the person necessary to develop a community support plan that ensures the person's health and safety. Except for legal representatives or family members invited by the person, persons participating in the assessment may not be a provider of service or have any financial interest in the provision of services. For persons who are to be assessed for ~~elderly waiver~~ customized living services under chapter 256S or section 256B.49 or adult day services under chapter 256S, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment. The certified assessor must consider the content of the submitted nursing assessment or report prior to finalizing the person's assessment or reassessment. For a person who is to be assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs the person completed in consultation with someone who is known to the person and has interaction with the person on a regular basis. The provider must submit the report at least 60 days before the end of the person's current service agreement. The certified assessor must consider the content of the submitted report prior to finalizing the person's assessment or reassessment.

(e) The certified assessor and the individual responsible for developing the coordinated service and support plan must complete the community support plan and the coordinated service and support plan no more than 60 calendar days from the assessment visit. The person or the person's legal representative must be provided with a written community support plan within the timelines established by the commissioner, regardless of whether the person is eligible for Minnesota health care programs.

(f) For a person being assessed for elderly waiver services under chapter 256S or customized living services under section 256B.49, a provider who submitted information under paragraph (d) shall receive the final written community support plan when available and the Residential Services Workbook or customized living tool.

(g) The written community support plan must include:

(1) a summary of assessed needs as defined in paragraphs (c) and (d);

(2) the individual's options and choices to meet identified needs, including:

(i) all available options for case management services and providers;

(ii) all available options for employment services, settings, and providers;

(iii) all available options for living arrangements;

(iv) all available options for self-directed services and supports, including self-directed budget options; and

(v) service provided in a non-disability-specific setting;

(3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;

(4) referral information; and

(5) informal caregiver supports, if applicable.

For a person determined eligible for state plan home care under subdivision 1a, paragraph (b), clause (1), the person or person's representative must also receive a copy of the home care service plan developed by the certified assessor.

(h) A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to long-term care options counseling services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(i) The person has the right to make the final decision:

(1) between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d);

(2) between community placement in a setting controlled by a provider and living independently in a setting not controlled by a provider;

(3) between day services and employment services; and

(4) regarding available options for self-directed services and supports, including self-directed funding options.

(j) The lead agency must give the person receiving long-term care consultation services or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

(1) written recommendations for community-based services and consumer-directed options;

(2) documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this clause, "cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program;

(3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the individual selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;

(4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs, and state plan home care, case management, and other services as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(5) information about Minnesota health care programs;

(6) the person's freedom to accept or reject the recommendations of the team;

(7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 4e and the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and (8), and (b), and incorporating the decision regarding the need for institutional level of care or the lead agency's final decisions regarding public programs eligibility according to section 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right to the person and must visually point out where in the document the right to appeal is stated; and

(10) documentation that available options for employment services, independent living, and self-directed services and supports were described to the individual.

(k) An assessment that is completed as part of an eligibility determination for multiple programs for the alternative care, elderly waiver, developmental disabilities, community access for disability inclusion, community alternative care, and brain injury waiver programs under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of the assessment.

(l) The effective eligibility start date for programs in paragraph (k) can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (k) cannot be prior to the date the most recent updated assessment is completed.

(m) If an eligibility update is completed within 90 days of the previous assessment and documented in the department's Medicaid Management Information System (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date of the previous face-to-face assessment when all other eligibility requirements are met.

(n) If a person who receives home and community-based waiver services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S temporarily enters for 121 days or fewer a hospital, institution of mental disease, nursing facility, intensive residential treatment

services program, transitional care unit, or inpatient substance use disorder treatment setting, the person may return to the community with home and community-based waiver services under the same waiver, without requiring an assessment or reassessment under this section, unless the person's annual reassessment is otherwise due. Nothing in this paragraph shall change annual long-term care consultation reassessment requirements, payment for institutional or treatment services, medical assistance financial eligibility, or any other law.

(o) At the time of reassessment, the certified assessor shall assess each person receiving waiver residential supports and services currently residing in a community residential setting, licensed adult foster care home that is either not the primary residence of the license holder or in which the license holder is not the primary caregiver, family adult foster care residence, customized living setting, or supervised living facility to determine if that person would prefer to be served in a community-living setting as defined in section 256B.49, subdivision 23, in a setting not controlled by a provider, or to receive integrated community supports as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified assessor shall offer the person, through a person-centered planning process, the option to receive alternative housing and service options.

(p) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

(q) At the time of reassessment, the certified assessor shall assess each person receiving non-self-directed waiver services to determine if that person would prefer an available service and setting option that would permit self-directed services and supports. The certified assessor shall describe to the person through a person-centered planning process the option to receive self-directed services and supports.

(r) All assessments performed according to this subdivision must be face-to-face unless the assessment is a reassessment meeting the requirements of this paragraph. Remote reassessments conducted by interactive video or telephone may substitute for face-to-face reassessments. For services provided by the developmental disabilities waiver under section 256B.092, and the community access for disability inclusion, community alternative care, and brain injury waiver programs under section 256B.49, remote reassessments may be substituted for two consecutive reassessments if followed by a face-to-face reassessment. For services provided by alternative care under section 256B.0913, essential community supports under section 256B.0922, and the elderly waiver under chapter 256S, remote

reassessments may be substituted for one reassessment if followed by a face-to-face reassessment. A remote reassessment is permitted only if the person being reassessed~~,~~ or the person's legal representative~~, and the lead agency case manager both agree that there is no change in the person's condition, there is no need for a change in service, and that a remote reassessment is appropriate~~ makes an informed choice for a remote assessment. The person being reassessed, or the person's legal representative, has the right to refuse a remote reassessment at any time. During a remote reassessment, if the certified assessor determines a face-to-face reassessment is necessary in order to complete the assessment, the lead agency shall schedule a face-to-face reassessment. All other requirements of a face-to-face reassessment shall apply to a remote reassessment, including updates to a person's support plan.

Sec. 15. Minnesota Statutes 2021 Supplement, section 256B.0911, subdivision 3f, is amended to read:

Subd. 3f. **Long-term care reassessments and community support plan updates.** (a) Prior to a reassessment, the certified assessor must review the person's most recent assessment. Reassessments must be tailored using the professional judgment of the assessor to the person's known needs, strengths, preferences, and circumstances. Reassessments provide information to support the person's informed choice and opportunities to express choice regarding activities that contribute to quality of life, as well as information and opportunity to identify goals related to desired employment, community activities, and preferred living environment. Reassessments require a review of the most recent assessment, review of the current coordinated service and support plan's effectiveness, monitoring of services, and the development of an updated person-centered community support plan. Reassessments must verify continued eligibility, offer alternatives as warranted, and provide an opportunity for quality assurance of service delivery, including an opportunity to provide a confidential performance assessment of the person's case manager. Reassessments must be conducted annually or as required by federal and state laws and rules. For reassessments, the certified assessor and the individual responsible for developing the coordinated service and support plan must ensure the continuity of care for the person receiving services and complete the updated community support plan and the updated coordinated service and support plan no more than 60 days from the reassessment visit.

(b) The commissioner shall develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's current needs and preferences.

Sec. 16. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this subdivision.

(b) "Advanced certification" means a person who has completed advanced certification in an approved modality under subdivision 13, paragraph (b).

~~(b)~~ (c) "Agency" means the legal entity that is enrolled with Minnesota health care programs as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide EIDBI services and that has the legal responsibility to ensure that its employees or contractors carry out the responsibilities defined in this section. Agency includes a licensed individual professional who practices independently and acts as an agency.

~~(c)~~ (d) "Autism spectrum disorder or a related condition" or "ASD or a related condition" means either autism spectrum disorder (ASD) as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found to be closely related to ASD, as identified under the current version of the DSM, and meets all of the following criteria:

(1) is severe and chronic;

(2) results in impairment of adaptive behavior and function similar to that of a person with ASD;

(3) requires treatment or services similar to those required for a person with ASD; and

(4) results in substantial functional limitations in three core developmental deficits of ASD: social or interpersonal interaction; functional communication, including nonverbal or social communication; and restrictive or repetitive behaviors or hyperreactivity or hyporeactivity to sensory input; and may include deficits or a high level of support in one or more of the following domains:

(i) behavioral challenges and self-regulation;

(ii) cognition;

(iii) learning and play;

(iv) self-care; or

(v) safety.

~~(d)~~ (e) "Person" means a person under 21 years of age.

~~(e)~~ (f) "Clinical supervision" means the overall responsibility for the control and direction of EIDBI service delivery, including individual treatment planning, staff supervision, individual treatment plan progress monitoring, and treatment review for each person. Clinical supervision is provided by a qualified supervising professional (QSP) who takes full professional responsibility for the service provided by each supervisee.

~~(f)~~ (g) "Commissioner" means the commissioner of human services, unless otherwise specified.

~~(g)~~ (h) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive evaluation of a person to determine medical necessity for EIDBI services based on the requirements in subdivision 5.

~~(h)~~ (i) "Department" means the Department of Human Services, unless otherwise specified.

~~(i)~~ (j) "Early intensive developmental and behavioral intervention benefit" or "EIDBI benefit" means a variety of individualized, intensive treatment modalities approved and published by the commissioner that are based in behavioral and developmental science consistent with best practices on effectiveness.

~~(j)~~ (k) "Generalizable goals" means results or gains that are observed during a variety of activities over time with different people, such as providers, family members, other adults, and people, and in different environments including, but not limited to, clinics, homes, schools, and the community.

~~(k)~~ (l) "Incident" means when any of the following occur:

(1) an illness, accident, or injury that requires first aid treatment;

(2) a bump or blow to the head; or

(3) an unusual or unexpected event that jeopardizes the safety of a person or staff, including a person leaving the agency unattended.

~~(l)~~ (m) "Individual treatment plan" or "ITP" means the person-centered, individualized written plan of care that integrates and coordinates person and family information from the CMDE for a person who meets medical necessity for the EIDBI benefit. An individual treatment plan must meet the standards in subdivision 6.

~~(m)~~ (n) "Legal representative" means the parent of a child who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about service for a person. For the purpose of this subdivision, "other representative with

legal authority to make decisions" includes a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

~~(n)~~ (o) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

~~(o)~~ (p) "Person-centered" means a service that both responds to the identified needs, interests, values, preferences, and desired outcomes of the person or the person's legal representative and respects the person's history, dignity, and cultural background and allows inclusion and participation in the person's community.

~~(p)~~ (q) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II, or level III treatment provider.

Sec. 17. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 13, is amended to read:

Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to (l) are eligible for reimbursement by medical assistance under this section. Services must be provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must address the person's medically necessary treatment goals and must be targeted to develop, enhance, or maintain the individual developmental skills of a person with ASD or a related condition to improve functional communication, including nonverbal or social communication, social or interpersonal interaction, restrictive or repetitive behaviors, hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation, cognition, learning and play, self-care, and safety.

(b) EIDBI treatment must be delivered consistent with the standards of an approved modality, as published by the commissioner. EIDBI modalities include:

(1) applied behavior analysis (ABA);

(2) developmental individual-difference relationship-based model (DIR/Floortime);

(3) early start Denver model (ESDM);

(4) PLAY project;

(5) relationship development intervention (RDI); or

(6) additional modalities not listed in clauses (1) to (5) upon approval by the commissioner.

(c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b), clauses (1) to (5), as the primary modality for treatment as a covered service, or several EIDBI modalities in combination as the primary modality of treatment, as approved by the commissioner. An EIDBI provider that identifies and provides assurance of qualifications for a single specific treatment modality, including an EIDBI provider with advanced certification overseeing implementation, must document the required qualifications to meet fidelity to the specific model in a manner determined by the commissioner.

(d) Each qualified EIDBI provider must identify and provide assurance of qualifications for professional licensure certification, or training in evidence-based treatment methods, and must document the required qualifications outlined in subdivision 15 in a manner determined by the commissioner.

(e) CMDE is a comprehensive evaluation of the person's developmental status to determine medical necessity for EIDBI services and meets the requirements of subdivision 5. The services must be provided by a qualified CMDE provider.

(f) EIDBI intervention observation and direction is the clinical direction and oversight of EIDBI services by the QSP, level I treatment provider, or level II treatment provider, including developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for the direct benefit of a person. EIDBI intervention observation and direction informs any modification of the current treatment protocol to support the outcomes outlined in the ITP.

(g) Intervention is medically necessary direct treatment provided to a person with ASD or a related condition as outlined in their ITP. All intervention services must be provided under the direction of a QSP. Intervention may take place across multiple settings. The frequency and intensity of intervention services are provided based on the number of treatment goals, person and family or caregiver preferences, and other factors. Intervention services may be provided individually or in a group. Intervention with a higher provider ratio may occur when deemed medically necessary through the person's ITP.

(1) Individual intervention is treatment by protocol administered by a single qualified EIDBI provider delivered to one person.

(2) Group intervention is treatment by protocol provided by one or more qualified EIDBI providers, delivered to at least two people who receive EIDBI services.

(3) Higher provider ratio intervention is treatment with protocol modification provided by two or more qualified EIDBI providers delivered to one person in an environment that meets the person's needs and under the direction of the QSP or level I provider.

(h) ITP development and ITP progress monitoring is development of the initial, annual, and progress monitoring of an ITP. ITP development and ITP progress monitoring documents provide oversight and ongoing evaluation of a person's treatment and progress on targeted goals and objectives and integrate and coordinate the person's and the person's legal representative's information from the CMDE and ITP progress monitoring. This service must be reviewed and completed by the QSP, and may include input from a level I provider or a level II provider.

(i) Family caregiver training and counseling is specialized training and education for a family or primary caregiver to understand the person's developmental status and help with the person's needs and development. This service must be provided by the QSP, level I provider, or level II provider.

(j) A coordinated care conference is a voluntary meeting with the person and the person's family to review the CMDE or ITP progress monitoring and to integrate and coordinate services across providers and service-delivery systems to develop the ITP. This service ~~must be provided by the QSP and~~ may include the CMDE provider ~~or~~, QSP, a level I provider, or a level II provider.

(k) Travel time is allowable billing for traveling to and from the person's home, school, a community setting, or place of service outside of an EIDBI center, clinic, or office from a specified location to provide in-person EIDBI intervention, observation and direction, or family caregiver training and counseling. The person's ITP must specify the reasons the provider must travel to the person.

(l) Medical assistance covers medically necessary EIDBI services and consultations delivered ~~by a licensed health care provider~~ via telehealth, as defined under section 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered in person.

Sec. 18. Minnesota Statutes 2020, section 256B.49, subdivision 23, is amended to read:

Subd. 23. **Community-living settings.** (a) For the purposes of this chapter, "community-living settings" means a single-family home or multifamily dwelling unit where a service recipient or a service recipient's family owns or rents, and maintains control over the individual unit as demonstrated by a lease agreement. Community-living settings does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest.

(b) To ensure a service recipient or the service recipient's family maintains control over the home or dwelling unit, community-living settings are subject to the following requirements:

(1) service recipients must not be required to receive services or share services;

(2) service recipients must not be required to have a disability or specific diagnosis to live in the community-living setting;

(3) service recipients may hire service providers of their choice;

(4) service recipients may choose whether to share their household and with whom;

(5) the home or multifamily dwelling unit must include living, sleeping, bathing, and cooking areas;

(6) service recipients must have lockable access and egress;

(7) service recipients must be free to receive visitors and leave the settings at times and for durations of their own choosing;

(8) leases must comply with chapter 504B;

(9) landlords must not charge different rents to tenants who are receiving home and community-based services; and

(10) access to the greater community must be easily facilitated based on the service recipient's needs and preferences.

(c) Nothing in this section prohibits a service recipient from having another person or entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from modifying services with an existing cosigning service provider and, subject to the approval of the landlord, maintaining a lease cosigned by the service provider. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from terminating services with the cosigning service provider, receiving services from a new service provider, and, subject to the approval of the landlord, maintaining a lease cosigned by the new service provider.

(d) A lease cosigned by a service provider meets the requirements of paragraph (a) if the service recipient and service provider develop and implement a transition plan which must provide that, within two years of cosigning the initial lease, the service provider shall transfer the lease to the service recipient and other cosigners, if any.

(e) In the event the landlord has not approved the transfer of the lease within two years of the service provider cosigning the initial lease, the service provider must submit a time-limited extension request to the commissioner of human services to continue the cosigned lease arrangement. The extension request must include:

(1) the reason the landlord denied the transfer;

(2) the plan to overcome the denial to transfer the lease;

(3) the length of time needed to successfully transfer the lease, not to exceed an additional two years;

(4) a description of the information provided to the person to help the person make an informed choice about entering into a time-limited cosigned lease extension with the service provider;

~~(4)~~ (5) a description of how the transition plan was followed, what occurred that led to the landlord denying the transfer, and what changes in circumstances or condition, if any, the service recipient experienced; and

~~(5)~~ (6) a revised transition plan to transfer the cosigned lease between the service provider and the service recipient to the service recipient.

The commissioner must approve an extension within sufficient time to ensure the continued occupancy by the service recipient.

(f) In the event the landlord has not approved the transfer of the lease within the timelines of an approved time-limited extension request, the service provider must submit another time-limited extension request to the commissioner of human services to continue the cosigned lease arrangement. A time-limited extension request submitted under this paragraph must include the same information required for an initial time-limited extension request under paragraph (e). The commissioner must approve or deny an extension within 60 days.

(g) The commissioner may grant a service recipient no more than three additional time-limited extensions under paragraph (f).

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

Sec. 19. Minnesota Statutes 2020, section 256B.4911, subdivision 4, is amended to read:

Subd. 4. **Budget exception for persons leaving institutions and crisis residential settings.** (a) The commissioner must establish an institutional and crisis bed

consumer-directed community supports budget exception process in the home and community-based services waivers under sections 256B.092 and 256B.49. This budget exception process must be available for any individual who:

(1) is not offered available and appropriate services within 60 days since approval for discharge from the individual's current institutional setting; and

(2) requires services that are more expensive than appropriate services provided in a noninstitutional setting using the consumer-directed community supports option.

(b) Institutional settings for purposes of ~~this exception~~ paragraph (a) include intermediate care facilities for persons with developmental disabilities, nursing facilities, acute care hospitals, Anoka Metro Regional Treatment Center, Minnesota Security Hospital, and crisis beds.

(c) The budget exception under paragraph (a) must be renewed each year as necessary and consistent with the individual's needs and must be limited to no more than the amount of appropriate services provided in a noninstitutional setting as determined by the lead agency managing the individual's home and community-based services waiver. The lead agency must notify the ~~Department of Human Services~~ commissioner of the budget exception.

(d) Consistent with informed choice and informed decision making, the commissioner must establish in the home and community-based services waivers under sections 256B.092 and 256B.49, a consumer-directed community supports budget exception process for individuals living in licensed community residential settings whose cost of residential services may otherwise exceed their available consumer-directed community supports budget. The budget exception process must be available to an individual living in licensed community residential settings.

(e) The budget exceptions under paragraph (d) must be renewed each year as necessary and consistent with the individual's needs and must be limited to no more than the cost of the community residential services previously authorized for the individual. The lead agency must notify the commissioner of the budget exception.

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

Sec. 20. Minnesota Statutes 2020, section 256B.4914, subdivision 8, as amended by Laws 2022, chapter 33, section 1, subdivision 8, is amended to read:

Subd. 8. **Unit-based services with programming; component values and calculation of payment rates.** (a) For the purpose of this section, unit-based services with programming include employment exploration services, employment development services, employment

support services, individualized home supports with family training, individualized home supports with training, and positive support services provided to an individual outside of any service plan for a day program or residential support service.

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

(1) competitive workforce factor: 4.7 percent;

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

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

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

(5) program plan support ratio: 15.5 percent;

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

(7) general administrative support ratio: 13.25 percent;

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

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

(c) A unit of service for unit-based services with programming is 15 minutes, except for individualized home supports with training where a unit of service is one hour or 15 minutes.

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

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

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

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

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

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

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

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

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

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

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

(11) this is the subtotal rate;

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

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

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

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

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

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

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

Sec. 21. Minnesota Statutes 2020, section 256B.493, subdivision 4, is amended to read:

Subd. 4. **Review and approval process.** (a) To be considered for conditional approval, an application must include:

(1) a description of the proposed closure plan, which must identify the home or homes and occupied beds for which a planned closure rate adjustment is requested;

(2) the proposed timetable for any proposed closure, including the proposed dates for notification to residents and the affected lead agencies, commencement of closure, and completion of closure;

(3) the proposed relocation plan jointly developed by the counties of financial responsibility, the residents and their legal representatives, if any, who wish to continue to receive services from the provider, and the providers for current residents of any adult foster care home or community residential setting designated for closure; and

(4) documentation in a format approved by the commissioner that all the adult foster care homes or community residential settings receiving a planned closure 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 this plan.

(b) In reviewing and approving closure proposals, the commissioner shall give first priority to proposals that:

(1) target counties and geographic areas which have:

(i) need for other types of services;

(ii) need for specialized services;

(iii) higher than average per capita use of foster care settings where the license holder does not reside; or

(iv) residents not living in the geographic area of their choice;

(2) demonstrate savings of medical assistance expenditures; ~~and~~

(3) demonstrate that alternative services are based on the recipient's choice of provider and are consistent with federal law, state law, and federally approved waiver plans;

(4) demonstrate alternative services based on the recipient's choices are available and secured at time of closure application; and

(5) provide proof of referral to the regional Center for Independent Living for resident transition support.

The commissioner shall ~~also consider~~ prioritize consideration of any information provided by service recipients, their legal representatives, family members, or the lead agency on the impact of the planned closure on the recipients and the services they need.

(c) The commissioner shall select proposals that best meet the criteria established in this subdivision for planned closure of adult foster care or community residential settings. The

commissioner shall notify license holders of the selections conditionally approved by the commissioner. Approval of closure is obtained following confirmation that every individual impacted by the planned closure has an established plan to continue services in an equivalent residential setting or in a less restrictive setting in the community of their choice.

(d) For each proposal conditionally approved by the commissioner, a contract must be established between the commissioner, the counties of financial responsibility, and the participating license holder.

Sec. 22. Minnesota Statutes 2020, section 256B.493, subdivision 5, is amended to read:

Subd. 5. **Notification of conditionally approved proposal.** (a) Once the license holder receives notification from the commissioner that the proposal has been conditionally approved, the license holder shall provide written notification within five working days to:

(1) the lead agencies responsible for authorizing the licensed services for the residents of the affected adult foster care settings; and

(2) current and prospective residents, any legal representatives, and family members involved.

(b) This notification must occur at least ~~45~~ 90 days prior to the implementation of the closure proposal.

Sec. 23. Minnesota Statutes 2020, section 256B.493, is amended by adding a subdivision to read:

Subd. 5a. **Notification of conditionally approved proposal to Centers for Independent Living.** (a) Once conditional approval has been sent to the license holder, the commissioner shall provide written notice within five working days to the regional Center for Independent Living.

(b) The commissioner must provide in the written notice the number of persons affected by closure, location of group homes, provider information, and contact information of persons or current guardians to coordinate transition support of residents.

Sec. 24. Minnesota Statutes 2020, section 256B.493, is amended by adding a subdivision to read:

Subd. 5b. **Approval for planned closure.** The commissioner may finalize approval of conditional applications for planned closure after the license holder takes the following actions and submits proof of documentation to the commissioner:

(1) all parties were provided notice within five business days of receiving conditional approval and residents, support team, and family members were provided 90 days' notice prior to the implementation of the closure proposal;

(2) information regarding rights to appeal service termination and seek a temporary order to stay the termination of services according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c), were provided to the resident, family, and support team at time of closure notice;

(3) residents were provided options to live in the geographic community of their own choice; and

(4) residents were provided options to live in a community residential or own-home setting with the services and supports of their choice.

Sec. 25. Minnesota Statutes 2020, section 256B.493, subdivision 6, is amended to read:

Subd. 6. **Adjustment to rates.** (a) For purposes of this section, the commissioner shall establish enhanced medical assistance payment rates under sections 256B.092 and 256B.49 to facilitate an orderly transition for persons with disabilities from adult foster care or community residential settings to other community-based settings.

(b) The enhanced payment rate shall be effective the day after the first resident has moved until the day the last resident has moved, not to exceed six months.

Sec. 26. Minnesota Statutes 2020, section 256B.493, is amended by adding a subdivision to read:

Subd. 7. **Termination of license or satellite license upon approved closure date.** Following approval of a planned closure, the commissioner shall confirm termination of licensure for the residence location, whether satellite or home and community-based license for single residence as referenced in section 245D.23. The commissioner must provide written notice confirming termination of licensure to the provider.

Sec. 27. Minnesota Statutes 2020, section 256G.02, subdivision 6, is amended to read:

Subd. 6. **Excluded time.** "Excluded time" means:

(1) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, community residential setting licensed under chapter 245D, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the

hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02, subdivision 14; maternity home, battered women's shelter, or correctional facility; or any facility based on an emergency hold under section 253B.05, subdivisions 1 and 2;

(2) any period an applicant spends on a placement basis in a training and habilitation program, including: a rehabilitation facility or work or employment program as defined in section 268A.01; semi-independent living services provided under section 252.275, and chapter 245D; or day training and habilitation programs ~~and~~;

(3) any period an applicant is receiving assisted living services, integrated community supports, or day support services; and

~~(3)~~ (4) any placement for a person with an indeterminate commitment, including independent living.

Sec. 28. Minnesota Statutes 2020, section 256I.04, subdivision 3, is amended to read:

Subd. 3. **Moratorium on development of housing support beds.** (a) Agencies shall not enter into agreements for new housing support beds with total rates in excess of the MSA equivalent rate except:

(1) for establishments licensed under chapter 245D provided the facility is needed to meet the census reduction targets for persons with developmental disabilities at regional treatment centers;

(2) up to 80 beds in a single, specialized facility located in Hennepin County that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the Housing Finance Agency under section 462A.05, subdivision 20a, paragraph (b);

(3) notwithstanding the provisions of subdivision 2a, for up to 226 supportive housing units in Anoka, Carver, Dakota, Hennepin, ~~or~~ Ramsey, Scott, or Washington County for homeless adults with a disability, including but not limited to mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this ~~section~~ clause, "homeless adult" means a person who is (i) living on the street or in a shelter or (ii) discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. ~~At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance~~

~~abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, have been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program.~~ If a person meets the requirements of subdivision 1, paragraph (a) or (b), and receives a federal or state housing subsidy, the housing support rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a~~, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the housing support supplementary service rate~~. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a housing support payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. ~~Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a~~;

(4) for an additional two beds, resulting in a total of 32 beds, for a facility located in Hennepin County providing services for recovering and chemically dependent men that has had a housing support contract with the county and has been licensed as a board and lodge facility with special services since 1980;

(5) for a housing support provider located in the city of St. Cloud, or a county contiguous to the city of St. Cloud, that operates a 40-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves chemically dependent clientele, providing 24-hour-a-day supervision;

(6) for a new 65-bed facility in Crow Wing County that will serve chemically dependent persons, operated by a housing support provider that currently operates a 304-bed facility in Minneapolis, and a 44-bed facility in Duluth;

(7) for a housing support provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, that provide community support and 24-hour-a-day supervision to serve the mental health needs of individuals who have chronically lived unsheltered; and

(8) for a facility authorized for recipients of housing support in Hennepin County with a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility and that until August 1, 2007, operated as a licensed chemical dependency treatment program.

(b) An agency may enter into a housing support agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a housing support agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from housing support payment, or as a result of the downsizing of a setting authorized for recipients of housing support. The transfer of available beds from one agency to another can only occur by the agreement of both agencies.

Sec. 29. Minnesota Statutes 2020, section 256K.26, subdivision 2, is amended to read:

Subd. 2. **Implementation.** The commissioner, in consultation with the commissioners of the Department of Corrections and the Minnesota Housing Finance Agency, counties, Tribes, providers and funders of supportive housing and services, shall develop application requirements and make funds available according to this section, with the goal of providing maximum flexibility in program design.

Sec. 30. Minnesota Statutes 2020, section 256K.26, subdivision 6, is amended to read:

Subd. 6. **Outcomes.** Projects will be selected to further the following outcomes:

(1) reduce the number of Minnesota individuals and families that experience long-term homelessness;

(2) increase the number of housing opportunities with supportive services;

(3) develop integrated, cost-effective service models that address the multiple barriers to obtaining housing stability faced by people experiencing long-term homelessness, including abuse, neglect, chemical dependency, disability, chronic health problems, or other factors including ethnicity and race that may result in poor outcomes or service disparities;

(4) encourage partnerships among counties, Tribes, community agencies, schools, and other providers so that the service delivery system is seamless for people experiencing long-term homelessness;

(5) increase employability, self-sufficiency, and other social outcomes for individuals and families experiencing long-term homelessness; and

(6) reduce inappropriate use of emergency health care, shelter, ~~chemical dependency~~ substance use disorder treatment, foster care, child protection, corrections, and similar services used by people experiencing long-term homelessness.

Sec. 31. Minnesota Statutes 2020, section 256K.26, subdivision 7, is amended to read:

Subd. 7. **Eligible services.** Services eligible for funding under this section are all services needed to maintain households in permanent supportive housing, as determined by the ~~county or~~ counties or Tribes administering the project or projects.

Sec. 32. Minnesota Statutes 2020, section 256Q.06, is amended by adding a subdivision to read:

Subd. 6. **Account creation.** If an eligible individual is unable to establish the eligible individual's own ABLE account, an ABLE account may be established on behalf of the eligible individual by the eligible individual's agent under a power of attorney or, if none, by the eligible individual's conservator or legal guardian, spouse, parent, sibling, or grandparent or a representative payee appointed for the eligible individual by the Social Security Administration, in that order.

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

Sec. 33. Laws 2020, First Special Session chapter 7, section 1, subdivision 1, as amended by Laws 2021, First Special Session chapter 7, article 2, section 71, is amended to read:

Subdivision 1. **Waivers and modifications; federal funding extension.** When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following waivers and modifications to human services programs issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12 ~~that are required to comply with federal law~~ may remain in effect for the time period set out in applicable federal law or for the time period set out in any applicable federally approved waiver or state plan amendment, whichever is later:

(1) CV15: allowing telephone or video visits for waiver programs;

(2) CV17: preserving health care coverage for Medical Assistance and MinnesotaCare;

(3) CV18: implementation of federal changes to the Supplemental Nutrition Assistance Program;

(4) CV20: eliminating cost-sharing for COVID-19 diagnosis and treatment;

(5) CV24: allowing telephone or video use for targeted case management visits;

(6) CV30: expanding telemedicine in health care, mental health, and substance use disorder settings;

(7) CV37: implementation of federal changes to the Supplemental Nutrition Assistance Program;

(8) CV39: implementation of federal changes to the Supplemental Nutrition Assistance Program;

(9) CV42: implementation of federal changes to the Supplemental Nutrition Assistance Program;

(10) CV43: expanding remote home and community-based waiver services;

(11) CV44: allowing remote delivery of adult day services;

(12) CV59: modifying eligibility period for the federally funded Refugee Cash Assistance Program;

(13) CV60: modifying eligibility period for the federally funded Refugee Social Services Program; and

(14) CV109: providing 15 percent increase for Minnesota Food Assistance Program and Minnesota Family Investment Program maximum food benefits.

Sec. 34. **TEMPORARY TELEPHONE-ONLY TELEHEALTH AUTHORIZATION.**

Beginning July 1, 2021, and until the COVID-19 federal public health emergency ends or July 1, 2023, whichever is earlier, telehealth visits, as described in Minnesota Statutes, section 256B.0625, subdivision 3b, provided through telephone may satisfy the face-to-face requirements for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 Tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

**EFFECTIVE DATE.** This section is effective retroactively from July 1, 2021, and expires when the COVID-19 federal public health emergency ends or July 1, 2023, whichever is earlier. The commissioner of human services shall notify the revisor of statutes when this section expires.

Sec. 35. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; INFORMED CHOICE UPON CLOSURE.**

The commissioner of human services shall direct department staff, lead agency staff, and lead agency partners to ensure that solutions to workforce shortages in licensed home and community-based disability settings are consistent with the state's policy priority of

informed choice and the integration mandate under the state's Olmstead Plan. Specifically, the commissioner shall direct department staff, lead agency staff, and lead agency partners to ensure that when a licensed setting cannot continue providing services as a result of staffing shortages, a person who had been receiving services in that setting is not discharged to a more restrictive setting than the person was in previously and the person receives an informed choice process about how and where the person will receive services following the suspension or closure of the program or setting in which the person had previously been receiving services.

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

Sec. 36. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; BUDGET EXCEPTIONS FOR COMMUNITY RESIDENTIAL SETTINGS.**

The commissioner of human services must take steps to inform individuals, families, and lead agencies of the amendments to Minnesota Statutes, section 256B.4911, subdivision 4, and widely disseminate easily understood instructions for quickly applying for a budget exception under that section.

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

Sec. 37. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; REASSESSMENT FREQUENCY.**

By January 1, 2023, the commissioner of human services shall seek federal approval to streamline medical assistance service eligibility determinations for people with disabilities by using less-frequent disability service needs assessments or streamlined annual reevaluations for people whose disability-related needs are not likely to change and less-frequent or streamlined reassessment is chosen by the participant.

Sec. 38. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FINANCIAL MANAGEMENT SERVICES PROVIDERS.**

The commissioner of human services shall accept on a rolling basis proposals submitted in response to "Request for Proposals for Qualified Grantees to Provide Vendor Fiscal/Employer Agent Financial Management Services," published on May 2, 2016. Responders must comply with all proposal instructions and requirements as set forth in the request for proposals except the submission deadlines. The commissioner shall evaluate all responsive proposals submitted under this section regardless of the date on which the proposal is submitted. The commissioner shall conduct phase I and phase II evaluations using the

same procedures and evaluation standards set forth in the request for proposals. The commissioner shall contact responders who submit substantially complete proposals to provide further or missing information or to clarify the responder's proposal. The commissioner shall select all responders that successfully move on to phase III evaluation. For all proposals that move on to phase III evaluation, the commissioner shall not exercise the commissioner's right to reject any or all proposals. The commissioner shall not compare proposals that successfully move on to phase III evaluation. The commissioner shall not reject a proposal that successfully moved on to phase III evaluation after determining that another proposal is more advantageous to the state. This section expires upon publication of a new request for proposal related to financial management services providers.

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

## ARTICLE 4
## LICENSING

Section 1. Minnesota Statutes 2020, section 245A.11, subdivision 7, is amended to read:

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

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

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

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

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a conditional license issued under section 245A.06, or any other licensing

sanction issued under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

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

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

Sec. 2. Minnesota Statutes 2020, section 245A.11, subdivision 7a, is amended to read:

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

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

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

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

(c) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation

of written policies and procedures addressing the requirements in paragraphs (d) through (f).

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

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

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

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

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

(i) a description of the triggering incident;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) To be eligible for a license under paragraph (a), the adult foster care ~~or community residential setting~~ license holder must not have had a conditional license issued under section 245A.06 or any licensing sanction under section 245A.07 during the prior 24 months based

on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home ~~or community residential setting~~.

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

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

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

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

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

Sec. 3. Minnesota Statutes 2020, section 245C.04, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, including a child care background study subject as defined in section 245C.02, subdivision 6a, in a family child care program, licensed child care center, certified license-exempt child care center, or legal nonlicensed child care provider, on a schedule determined by the commissioner. Except as provided in section

245C.05, subdivision 5a, a child care background study must include submission of fingerprints for a national criminal history record check and a review of the information under section 245C.08. A background study for a child care program must be repeated within five years from the most recent study conducted under this paragraph.

(c) At reapplication for a family child care license:

(1) for a background study affiliated with a licensed family child care center or legal nonlicensed child care provider, the individual shall provide information required under section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be fingerprinted and photographed under section 245C.05, subdivision 5;

(2) the county agency shall verify the information received under clause (1) and forward the information to the commissioner to complete the background study; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08.

(d) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services and the following conditions are met:

(1) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(2) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(3) the last study of the individual was conducted on or after October 1, 1995.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster family setting license holder:

(1) the county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5, when the child foster family setting applicant or license holder resides in the home where child foster care services are provided; and

(2) the background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services and with a family child care license holder or a legal nonlicensed child care provider authorized under chapter 119B and:

(1) except as provided in section 245C.05, subdivision 5a, the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background studies conducted by the commissioner for all family adult day services, for adult foster care when the adult foster care license holder resides in the adult foster care residence, and for family child care and legal nonlicensed child care authorized under chapter 119B;

(2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(g) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study requests to the commissioner using the electronic system known as NETStudy before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(h) For an individual who is not on the entity's active roster, the entity must initiate a new background study through NETStudy when:

(1) an individual returns to a position requiring a background study following an absence of 120 or more consecutive days; or

(2) a program that discontinued providing licensed direct contact services for 120 or more consecutive days begins to provide direct contact licensed services again.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files. If the individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(i) For purposes of this section, a physician licensed under chapter 147 or advanced practice registered nurse licensed under chapter 148 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's or advanced practice registered nurse's background study results.

(j) For purposes of family child care, a substitute caregiver must receive repeat background studies at the time of each license renewal.

(k) A repeat background study at the time of license renewal is not required if the family child care substitute caregiver's background study was completed by the commissioner on or after October 1, 2017, and the substitute caregiver is on the license holder's active roster in NETStudy 2.0.

(l) Before and after school programs authorized under chapter 119B, are exempt from the background study requirements under section 123B.03, for an employee for whom a background study under this chapter has been completed.

(m) A licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 119B is not required to submit a background study request for a private therapist for whom a licensed program maintains a completed background study in the program's personnel files.

(n) Upon request of the license holder, the commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a home and community-based service provider licensed certified to provide children's out-of-home respite under section 245D.34. The license holder shall collect and forward to the commissioner all the information described under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of all the information described under section 245C.08, subdivisions 1, 3, and 4.

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

Sec. 4. Minnesota Statutes 2021 Supplement, section 245C.05, subdivision 5, is amended to read:

Subd. 5. **Fingerprints and photograph.** (a) Notwithstanding paragraph (b), for background studies conducted by the commissioner for certified children's out-of-home

respite, child foster care, children's residential facilities, adoptions, or a transfer of permanent legal and physical custody of a child, the subject of the background study, who is 18 years of age or older, shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized agency for a national criminal history record check.

(b) For background studies initiated on or after the implementation of NETStudy 2.0, except as provided under subdivision 5a, every subject of a background study must provide the commissioner with a set of the background study subject's classifiable fingerprints and photograph. The photograph and fingerprints must be recorded at the same time by the authorized fingerprint collection vendor or vendors and sent to the commissioner through the commissioner's secure data system described in section 245C.32, subdivision 1a, paragraph (b).

(c) The fingerprints shall be submitted by the commissioner to the Bureau of Criminal Apprehension and, when specifically required by law, submitted to the Federal Bureau of Investigation for a national criminal history record check.

(d) The fingerprints must not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or the commissioner. The Federal Bureau of Investigation will not retain background study subjects' fingerprints.

(e) The authorized fingerprint collection vendor or vendors shall, for purposes of verifying the identity of the background study subject, be able to view the identifying information entered into NETStudy 2.0 by the entity that initiated the background study, but shall not retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The authorized fingerprint collection vendor or vendors shall retain no more than the name and date and time the subject's fingerprints were recorded and sent, only as necessary for auditing and billing activities.

(f) For any background study conducted under this chapter, the subject shall provide the commissioner with a set of classifiable fingerprints when the commissioner has reasonable cause to require a national criminal history record check as defined in section 245C.02, subdivision 15a.

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

Sec. 5. **[245D.34] CHILDREN'S OUT-OF-HOME RESPITE CERTIFICATION STANDARDS.**

Subdivision 1. **Certification.** (a) The commissioner of human services shall issue a children's out-of-home respite certification for services licensed under this chapter when a license holder is determined to have met the requirements under this section. This certification is voluntary for license holders. The certification shall be printed on the license and identified on the commissioner's public website.

(b) A license holder seeking certification under this section must request this certification on forms and in the manner prescribed by the commissioner.

(c) If a commissioner finds that a license holder has failed to comply with the certification requirements under this section, the commissioner may issue a correction order and an order of conditional license in accordance with section 245A.06 or may issue a sanction in accordance with section 245A.07, including and up to removal of the certification.

(d) A denial of the certification or the removal of the certification based on a determination that the requirements of this section have not been met is not subject to appeal. A license holder that has been denied a certification or that has had a certification removed may again request certification when the license holder is in compliance with the requirements of this section.

Subd. 2. **Certification requirements.** The requirements for certification under this section are:

(1) the license holder maintains a current roster of staff who meet the background study requirements under section 245C.04, subdivision 1, paragraph (n);

(2) the license holder assigns only individuals on the roster described in clause (1) to provide out-of-home respite to a minor in an unlicensed service site;

(3) the case manager has verified, on the forms and in the manner prescribed by the commissioner, and documented in the person's coordinated service and support plan that any proposed unlicensed service site is appropriate to meet the person's unique assessed needs; and

(4) when providing out-of-home respite to a minor at an unlicensed service site, the service site the license holder uses is identified and approved by the case manager in the person's coordinated service and support plan.

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

Sec. 6. Laws 2021, First Special Session chapter 7, article 2, section 74, is amended by adding a subdivision to read:

Subd. 4a. **Furnishing and analyzing data.** In the event the Department of Human Services is unable to furnish or analyze the relevant data on the background studies, disqualifications, set-asides, and other relevant topics under this section, the department may use an outside organization to analyze and furnish the relevant data to the task force.

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

## ARTICLE 5
## CONTINUING CARE FOR OLDER ADULTS

Section 1. Minnesota Statutes 2020, section 245A.14, subdivision 14, is amended to read:

Subd. 14. **Attendance records for publicly funded services.** (a) A child care center licensed under this chapter and according to Minnesota Rules, chapter 9503, must maintain documentation of actual attendance for each child receiving care for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

(1) the first and last name of the child;

(2) the time of day that the child was dropped off; and

(3) the time of day that the child was picked up.

(b) A family child care provider licensed under this chapter and according to Minnesota Rules, chapter 9502, must maintain documentation of actual attendance for each child receiving care for which the license holder is reimbursed for the care of that child by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

(1) the first and last name of the child;

(2) the time of day that the child was dropped off; and

(3) the time of day that the child was picked up.

(c) An adult day services program licensed under this chapter and according to Minnesota Rules, parts 9555.5105 to 9555.6265, must maintain documentation of actual attendance for each adult day service recipient for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

(1) the first, middle, and last name of the recipient;

(2) the time of day that the recipient was dropped off; and

(3) the time of day that the recipient was picked up.

(d) ~~The commissioner shall not issue a correction for attendance record errors that occur before August 1, 2013.~~ Adult day services programs licensed under this chapter that are designated for remote adult day services must maintain documentation of actual participation for each adult day service recipient for whom the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, must be completed on the actual day service is provided, and must include the:

(1) first, middle, and last name of the recipient;

(2) time of day the remote services started;

(3) time of day that the remote services ended; and

(4) means by which the remote services were provided, through audio remote services or through audio and video remote services.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 2. **[245A.70] REMOTE ADULT DAY SERVICES.**

(a) For the purposes of sections 245A.70 to 245A.75, the following terms have the meanings given.

(b) "Adult day care" and "adult day services" have the meanings given in section 245A.02, subdivision 2a.

(c) "Remote adult day services" means an individualized and coordinated set of services provided via live two-way communication by an adult day care or adult day services center.

(d) "Live two-way communication" means real-time audio or audio and video transmission of information between a participant and an actively involved staff member.

Sec. 3. **[245A.71] APPLICABILITY AND SCOPE.**

Subdivision 1. **Licensing requirements.** Adult day care centers or adult day services centers that provide remote adult day services must be licensed under this chapter and comply with the requirements set forth in this section.

Subd. 2. **Standards for licensure.** License holders seeking to provide remote adult day services must submit a request in the manner prescribed by the commissioner. Remote adult day services must not be delivered until approved by the commissioner. The designation to provide remote services is voluntary for license holders. Upon approval, the designation of approval for remote adult day services shall be printed on the center's license, and identified on the commissioner's public website.

Subd. 3. **Federal requirements.** Adult day care centers or adult day services centers that provide remote adult day services to participants receiving alternative care under section 256B.0913, essential community supports under section 256B.0922, or home and community-based services waivers under chapter 256S or section 256B.092 or 256B.49, must comply with federally approved waiver plans.

Subd. 4. **Service limitations.** Remote adult day services must be provided during the days and hours of in-person services specified on the license of the adult day care center.

Sec. 4. **[245A.72] RECORD REQUIREMENTS.**

Adult day centers and adult day services centers providing remote adult day services must comply with participant record requirements set forth in Minnesota Rules, part 9555.9660. The center must document how remote services will help a participant reach the short- and long-term objectives in the participant's plan of care.

Sec. 5. **[245A.73] REMOTE ADULT DAY SERVICES STAFF.**

Subdivision 1. **Staff ratios.** (a) A staff person who provides remote adult day services without two-way interactive video must only provide services to one participant at a time.

(b) A staff person who provides remote adult day services through two-way interactive video must not provide services to more than eight participants at one time.

Subd. 2. **Staff training.** A center licensed under section 245A.71 must document training provided to each staff person regarding the provision of remote services in the staff person's record. The training must be provided prior to a staff person delivering remote adult day services without supervision. The training must include:

(1) how to use the equipment, technology, and devices required to provide remote adult day services via live two-way communication;

(2) orientation and training on each participant's plan of care as directly related to remote adult day services; and

(3) direct observation by a manager or supervisor of the staff person while providing supervised remote service delivery sufficient to assess staff competency.

Sec. 6. **[245A.74] INDIVIDUAL SERVICE PLANNING.**

Subdivision 1. **Eligibility.** (a) A person must be eligible for and receiving in-person adult day services to receive remote adult day services from the same provider. The same provider must deliver both in-person adult day services and remote adult day services to a participant.

(b) The license holder must update the participant's plan of care according to Minnesota Rules, part 9555.9700.

(c) For a participant who chooses to receive remote adult day services, the license holder must document in the participant's plan of care the participant's proposed schedule and frequency for receiving both in-person and remote services. The license holder must also document in the participant's plan of care that remote services:

(1) are chosen as a service delivery method by the participant or legal representative;

(2) will meet the participant's assessed needs;

(3) are provided within the scope of adult day services; and

(4) will help the participant achieve identified short- and long-term objectives specific to the provision of remote adult day services.

Subd. 2. **Participant daily service limitations.** In a 24-hour period, a participant may receive:

(1) a combination of in-person adult day services and remote adult day services on the same day but not at the same time;

(2) a combination of in-person and remote adult day services that does not exceed 12 hours in total; and

(3) up to six hours of remote adult day services.

Subd. 3. **Minimum in-person requirement.** A participant who receives remote services must receive services in person as assigned in the participant's plan of care at least quarterly.

Sec. 7. **[245A.75] SERVICE AND PROGRAM REQUIREMENTS.**

Remote adult day services must be in the scope of adult day services provided in Minnesota Rules, part 9555.9710, subparts 3 to 7.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

## ARTICLE 6
## DIRECT CARE AND TREATMENT

Section 1. Minnesota Statutes 2020, section 253B.18, subdivision 6, is amended to read:

Subd. 6. **Transfer.** (a) A patient who is a person who has a mental illness and is dangerous to the public shall not be transferred out of a secure treatment facility unless it appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to another state-operated treatment program. In those instances where a commitment also exists to the Department of Corrections, transfer may be to a facility designated by the commissioner of corrections.

(b) The following factors must be considered in determining whether a transfer is appropriate:

(1) the person's clinical progress and present treatment needs;

(2) the need for security to accomplish continuing treatment;

(3) the need for continued institutionalization;

(4) which facility can best meet the person's needs; and

(5) whether transfer can be accomplished with a reasonable degree of safety for the public.

(c) If a committed person has been transferred out of a secure treatment facility pursuant to this subdivision, that committed person may voluntarily return to a secure treatment facility for a period of up to 60 days with the consent of the head of the treatment facility.

(d) If the committed person is not returned to the original, nonsecure transfer facility within 60 days of being readmitted to a secure treatment facility, the transfer is revoked and the committed person must remain in a secure treatment facility. The committed person must immediately be notified in writing of the revocation.

(e) Within 15 days of receiving notice of the revocation, the committed person may petition the special review board for a review of the revocation. The special review board

shall review the circumstances of the revocation and shall recommend to the commissioner whether or not the revocation should be upheld. The special review board may also recommend a new transfer at the time of the revocation hearing.

(f) No action by the special review board is required if the transfer has not been revoked and the committed person is returned to the original, nonsecure transfer facility with no substantive change to the conditions of the transfer ordered under this subdivision.

(g) The head of the treatment facility may revoke a transfer made under this subdivision and require a committed person to return to a secure treatment facility if:

(1) remaining in a nonsecure setting does not provide a reasonable degree of safety to the committed person or others; or

(2) the committed person has regressed clinically and the facility to which the committed person was transferred does not meet the committed person's needs.

(h) Upon the revocation of the transfer, the committed person must be immediately returned to a secure treatment facility. A report documenting the reasons for revocation must be issued by the head of the treatment facility within seven days after the committed person is returned to the secure treatment facility. Advance notice to the committed person of the revocation is not required.

(i) The committed person must be provided a copy of the revocation report and informed, orally and in writing, of the rights of a committed person under this section. The revocation report must be served upon the committed person, the committed person's counsel, and the designated agency. The report must outline the specific reasons for the revocation, including but not limited to the specific facts upon which the revocation is based.

(j) If a committed person's transfer is revoked, the committed person may re-petition for transfer according to subdivision 5.

(k) A committed person aggrieved by a transfer revocation decision may petition the special review board within seven business days after receipt of the revocation report for a review of the revocation. The matter must be scheduled within 30 days. The special review board shall review the circumstances leading to the revocation and, after considering the factors in paragraph (b), shall recommend to the commissioner whether or not the revocation shall be upheld. The special review board may also recommend a new transfer out of a secure treatment facility at the time of the revocation hearing.

Sec. 2. **REPEALER.**

Minnesota Statutes 2020, sections 246.0136; 252.025, subdivision 7; and 252.035, are repealed.

## ARTICLE 7
## DEPARTMENT OF HEALTH

Section 1. Minnesota Statutes 2020, section 144.1222, subdivision 2d, is amended to read:

Subd. 2d. **Hot tubs on rental ~~houseboats~~ property.** (a) A ~~hot water~~ spa pool intended for seated recreational use, including a hot tub or whirlpool, that is located on a houseboat that is rented to the public is not a public pool and is exempt from the requirements for public pools under this section and Minnesota Rules, chapter 4717.

(b) A spa pool intended for seated recreational use, including a hot tub or whirlpool, that is located on the property of a stand-alone single-unit rental property that is rented to the public by the property owner or through a resort and that is a spa pool only intended to be used by the occupants of the rental property is not a public pool and is exempt from the requirements for public pools under this section and Minnesota Rules, chapter 4717.

(c) A ~~hot water~~ spa pool under this subdivision must be conspicuously posted with the following notice to renters:

"NOTICE

This spa is exempt from state and local sanitary requirements that prevent disease transmission.

USE AT YOUR OWN RISK

This notice is required under Minnesota Statutes, section 144.1222, subdivision 2d."

Sec. 2. Minnesota Statutes 2021 Supplement, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; (iv) the relocation or redistribution does not involve the construction of a new hospital building; and (v) the transferred beds

are used first to replace within the hospital corporate system the total number of beds previously used in the closed facility site or complex for mental health services and substance use disorder services. Only after the hospital corporate system has fulfilled the requirements of this item may the remainder of the available capacity of the closed facility site or complex be transferred for any other purpose;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds in an existing hospital in Carver County serving the southwest suburban metropolitan area;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law;

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board;

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility;

(24) notwithstanding section 144.552, a project for the construction and expansion of a specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients who are under 21 years of age on the date of admission. The commissioner conducted a public interest review of the mental health needs of Minnesota and the Twin Cities metropolitan area in 2008. No further public interest review shall be conducted for the construction or expansion project under this clause;

(25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city of Maple Grove, exclusively for patients who are under 21 years of age on the date of

admission, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(ii) this project shall serve patients in the continuing care benefit program under section 256.9693. The project may also serve patients not in the continuing care benefit program; and

(iii) if the project ceases to participate in the continuing care benefit program, the commissioner must complete a subsequent public interest review under section 144.552. If the project is found not to be in the public interest, the license must be terminated six months from the date of that finding. If the commissioner of human services terminates the contract without cause or reduces per diem payment rates for patients under the continuing care benefit program below the rates in effect for services provided on December 31, 2015, the project may cease to participate in the continuing care benefit program and continue to operate without a subsequent public interest review;

(27) a project involving the addition of 21 new beds in an existing psychiatric hospital in Hennepin County that is exclusively for patients who are under 21 years of age on the date of admission;

(28) a project to add 55 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5, of which 15 beds are to be used for inpatient mental health and 40 are to be used for other services. In addition, five unlicensed observation mental health beds shall be added;

(29) upon submission of a plan to the commissioner for public interest review under section 144.552 and the addition of the 15 inpatient mental health beds specified in clause (28), to its bed capacity, a project to add 45 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5. Five of the 45 additional beds authorized under this clause must be designated for use for inpatient mental health and must be added to the hospital's bed capacity before the remaining 40 beds are added. Notwithstanding section 144.552, the hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552; ~~or~~

(30) upon submission of a plan to the commissioner for public interest review under section 144.552, a project to add up to 30 licensed beds in an existing psychiatric hospital in Hennepin County that exclusively provides care to patients who are under 21 years of age on the date of admission. Notwithstanding section 144.552, the psychiatric hospital

may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552.; or

(31) any project to add licensed beds in a hospital that: (i) is designated as a critical access hospital under section 144.1483, clause (9), and United States Code, title 42, section 1395i-4; (ii) has a licensed bed capacity of fewer than 25 beds; and (iii) has an attached nursing home, so long as the total number of licensed beds in the hospital after the bed addition does not exceed 25 beds. Notwithstanding section 144.552, a public interest review is not required for a project authorized under this clause.

Sec. 3. Minnesota Statutes 2020, section 144A.75, subdivision 12, is amended to read:

Subd. 12. **Palliative care.** "Palliative care" means ~~the total active care of patients whose disease is not responsive to curative treatment. Control of pain, of other symptoms, and of psychological, social, and spiritual problems is paramount~~ specialized medical care for people living with a serious illness or life-limiting condition. This type of care is focused on reducing the pain, symptoms, and stress of a serious illness or condition. Palliative care is a team-based approach to care, providing essential support at any age or stage of a serious illness or condition, and is often provided together with curative treatment. The goal of palliative care is ~~the achievement of the best quality of life for patients and their families~~ to improve quality of life for both the patient and the patient's family or care partner.

## ARTICLE 8
## MANDATED REPORTS

Section 1. Minnesota Statutes 2020, section 62Q.37, subdivision 7, is amended to read:

Subd. 7. **Human services.** ~~(a)~~ The commissioner of human services shall implement this section in a manner that is consistent with applicable federal laws and regulations and that avoids the duplication of review activities performed by a nationally recognized independent organization.

~~(b) By December 31 of each year, the commissioner shall submit to the legislature a written report identifying the number of audits performed by a nationally recognized independent organization that were accepted, partially accepted, or rejected by the commissioner under this section. The commissioner shall provide the rationale for partial acceptance or rejection. If the rationale for the partial acceptance or rejection was based on the commissioner's determination that the standards used in the audit were not equivalent~~

~~to state law, regulation, or contract requirement, the report must document the variances between the audit standards and the applicable state requirements.~~

Sec. 2. Minnesota Statutes 2020, section 144A.351, subdivision 1, is amended to read:

Subdivision 1. **Report requirements.** (a) The commissioners of health and human services, with the cooperation of counties and in consultation with stakeholders, including persons who need or are using long-term care services and supports, lead agencies, regional entities, senior, disability, and mental health organization representatives, service providers, and community members shall ~~prepare a report to the legislature by August 15, 2013, and biennially thereafter,~~ compile data regarding the status of the full range of long-term care services and supports for the elderly and children and adults with disabilities and mental illnesses in Minnesota. ~~Any amounts appropriated for this report are available in either year of the biennium.~~ The ~~report shall address~~ compiled data shall include:

(1) demographics and need for long-term care services and supports in Minnesota;

(2) summary of county and regional reports on long-term care gaps, surpluses, imbalances, and corrective action plans;

(3) status of long-term care services and related mental health services, housing options, and supports by county and region including:

(i) changes in availability of the range of long-term care services and housing options;

(ii) access problems, including access to the least restrictive and most integrated services and settings, regarding long-term care services; and

(iii) comparative measures of long-term care services availability, including serving people in their home areas near family, and changes over time; and

(4) recommendations regarding goals for the future of long-term care services and supports, policy and fiscal changes, and resource development and transition needs.

(b) The commissioners of health and human services shall make the compiled data available on at least one of the department's websites.

Sec. 3. Minnesota Statutes 2020, section 245.4661, subdivision 10, is amended to read:

Subd. 10. **Commissioner duty to report on use of grant funds biennially.** (a) By November 1, 2016, and biennially thereafter, the commissioner of human services shall provide sufficient information to the members of the legislative committees having jurisdiction over mental health funding and policy issues to evaluate the use of funds

appropriated under this section of law. The commissioner shall provide, at a minimum, the following information:

(1) the amount of funding to mental health initiatives, what programs and services were funded in the previous two years, gaps in services that each initiative brought to the attention of the commissioner, and outcome data for the programs and services that were funded; and

(2) the amount of funding for other targeted services and the location of services.

(b) This subdivision expires January 1, 2032.

Sec. 4. Minnesota Statutes 2020, section 245.4889, subdivision 3, is amended to read:

Subd. 3. **Commissioner duty to report on use of grant funds biennially.** (a) By November 1, 2016, and biennially thereafter, the commissioner of human services shall provide sufficient information to the members of the legislative committees having jurisdiction over mental health funding and policy issues to evaluate the use of funds appropriated under this section. The commissioner shall provide, at a minimum, the following information:

(1) the amount of funding for children's mental health grants, what programs and services were funded in the previous two years, and outcome data for the programs and services that were funded; and

(2) the amount of funding for other targeted services and the location of services.

(b) This subdivision expires January 1, 2032.

Sec. 5. Minnesota Statutes 2021 Supplement, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care

licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

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

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

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

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

(5) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

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

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

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

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

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

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

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

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

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

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

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

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

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. ~~Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.~~

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of

reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

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

Sec. 6. Minnesota Statutes 2020, section 256.01, subdivision 29, is amended to read:

Subd. 29. **State medical review team.** (a) To ensure the timely processing of determinations of disability by the commissioner's state medical review team under sections 256B.055, subdivisions 7, paragraph (b), and 12, and 256B.057, subdivision 9, the commissioner shall review all medical evidence and seek information from providers, applicants, and enrollees to support the determination of disability where necessary. Disability shall be determined according to the rules of title XVI and title XIX of the Social Security Act and pertinent rules and policies of the Social Security Administration.

(b) Prior to a denial or withdrawal of a requested determination of disability due to insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary and appropriate to a determination of disability, and (2) assist applicants and enrollees to obtain the evidence, including, but not limited to, medical examinations and electronic medical records.

~~(c) The commissioner shall provide the chairs of the legislative committees with jurisdiction over health and human services finance and budget the following information on the activities of the state medical review team by February 1 of each year:~~

~~(1) the number of applications to the state medical review team that were denied, approved, or withdrawn;~~

~~(2) the average length of time from receipt of the application to a decision;~~

~~(3) the number of appeals, appeal results, and the length of time taken from the date the person involved requested an appeal for a written decision to be made on each appeal;~~

~~(4) for applicants, their age, health coverage at the time of application, hospitalization history within three months of application, and whether an application for Social Security or Supplemental Security Income benefits is pending; and~~

~~(5) specific information on the medical certification, licensure, or other credentials of the person or persons performing the medical review determinations and length of time in that position.~~

~~(d)~~ (c) Any appeal made under section 256.045, subdivision 3, of a disability determination made by the state medical review team must be decided according to the timelines under section 256.0451, subdivision 22, paragraph (a). If a written decision is not issued within the timelines under section 256.0451, subdivision 22, paragraph (a), the appeal must be immediately reviewed by the chief human services judge.

Sec. 7. Minnesota Statutes 2021 Supplement, section 256.01, subdivision 42, is amended to read:

Subd. 42. **Expiration of report mandates.** (a) If the submission of a report by the commissioner of human services to the legislature is mandated by statute and the enabling legislation does not include a date for the submission of a final report or an expiration date, the mandate to submit the report shall expire in accordance with this section.

(b) If the mandate requires the submission of an annual or more frequent report and the mandate was enacted before January 1, 2021, the mandate shall expire on January 1, 2023. If the mandate requires the submission of a biennial or less frequent report and the mandate was enacted before January 1, 2021, the mandate shall expire on January 1, 2024.

(c) Any reporting mandate enacted on or after January 1, 2021, shall expire three years after the date of enactment if the mandate requires the submission of an annual or more frequent report and shall expire five years after the date of enactment if the mandate requires the submission of a biennial or less frequent report unless the enacting legislation provides for a different expiration date.

(d) By January 15 of each year, the commissioner shall submit ~~a list~~ to the chairs and ranking minority members of the legislative committees with jurisdiction over human services ~~by February 15 of each year, beginning February 15, 2022,~~ a list of all reports set to expire during the following calendar year ~~in accordance with this section~~. Notwithstanding paragraph (c), this paragraph does not expire.

Sec. 8. Minnesota Statutes 2020, section 256.021, subdivision 3, is amended to read:

Subd. 3. **Report.** (a) By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.557 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the lead investigative agency to reconsider its final disposition, and the number of cases where the final disposition is changed, and any recommendations to improve the review or investigative process.

(b) This subdivision expires January 1, 2024.

Sec. 9. Minnesota Statutes 2021 Supplement, section 256.042, subdivision 4, is amended to read:

Subd. 4. **Grants.** (a) The commissioner of human services shall submit a report of the grants proposed by the advisory council to be awarded for the upcoming calendar year to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance, by December 1 of each year, beginning ~~March 1, 2020~~ December 1, 2022. This paragraph expires upon the expiration of the advisory council.

(b) The grants shall be awarded to proposals selected by the advisory council that address the priorities in subdivision 1, paragraph (a), clauses (1) to (4), unless otherwise appropriated by the legislature. The advisory council shall determine grant awards and funding amounts based on the funds appropriated to the commissioner under section 256.043, subdivision 3, paragraph (e). The commissioner shall award the grants from the opiate epidemic response fund and administer the grants in compliance with section 16B.97. No more than ten percent of the grant amount may be used by a grantee for administration.

Sec. 10. Minnesota Statutes 2020, section 256.042, subdivision 5, is amended to read:

Subd. 5. **Reports.** (a) The advisory council shall report annually to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by January 31 of each year, beginning January 31, 2021. The

report shall include information about the individual projects that receive grants and the overall role of the project in addressing the opioid addiction and overdose epidemic in Minnesota. The report must describe the grantees and the activities implemented, along with measurable outcomes as determined by the council in consultation with the commissioner of human services and the commissioner of management and budget. At a minimum, the report must include information about the number of individuals who received information or treatment, the outcomes the individuals achieved, and demographic information about the individuals participating in the project; an assessment of the progress toward achieving statewide access to qualified providers and comprehensive treatment and recovery services; and an update on the evaluations implemented by the commissioner of management and budget for the promising practices and theory-based projects that receive funding.

(b) The commissioner of management and budget, in consultation with the Opiate Epidemic Response Advisory Council, shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance when an evaluation study described in subdivision 1, paragraph (c), is complete on the promising practices or theory-based projects that are selected for evaluation activities. The report shall include demographic information; outcome information for the individuals in the program; the results for the program in promoting recovery, employment, family reunification, and reducing involvement with the criminal justice system; and other relevant outcomes determined by the commissioner of management and budget that are specific to the projects that are evaluated. The report shall include information about the ability of grant programs to be scaled to achieve the statewide results that the grant project demonstrated.

(c) The advisory council, in its annual report to the legislature under paragraph (a) due by January 31, 2024, shall include recommendations on whether the appropriations to the specified entities under Laws 2019, chapter 63, should be continued, adjusted, or discontinued; whether funding should be appropriated for other purposes related to opioid abuse prevention, education, and treatment; and on the appropriate level of funding for existing and new uses.

(d) This subdivision expires upon the expiration of the advisory council.

Sec. 11. Minnesota Statutes 2020, section 256.9657, subdivision 8, is amended to read:

Subd. 8. **Commissioner's duties.** (a) Beginning October 1, 2023, the commissioner of human services shall annually report to the ~~legislature quarterly on the first day of January,~~

~~April, July, and October~~ chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance regarding the provider surcharge program. The report shall include information on total billings, total collections, and administrative expenditures for the previous fiscal year. ~~The report on January 1, 1993, shall include information on all surcharge billings, collections, federal matching payments received, efforts to collect unpaid amounts, and administrative costs pertaining to the surcharge program in effect from July 1, 1991, to September 30, 1992~~ This paragraph expires January 1, 2032.

(b) The surcharge shall be adjusted by inflationary and caseload changes in future bienniums to maintain reimbursement of health care providers in accordance with the requirements of the state and federal laws governing the medical assistance program, including the requirements of the Medicaid moratorium amendments of 1991 found in Public Law No. 102-234.

(c) The commissioner shall request the Minnesota congressional delegation to support a change in federal law that would prohibit federal disallowances for any state that makes a good faith effort to comply with Public Law 102-234 by enacting conforming legislation prior to the issuance of federal implementing regulations.

Sec. 12. Minnesota Statutes 2020, section 256.975, subdivision 11, is amended to read:

Subd. 11. **Regional and local dementia grants.** (a) The Minnesota Board on Aging shall award competitive grants to eligible applicants for regional and local projects and initiatives targeted to a designated community, which may consist of a specific geographic area or population, to increase awareness of Alzheimer's disease and other dementias, increase the rate of cognitive testing in the population at risk for dementias, promote the benefits of early diagnosis of dementias, or connect caregivers of persons with dementia to education and resources.

(b) The project areas for grants include:

(1) local or community-based initiatives to promote the benefits of physician or advanced practice registered nurse consultations for all individuals who suspect a memory or cognitive problem;

(2) local or community-based initiatives to promote the benefits of early diagnosis of Alzheimer's disease and other dementias; and

(3) local or community-based initiatives to provide informational materials and other resources to caregivers of persons with dementia.

(c) Eligible applicants for local and regional grants may include, but are not limited to, community health boards, school districts, colleges and universities, community clinics, tribal communities, nonprofit organizations, and other health care organizations.

(d) Applicants must:

(1) describe the proposed initiative, including the targeted community and how the initiative meets the requirements of this subdivision; and

(2) identify the proposed outcomes of the initiative and the evaluation process to be used to measure these outcomes.

(e) In awarding the regional and local dementia grants, the Minnesota Board on Aging must give priority to applicants who demonstrate that the proposed project:

(1) is supported by and appropriately targeted to the community the applicant serves;

(2) is designed to coordinate with other community activities related to other health initiatives, particularly those initiatives targeted at the elderly;

(3) is conducted by an applicant able to demonstrate expertise in the project areas;

(4) utilizes and enhances existing activities and resources or involves innovative approaches to achieve success in the project areas; and

(5) strengthens community relationships and partnerships in order to achieve the project areas.

(f) The board shall divide the state into specific geographic regions and allocate a percentage of the money available for the local and regional dementia grants to projects or initiatives aimed at each geographic region.

(g) The board shall award any available grants by January 1, 2016, and each July 1 thereafter.

(h) Each grant recipient shall report to the board on the progress of the initiative at least once during the grant period, and within two months of the end of the grant period shall submit a final report to the board that includes the outcome results.

(i) The Minnesota Board on Aging shall~~:~~

~~(1)~~ develop the criteria and procedures to allocate the grants under this subdivision, evaluate all applicants on a competitive basis and award the grants, and select qualified providers to offer technical assistance to grant applicants and grantees. The selected provider

shall provide applicants and grantees assistance with project design, evaluation methods, materials, and training~~; and~~.

~~(2) submit by January 15, 2017, and on each January 15 thereafter, a progress report on the dementia grants programs under this subdivision to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over health finance and policy. The report shall include:~~

~~(i) information on each grant recipient;~~

~~(ii) a summary of all projects or initiatives undertaken with each grant;~~

~~(iii) the measurable outcomes established by each grantee, an explanation of the evaluation process used to determine whether the outcomes were met, and the results of the evaluation; and~~

~~(iv) an accounting of how the grant funds were spent.~~

Sec. 13. Minnesota Statutes 2020, section 256B.0561, subdivision 4, is amended to read:

Subd. 4. **Report.** (a) By September 1, 2019, and each September 1 thereafter, the commissioner shall submit a report to the chairs and ranking minority members of the house and senate committees with jurisdiction over human services finance that includes the number of cases affected by periodic data matching under this section, the number of recipients identified as possibly ineligible as a result of a periodic data match, and the number of recipients whose eligibility was terminated as a result of a periodic data match. The report must also specify, for recipients whose eligibility was terminated, how many cases were closed due to failure to cooperate.

(b) This subdivision expires January 1, 2027.

Sec. 14. Minnesota Statutes 2020, section 256B.0911, subdivision 5, is amended to read:

Subd. 5. **Administrative activity.** (a) The commissioner shall streamline the processes, including timelines for when assessments need to be completed, required to provide the services in this section and shall implement integrated solutions to automate the business processes to the extent necessary for community support plan approval, reimbursement, program planning, evaluation, and policy development.

(b) The commissioner of human services shall work with lead agencies responsible for conducting long-term consultation services to modify the MnCHOICES application and

assessment policies to create efficiencies while ensuring federal compliance with medical assistance and long-term services and supports eligibility criteria.

(c) The commissioner shall work with lead agencies responsible for conducting long-term consultation services to develop a set of measurable benchmarks sufficient to demonstrate quarterly improvement in the average time per assessment and other mutually agreed upon measures of increasing efficiency. The commissioner shall collect data on these benchmarks and provide to the lead agencies ~~and the chairs and ranking minority members of the legislative committees with jurisdiction over human services~~ an annual trend analysis of the data in order to demonstrate the commissioner's compliance with the requirements of this subdivision.

Sec. 15. Minnesota Statutes 2020, section 256B.0949, subdivision 17, is amended to read:

Subd. 17. **Provider shortage; authority for exceptions.** (a) In consultation with the Early Intensive Developmental and Behavioral Intervention Advisory Council and stakeholders, including agencies, professionals, parents of people with ASD or a related condition, and advocacy organizations, the commissioner shall determine if a shortage of EIDBI providers exists. For the purposes of this subdivision, "shortage of EIDBI providers" means a lack of availability of providers who meet the EIDBI provider qualification requirements under subdivision 15 that results in the delay of access to timely services under this section, or that significantly impairs the ability of a provider agency to have sufficient providers to meet the requirements of this section. The commissioner shall consider geographic factors when determining the prevalence of a shortage. The commissioner may determine that a shortage exists only in a specific region of the state, multiple regions of the state, or statewide. The commissioner shall also consider the availability of various types of treatment modalities covered under this section.

(b) The commissioner, in consultation with the Early Intensive Developmental and Behavioral Intervention Advisory Council and stakeholders, must establish processes and criteria for granting an exception under this paragraph. The commissioner may grant an exception only if the exception would not compromise a person's safety and not diminish the effectiveness of the treatment. The commissioner may establish an expiration date for an exception granted under this paragraph. The commissioner may grant an exception for the following:

(1) EIDBI provider qualifications under this section;

(2) medical assistance provider enrollment requirements under section 256B.04, subdivision 21; or

(3) EIDBI provider or agency standards or requirements.

(c) If the commissioner, in consultation with the Early Intensive Developmental and Behavioral Intervention Advisory Council and stakeholders, determines that a shortage no longer exists, the commissioner must submit a notice that a shortage no longer exists to the chairs and ranking minority members of the senate and the house of representatives committees with jurisdiction over health and human services. The commissioner must post the notice for public comment for 30 days. The commissioner shall consider public comments before submitting to the legislature a request to end the shortage declaration. ~~The commissioner shall annually provide an update on the status of the provider shortage and exceptions granted to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over health and human services.~~ The commissioner shall not declare the shortage of EIDBI providers ended without direction from the legislature to declare it ended.

Sec. 16. Minnesota Statutes 2020, section 256B.493, subdivision 2, is amended to read:

Subd. 2. **Planned closure process needs determination.** A resource need determination process, managed at the state level, using available ~~reports~~ data required by section 144A.351 and other data and information shall be used by the commissioner to align capacity where needed.

Sec. 17. Minnesota Statutes 2020, section 256B.69, subdivision 9d, is amended to read:

Subd. 9d. **Financial and quality assurance audits.** (a) The commissioner shall require, in the request for bids and resulting contracts with managed care plans and county-based purchasing plans under this section and section 256B.692, that each managed care plan and county-based purchasing plan submit to and fully cooperate with the independent third-party financial audits by the legislative auditor under subdivision 9e of the information required under subdivision 9c, paragraph (b). Each contract with a managed care plan or county-based purchasing plan under this section or section 256B.692 must provide the commissioner, the legislative auditor, and vendors contracting with the legislative auditor, access to all data required to complete audits under subdivision 9e.

(b) Each managed care plan and county-based purchasing plan providing services under this section shall provide to the commissioner biweekly encounter data and claims data for state public health care programs and shall participate in a quality assurance program that verifies the timeliness, completeness, accuracy, and consistency of the data provided. The commissioner shall develop written protocols for the quality assurance program and shall

make the protocols publicly available. The commissioner shall contract for an independent third-party audit to evaluate the quality assurance protocols as to the capacity of the protocols to ensure complete and accurate data and to evaluate the commissioner's implementation of the protocols.

(c) Upon completion of the evaluation under paragraph (b), the commissioner shall provide copies of the report to the legislative auditor ~~and the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and financing~~.

(d) Any actuary under contract with the commissioner to provide actuarial services must meet the independence requirements under the professional code for fellows in the Society of Actuaries and must not have provided actuarial services to a managed care plan or county-based purchasing plan that is under contract with the commissioner pursuant to this section and section 256B.692 during the period in which the actuarial services are being provided. An actuary or actuarial firm meeting the requirements of this paragraph must certify and attest to the rates paid to the managed care plans and county-based purchasing plans under this section and section 256B.692, and the certification and attestation must be auditable.

(e) The commissioner, to the extent of available funding, shall conduct ad hoc audits of state public health care program administrative and medical expenses reported by managed care plans and county-based purchasing plans. This includes: financial and encounter data reported to the commissioner under subdivision 9c, including payments to providers and subcontractors; supporting documentation for expenditures; categorization of administrative and medical expenses; and allocation methods used to attribute administrative expenses to state public health care programs. These audits also must monitor compliance with data and financial report certification requirements established by the commissioner for the purposes of managed care capitation payment rate-setting. The managed care plans and county-based purchasing plans shall fully cooperate with the audits in this subdivision.

~~The commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 1, 2016, and each February 1 thereafter, the number of ad hoc audits conducted in the past calendar year and the results of these audits.~~

(f) Nothing in this subdivision shall allow the release of information that is nonpublic data pursuant to section 13.02.

Sec. 18. Minnesota Statutes 2020, section 256E.28, subdivision 6, is amended to read:

Subd. 6. **Evaluation.** (a) Using the outcomes established according to subdivision 3, the commissioner shall conduct a biennial evaluation of the grant program funded under this section. Grant recipients shall cooperate with the commissioner in the evaluation and shall provide the commissioner with the information needed to conduct the evaluation.

(b) The commissioner shall consult with the legislative task force on child protection during the evaluation process ~~and~~.

(c) The commissioner shall submit a biennial evaluation report to the task force and to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over child protection funding. This paragraph expires January 1, 2032.

Sec. 19. Minnesota Statutes 2020, section 256R.18, is amended to read:

**256R.18 REPORT BY COMMISSIONER OF HUMAN SERVICES.**

(a) Beginning January 1, 2019, the commissioner shall provide to the house of representatives and senate committees with jurisdiction over nursing facility payment rates a biennial report on the effectiveness of the reimbursement system in improving quality, restraining costs, and any other features of the system as determined by the commissioner.

(b) This section expires January 1, 2026.

Sec. 20. Minnesota Statutes 2020, section 257.0725, is amended to read:

**257.0725 ANNUAL REPORT.**

(a) The commissioner of human services shall publish an annual report on child maltreatment and on children in out-of-home placement. The commissioner shall confer with counties, child welfare organizations, child advocacy organizations, the courts, and other groups on how to improve the content and utility of the department's annual report. In regard to child maltreatment, the report shall include the number and kinds of maltreatment reports received and any other data that the commissioner determines is appropriate to include in a report on child maltreatment. In regard to children in out-of-home placement, the report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in placement, reason for most recent placement, race of family with whom placed, school enrollments within seven days of placement pursuant to section 120A.21, and other information deemed appropriate on all

children in out-of-home placement. Out-of-home placement includes placement in any facility by an authorized child-placing agency.

(b) This section expires January 1, 2032.

Sec. 21. Minnesota Statutes 2020, section 260.775, is amended to read:

**260.775 PLACEMENT RECORDS.**

(a) The commissioner of human services shall publish annually an inventory of all Indian children in residential facilities. The inventory shall include, by county and statewide, information on legal status, living arrangement, age, sex, tribe in which the child is a member or eligible for membership, accumulated length of time in foster care, and other demographic information deemed appropriate concerning all Indian children in residential facilities. The report must also state the extent to which authorized child-placing agencies comply with the order of preference described in United States Code, title 25, section 1901, et seq. The commissioner shall include the information required under this paragraph in the annual report on child maltreatment and on children in out-of-home placement under section 257.0725.

(b) This section expires January 1, 2032.

Sec. 22. Minnesota Statutes 2020, section 260E.24, subdivision 6, is amended to read:

Subd. 6. **Required referral to early intervention services.** (a) A child under age three who is involved in a substantiated case of maltreatment shall be referred for screening under the Individuals with Disabilities Education Act, part C. Parents must be informed that the evaluation and acceptance of services are voluntary. The commissioner of human services shall monitor referral rates by county ~~and annually report the information to the legislature~~. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

(b) The commissioner of human services shall include the referral rates by county for screening under the Individuals with Disabilities Education Act, part C in the annual report on child maltreatment under section 257.0725. This paragraph expires January 1, 2032.

Sec. 23. Minnesota Statutes 2020, section 260E.38, subdivision 3, is amended to read:

Subd. 3. **Report required.** (a) The commissioner shall produce an annual report of the summary results of the reviews. The report must only contain aggregate data and may not include any data that could be used to personally identify any subject whose data is included

in the report. The report is public information and must be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over child protection issues. The commissioner shall include the information required under this paragraph in the annual report on child maltreatment and on children in out-of-home placement under section 257.0725.

(b) This subdivision expires January 1, 2032.

Sec. 24. Minnesota Statutes 2020, section 518A.77, is amended to read:

**518A.77 GUIDELINES REVIEW.**

(a) No later than 2006 and every four years after that, the Department of Human Services must conduct a review of the child support guidelines.

(b) This section expires January 1, 2032.

Sec. 25. Minnesota Statutes 2020, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead investigative agency; and

(ix) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) After the assessment or investigation is completed, the name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

(e) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations.

~~On a biennial basis, the commissioners of health and human services shall jointly report the following information to the legislature and the governor:~~

~~(1) the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigations under this section, the resolution of those investigations, and which of the two lead agencies was responsible;~~

~~(2) trends about types of substantiated maltreatment found in the reporting period;~~

~~(3) if there are upward trends for types of maltreatment substantiated, recommendations for addressing and responding to them;~~

~~(4) efforts undertaken or recommended to improve the protection of vulnerable adults;~~

~~(5) whether and where backlogs of cases result in a failure to conform with statutory time frames and recommendations for reducing backlogs if applicable;~~

~~(6) recommended changes to statutes affecting the protection of vulnerable adults; and~~

~~(7) any other information that is relevant to the report trends and findings.~~

(f) Each lead investigative agency must have a record retention policy.

(g) Lead investigative agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority

requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

(h) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead investigative agency may notify other affected parties and their authorized representative if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 26. Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended by Laws 2009, chapter 173, article 2, section 1, subdivision 10, is amended to read:

Subd. 10. **State-Operated Services**

The amounts that may be spent from the appropriation for each purpose are as follows:

**Transfer Authority Related to State-Operated Services.** Money appropriated to finance state-operated services may be transferred between the fiscal years of the biennium with the approval of the commissioner of finance.

**County Past Due Receivables.** The commissioner is authorized to withhold county federal administrative reimbursement when

the county of financial responsibility for cost-of-care payments due the state under Minnesota Statutes, section 246.54 or 253B.045, is 90 days past due. The commissioner shall deposit the withheld federal administrative earnings for the county into the general fund to settle the claims with the county of financial responsibility. The process for withholding funds is governed by Minnesota Statutes, section 256.017.

**~~Forecast and Census Data.~~** ~~The commissioner shall include census data and fiscal projections for state-operated services and Minnesota sex offender services with the November and February budget forecasts. Notwithstanding any contrary provision in this article, this paragraph shall not expire~~.

| | | |
|---|---|---|
| **(a) Adult Mental Health Services** | 106,702,000 | 107,201,000 |

**Appropriation Limitation.** No part of the appropriation in this article to the commissioner for mental health treatment services provided by state-operated services shall be used for the Minnesota sex offender program.

**Community Behavioral Health Hospitals.** Under Minnesota Statutes, section 246.51, subdivision 1, a determination order for the clients served in a community behavioral health hospital operated by the commissioner of human services is only required when a client's third-party coverage has been exhausted.

**Base Adjustment.** The general fund base is decreased by $500,000 for fiscal year 2012 and by $500,000 for fiscal year 2013.

**(b) Minnesota Sex Offender Services**

| | Appropriations by Fund | |
|---|---|---|
| General | 38,348,000 | 67,503,000 |
| Federal Fund | 26,495,000 | 0 |

**Use of Federal Stabilization Funds.** Of this appropriation, $26,495,000 in fiscal year 2010 is from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

**(c) Minnesota Security Hospital and METO Services**

| | Appropriations by Fund | |
|---|---|---|
| General | 230,000 | 83,735,000 |
| Federal Fund | 83,505,000 | 0 |

**Minnesota Security Hospital.** For the purposes of enhancing the safety of the public, improving supervision, and enhancing community-based mental health treatment, state-operated services may establish additional community capacity for providing treatment and supervision of clients who have been ordered into a less restrictive alternative of care from the state-operated services transitional services program consistent with Minnesota Statutes, section 246.014.

**Use of Federal Stabilization Funds.** $83,505,000 in fiscal year 2010 is appropriated from the fiscal stabilization account in the federal fund to the commissioner. This

appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

Sec. 27. **REPEALER.**

(a) Minnesota Statutes 2020, sections 245.981; 246.131; 246B.03, subdivision 2; 246B.035; 256.01, subdivision 31; 256.975, subdivision 12; and 256B.0638, subdivision 7, are repealed.

(b) Laws 1998, chapter 382, article 1, section 23, is repealed.

**169A.70 ALCOHOL SAFETY PROGRAMS; CHEMICAL USE ASSESSMENTS.**

Subd. 6. **Method of assessment.** (a) As used in this subdivision, "collateral contact" means an oral or written communication initiated by an assessor for the purpose of gathering information from an individual or agency, other than the offender, to verify or supplement information provided by the offender during an assessment under this section. The term includes contacts with family members and criminal justice agencies.

(b) An assessment conducted under this section must include at least one personal interview with the offender designed to make a determination about the extent of the offender's past and present chemical and alcohol use or abuse. It must also include collateral contacts and a review of relevant records or reports regarding the offender including, but not limited to, police reports, arrest reports, driving records, chemical testing records, and test refusal records. If the offender has a probation officer, the officer must be the subject of a collateral contact under this subdivision. If an assessor is unable to make collateral contacts, the assessor shall specify why collateral contacts were not made.

**245.981 COMPULSIVE GAMBLING ANNUAL REPORT.**

(a) Each year by February 15, 2014, and thereafter, the commissioner of human services shall report to the chairs and ranking minority members of the legislative committees having jurisdiction over compulsive gambling on the percentage of gambling revenues that come from gamblers identified as problem gamblers, or a similarly defined term, as defined by the National Council on Problem Gambling. The report must disaggregate the revenue by the various types of gambling, including, but not limited to: lottery; electronic and paper pull-tabs; bingo; linked bingo; and pari-mutuel betting.

(b) By February 15, 2013, the commissioner shall provide a preliminary update for the report required under paragraph (a) to the chairs and ranking minority members of the legislative committees having jurisdiction over compulsive gambling and the estimated cost of the full report.

**245G.22 OPIOID TREATMENT PROGRAMS.**

Subd. 19. **Placing authorities.** A program must provide certain notification and client-specific updates to placing authorities for a client who is enrolled in Minnesota health care programs. At the request of the placing authority, the program must provide client-specific updates, including but not limited to informing the placing authority of positive drug testings and changes in medications used for the treatment of opioid use disorder ordered for the client.

**246.0136 ESTABLISHING ENTERPRISE ACTIVITIES IN STATE-OPERATED SERVICES.**

Subdivision 1. **Planning for enterprise activities.** The commissioner of human services is directed to study and make recommendations to the legislature on establishing enterprise activities within state-operated services. Before implementing an enterprise activity, the commissioner must obtain statutory authorization for its implementation, except that the commissioner has authority to implement enterprise activities for adult mental health, adolescent services, and to establish a public group practice without statutory authorization. Enterprise activities are defined as the range of services, which are delivered by state employees, needed by people with disabilities and are fully funded by public or private third-party health insurance or other revenue sources available to clients that provide reimbursement for the services provided. Enterprise activities within state-operated services shall specialize in caring for vulnerable people for whom no other providers are available or for whom state-operated services may be the provider selected by the payer. In subsequent biennia after an enterprise activity is established within a state-operated service, the base state appropriation for that state-operated service shall be reduced proportionate to the size of the enterprise activity.

Subd. 2. **Required components of any proposal; considerations.** In any proposal for an enterprise activity brought to the legislature by the commissioner, the commissioner must demonstrate that there is public or private third-party health insurance or other revenue available to the people served, that the anticipated revenues to be collected will fully fund the services, that there will be sufficient funds for cash flow purposes, and that access to services by vulnerable populations served by state-operated services will not be limited by implementation of an enterprise activity. In studying the feasibility of establishing an enterprise activity, the commissioner must consider:

(1) creating public or private partnerships to facilitate client access to needed services;

(2) administrative simplification and efficiencies throughout the state-operated services system;

(3) converting or disposing of buildings not utilized and surplus lands; and

(4) exploring the efficiencies and benefits of establishing state-operated services as an independent state agency.

**246.131 REPORT ON ANOKA-METRO REGIONAL TREATMENT CENTER (AMRTC), MINNESOTA SECURITY HOSPITAL (MSH), AND COMMUNITY BEHAVIORAL HEALTH HOSPITALS (CBHH).**

The commissioner of human services shall issue a public quarterly report to the chairs and ranking minority leaders of the senate and house of representatives committees having jurisdiction over health and human services issues on the AMRTC, MSH, and CBHH. The report shall contain information on the number of licensed beds, budgeted capacity, occupancy rate, number of Occupational Safety and Health Administration (OSHA) recordable injuries and the number of OSHA recordable injuries due to patient aggression or restraint, number of clinical positions budgeted, the percentage of those positions that are filled, the number of direct care positions budgeted, and the percentage of those positions that are filled.

**246B.03 LICENSURE, EVALUATION, AND GRIEVANCE RESOLUTION.**

Subd. 2. **Minnesota Sex Offender Program evaluation.** (a) The commissioner shall contract with national sex offender experts to evaluate the sex offender treatment program. The consultant group shall consist of four national experts, including:

(1) three experts who are licensed psychologists, psychiatrists, clinical therapists, or other mental health treatment providers with established and recognized training and experience in the assessment and treatment of sexual offenders; and

(2) one nontreatment professional with relevant training and experience regarding the oversight or licensing of sex offender treatment programs or other relevant mental health treatment programs.

(b) These experts shall, in consultation with the executive clinical director of the sex offender treatment program:

(1) review and identify relevant information and evidence-based best practices and methodologies for effectively assessing, diagnosing, and treating civilly committed sex offenders;

(2) on at least an annual basis, complete a site visit and comprehensive program evaluation that may include a review of program policies and procedures to determine the program's level of compliance, address specific areas of concern brought to the panel's attention by the executive clinical director or executive director, offer recommendations, and complete a written report of its findings to the executive director and clinical director; and

(3) in addition to the annual site visit and review, provide advice, input, and assistance as requested by the executive clinical director or executive director.

(c) The commissioner or commissioner's designee shall enter into contracts as necessary to fulfill the responsibilities under this subdivision.

**246B.035 ANNUAL PERFORMANCE REPORT REQUIRED.**

The executive director of the Minnesota Sex Offender Program shall submit electronically a performance report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over funding for the program by February 15 of each year beginning in 2017. The report must include the following:

(1) a description of the program, including the strategic mission, goals, objectives, and outcomes;

(2) the programwide per diem reported in a standard calculated method as outlined in the program policies and procedures;

(3) program annual statistics as outlined in the departmental policies and procedures; and

(4) the sex offender program evaluation report required under section 246B.03. The executive director shall submit a printed copy upon request.

**252.025 STATE HOSPITALS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.**

Subd. 7. **Minnesota extended treatment options.** The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety. This program is statewide and must provide specialized residential services in Cambridge and an array of

community-based services with sufficient levels of care and a sufficient number of specialists to ensure that individuals referred to the program receive the appropriate care. The individuals working in the community-based services under this section are state employees supervised by the commissioner of human services. No layoffs shall occur as a result of restructuring under this section.

**252.035 REGIONAL TREATMENT CENTER CATCHMENT AREAS.**

The commissioner may administratively designate catchment areas for regional treatment centers and state nursing homes. Catchment areas may vary by client group served. Catchment areas in effect on January 1, 1989, may not be modified until the commissioner has consulted with the regional planning committees of the affected regional treatment centers.

**254A.02 DEFINITIONS.**

Subd. 8a. **Placing authority.** "Placing authority" means a county, prepaid health plan, or tribal governing board governed by Minnesota Rules, parts 9530.6600 to 9530.6655.

**254A.04 CITIZENS ADVISORY COUNCIL.**

There is hereby created an Alcohol and Other Drug Abuse Advisory Council to advise the Department of Human Services concerning the problems of substance misuse and substance use disorder, composed of ten members. Five members shall be individuals whose interests or training are in the field of alcohol-specific substance use disorder and alcohol misuse; and five members whose interests or training are in the field of substance use disorder and misuse of substances other than alcohol. The terms, compensation and removal of members shall be as provided in section 15.059. The council expires June 30, 2018. The commissioner of human services shall appoint members whose terms end in even-numbered years. The commissioner of health shall appoint members whose terms end in odd-numbered years.

**254A.16 RESPONSIBILITIES OF THE COMMISSIONER.**

Subd. 6. **Monitoring.** The commissioner shall gather and placing authorities shall provide information to measure compliance with Minnesota Rules, parts 9530.6600 to 9530.6655. The commissioner shall specify the format for data collection to facilitate tracking, aggregating, and using the information.

**254A.19 CHEMICAL USE ASSESSMENTS.**

Subd. 1a. **Emergency room patients.** A county may enter into a contract with a hospital to provide chemical use assessments under Minnesota Rules, parts 9530.6600 to 9530.6655, for patients admitted to an emergency room or inpatient hospital when:

(1) an assessor is not available; and

(2) detoxification services in the county are at full capacity.

Subd. 2. **Probation officer as contact.** When a chemical use assessment is required under Minnesota Rules, parts 9530.6600 to 9530.6655, for a person who is on probation or under other correctional supervision, the assessor, either orally or in writing, shall contact the person's probation officer to verify or supplement the information provided by the person.

Subd. 5. **Assessment via telehealth.** Notwithstanding Minnesota Rules, part 9530.6615, subpart 3, item A, a chemical use assessment may be conducted via telehealth as defined in section 256B.0625, subdivision 3b.

**254B.04 ELIGIBILITY FOR BEHAVIORAL HEALTH FUND SERVICES.**

Subd. 2b. **Eligibility for placement in opioid treatment programs.** Prior to placement of an individual who is determined by the assessor to require treatment for opioid addiction, the assessor must provide educational information concerning treatment options for opioid addiction, including the use of a medication for the use of opioid addiction. The commissioner shall develop educational materials supported by research and updated periodically that must be used by assessors to comply with this requirement.

Subd. 2c. **Eligibility to receive peer recovery support and treatment service coordination.** Notwithstanding Minnesota Rules, part 9530.6620, subpart 6, a placing authority may authorize peer recovery support and treatment service coordination for a person who scores a severity of one or more in dimension 4, 5, or 6, under Minnesota Rules, part 9530.6622. Authorization for peer recovery support and treatment service coordination under this subdivision does not need

to be provided in conjunction with treatment services under Minnesota Rules, part 9530.6622, subpart 4, 5, or 6.

**254B.041 CHEMICAL DEPENDENCY RULES.**

Subd. 2. **Vendor collections; rule amendment.** The commissioner may amend Minnesota Rules, parts 9530.7000 to 9530.7025, to require a vendor of chemical dependency transitional and extended care rehabilitation services to collect the cost of care received under a program from an eligible person who has been determined to be partially responsible for treatment costs, and to remit the collections to the commissioner. The commissioner shall pay to a vendor, for the collections, an amount equal to five percent of the collections remitted to the commissioner by the vendor.

**254B.14 CONTINUUM OF CARE PILOT PROJECTS; CHEMICAL HEALTH CARE.**

Subdivision 1. **Authorization for continuum of care pilot projects.** The commissioner shall establish chemical dependency continuum of care pilot projects to begin implementing the measures developed with stakeholder input and identified in the report completed pursuant to Laws 2012, chapter 247, article 5, section 8. The pilot projects are intended to improve the effectiveness and efficiency of the service continuum for chemically dependent individuals in Minnesota while reducing duplication of efforts and promoting scientifically supported practices.

Subd. 2. **Program implementation.** (a) The commissioner, in coordination with representatives of the Minnesota Association of County Social Service Administrators and the Minnesota Inter-County Association, shall develop a process for identifying and selecting interested counties and providers for participation in the continuum of care pilot projects. There shall be three pilot projects: one representing the northern region, one for the metro region, and one for the southern region. The selection process of counties and providers must include consideration of population size, geographic distribution, cultural and racial demographics, and provider accessibility. The commissioner shall identify counties and providers that are selected for participation in the continuum of care pilot projects no later than September 30, 2013.

(b) The commissioner and entities participating in the continuum of care pilot projects shall enter into agreements governing the operation of the continuum of care pilot projects. The agreements shall identify pilot project outcomes and include timelines for implementation and beginning operation of the pilot projects.

(c) Entities that are currently participating in the navigator pilot project are eligible to participate in the continuum of care pilot project subsequent to or instead of participating in the navigator pilot project.

(d) The commissioner may waive administrative rule requirements that are incompatible with implementation of the continuum of care pilot projects.

(e) Notwithstanding section 254A.19, the commissioner may designate noncounty entities to complete chemical use assessments and placement authorizations required under section 254A.19 and Minnesota Rules, parts 9530.6600 to 9530.6655. Section 254A.19, subdivision 3, is applicable to the continuum of care pilot projects at the discretion of the commissioner.

Subd. 3. **Program design.** (a) The operation of the pilot projects shall include:

(1) new services that are responsive to the chronic nature of substance use disorder;

(2) telehealth services, when appropriate to address barriers to services;

(3) services that assure integration with the mental health delivery system when appropriate;

(4) services that address the needs of diverse populations; and

(5) an assessment and access process that permits clients to present directly to a service provider for a substance use disorder assessment and authorization of services.

(b) Prior to implementation of the continuum of care pilot projects, a utilization review process must be developed and agreed to by the commissioner, participating counties, and providers. The utilization review process shall be described in the agreements governing operation of the continuum of care pilot projects.

Subd. 4. **Notice of project discontinuation.** Each entity's participation in the continuum of care pilot project may be discontinued for any reason by the county or the commissioner after 30 days' written notice to the entity.

Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this chapter, the commissioner may authorize the behavioral health fund to pay for nontreatment services arranged by continuum of care pilot projects. Individuals who are currently accessing Rule 31 treatment services are eligible for concurrent participation in the continuum of care pilot projects.

(b) County expenditures for continuum of care pilot project services shall not be greater than their expected share of forecasted expenditures in the absence of the continuum of care pilot projects.

Subd. 6. **Managed care.** An individual who is eligible for the continuum of care pilot project is excluded from mandatory enrollment in managed care unless these services are included in the health plan's benefit set.

**256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.**

Subd. 31. **Consumer satisfaction; human services.** (a) The commissioner of human services shall submit a memorandum each year to the governor and the chairs of the house of representatives and senate standing committees with jurisdiction over the department's programs that provides the following information:

(1) the number of calls made to each of the department's help lines by consumers and citizens regarding the services provided by the department;

(2) the program area related to the call;

(3) the number of calls resolved at the department;

(4) the number of calls that were referred to a county agency for resolution;

(5) the number of calls that were referred elsewhere for resolution;

(6) the number of calls that remain open; and

(7) the number of calls that were without merit.

(b) The initial memorandum shall be submitted no later than February 15, 2012, with subsequent memoranda submitted no later than February 15 each following year.

(c) The commissioner shall publish the annual memorandum on the department's website each year no later than March 1.

**256.975 MINNESOTA BOARD ON AGING.**

Subd. 12. **Self-directed caregiver grants.** The Minnesota Board on Aging shall, in consultation with area agencies on aging and other community caregiver stakeholders, administer self-directed caregiver grants to support at-risk family caregivers of older adults or others eligible under the Older Americans Act of 1965, United States Code, title 42, chapter 35, sections 3001 to 3058ff, to sustain family caregivers in the caregivers' roles so older adults can remain at home longer. The board shall submit by January 15, 2022, and each January 15 thereafter, a progress report on the self-directed caregiver grants program to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over human services. The progress report must include metrics on the use of the grant program.

**256B.0638 OPIOID PRESCRIBING IMPROVEMENT PROGRAM.**

Subd. 7. **Annual report to legislature.** By September 15, 2016, and annually thereafter, the commissioner of human services shall report to the legislature on the implementation of the opioid prescribing improvement program in the Minnesota health care programs. The report must include data on the utilization of opioids within the Minnesota health care programs.

**256B.0943 CHILDREN'S THERAPEUTIC SERVICES AND SUPPORTS.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871, subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision 20. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

(c) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

(d) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(e) "Day treatment program" for children means a site-based structured mental health program consisting of psychotherapy for three or more individuals and individual or group skills training provided by a team, under the treatment supervision of a mental health professional.

(f) "Standard diagnostic assessment" means the assessment described in 245I.10, subdivision 6.

(g) "Direct service time" means the time that a mental health professional, clinical trainee, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family or providing covered services through telehealth as defined under section 256B.0625, subdivision 3b. Direct service time includes time in which the provider obtains a client's history, develops a client's treatment plan, records individual treatment outcomes, or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling or maintaining clinical records.

(h) "Direction of mental health behavioral aide" means the activities of a mental health professional, clinical trainee, or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individual treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (7).

(i) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15.

(j) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or a clinical trainee or mental health practitioner under the treatment supervision of a mental health professional, to guide the work of the mental health behavioral aide. The individual behavioral plan may be incorporated into the child's individual treatment plan so long as the behavioral plan is separately communicable to the mental health behavioral aide.

(k) "Individual treatment plan" means the plan described in section 245I.10, subdivisions 7 and 8.

(l) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a mental health behavioral aide qualified according to section 245I.04, subdivision 16, to assist a child retain or generalize psychosocial skills as previously trained by a mental health professional, clinical trainee, or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 9, paragraph (b), clause (4).

(m) "Mental health certified family peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 12.

(n) "Mental health practitioner" means a staff person who is qualified according to section 245I.04, subdivision 4.

(o) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(p) "Mental health service plan development" includes:

(1) the development, review, and revision of a child's individual treatment plan, including involvement of the client or client's parents, primary caregiver, or other person authorized to consent to mental health services for the client, and including arrangement of treatment and support activities specified in the individual treatment plan; and

(2) administering and reporting the standardized outcome measurements in section 245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome measurements approved by the commissioner, as periodically needed to evaluate the effectiveness of treatment.

(q) "Mental illness," for persons at least age 18 but under age 21, has the meaning given in section 245.462, subdivision 20, paragraph (a).

(r) "Psychotherapy" means the treatment described in section 256B.0671, subdivision 11.

(s) "Rehabilitative services" or "psychiatric rehabilitation services" means interventions to: (1) restore a child or adolescent to an age-appropriate developmental trajectory that had been disrupted by a psychiatric illness; or (2) enable the child to self-monitor, compensate for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Psychiatric rehabilitation services for children combine coordinated psychotherapy to address internal psychological, emotional, and intellectual processing deficits, and skills training to restore personal and social functioning. Psychiatric rehabilitation services establish a progressive series of goals with each achievement building upon a prior achievement.

(t) "Skills training" means individual, family, or group training, delivered by or under the supervision of a mental health professional, designed to facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness or to enable the child to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the service delivery requirements under subdivision 9, paragraph (b), clause (2).

(u) "Treatment supervision" means the supervision described in section 245I.06.

Subd. 2. **Covered service components of children's therapeutic services and supports.** (a) Subject to federal approval, medical assistance covers medically necessary children's therapeutic services and supports when the services are provided by an eligible provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(b) The service components of children's therapeutic services and supports are:

(1) patient and/or family psychotherapy, family psychotherapy, psychotherapy for crisis, and group psychotherapy;

(2) individual, family, or group skills training provided by a mental health professional, clinical trainee, or mental health practitioner;

(3) crisis planning;

(4) mental health behavioral aide services;

(5) direction of a mental health behavioral aide;

(6) mental health service plan development; and

(7) children's day treatment.

Subd. 3. **Determination of client eligibility.** (a) A client's eligibility to receive children's therapeutic services and supports under this section shall be determined based on a standard diagnostic assessment by a mental health professional or a clinical trainee that is performed within one year before the initial start of service. The standard diagnostic assessment must:

(1) determine whether a child under age 18 has a diagnosis of emotional disturbance or, if the person is between the ages of 18 and 21, whether the person has a mental illness;

(2) document children's therapeutic services and supports as medically necessary to address an identified disability, functional impairment, and the individual client's needs and goals; and

(3) be used in the development of the individual treatment plan.

(b) Notwithstanding paragraph (a), a client may be determined to be eligible for up to five days of day treatment under this section based on a hospital's medical history and presentation examination of the client.

Subd. 4. **Provider entity certification.** (a) The commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. A provider entity must be certified for the three core rehabilitation services of psychotherapy, skills training, and crisis planning. The commissioner shall recertify a provider entity at least every three years. The commissioner shall establish a process for decertification of a provider entity and shall require corrective action, medical assistance repayment, or decertification of a provider entity that no longer meets the requirements in this section or that fails to meet the clinical quality standards or administrative standards provided by the commissioner in the application and certification process.

(b) For purposes of this section, a provider entity must meet the standards in this section and chapter 245I, as required under section 245I.011, subdivision 5, and be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

(2) a county-operated entity certified by the state; or

(3) a noncounty entity certified by the state.

Subd. 5. **Provider entity administrative infrastructure requirements.** (a) An eligible provider entity shall demonstrate the availability, by means of employment or contract, of at least one backup mental health professional in the event of the primary mental health professional's absence.

(b) In addition to the policies and procedures required under section 245I.03, the policies and procedures must include:

(1) fiscal procedures, including internal fiscal control practices and a process for collecting revenue that is compliant with federal and state laws; and

(2) a client-specific treatment outcomes measurement system, including baseline measures, to measure a client's progress toward achieving mental health rehabilitation goals.

(c) A provider entity that uses a restrictive procedure with a client must meet the requirements of section 245.8261.

Subd. 5a. **Background studies.** The requirements for background studies under section 245I.011, subdivision 4, paragraph (d), may be met by a children's therapeutic services and supports services agency through the commissioner's NETStudy system as provided under sections 245C.03, subdivision 7, and 245C.10, subdivision 8.

Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, individual treatment plans, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review, and update as necessary, the clinical policies and procedures every three years, must distribute the policies and procedures to staff initially and upon each subsequent update, and must train staff accordingly.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for meeting the requirements in this subdivision:

(1) providing or obtaining a client's standard diagnostic assessment, including a standard diagnostic assessment. When required components of the standard diagnostic assessment are not provided in an outside or independent assessment or cannot be attained immediately, the provider entity must determine the missing information within 30 days and amend the child's standard diagnostic assessment or incorporate the information into the child's individual treatment plan;

(2) developing an individual treatment plan;

(3) developing an individual behavior plan that documents and describes interventions to be provided by the mental health behavioral aide. The individual behavior plan must include:

(i) detailed instructions on the psychosocial skills to be practiced;

(ii) time allocated to each intervention;

(iii) methods of documenting the child's behavior;

(iv) methods of monitoring the child's progress in reaching objectives; and

(v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) providing treatment supervision plans for staff according to section 245I.06. Treatment supervision does not include the authority to make or terminate court-ordered placements of the child. A treatment supervisor must be available for urgent consultation as required by the individual client's needs or the situation;

(5) meeting day treatment program conditions in items (i) and (ii):

(i) the treatment supervisor must be present and available on the premises more than 50 percent of the time in a provider's standard working week during which the supervisee is providing a mental health service; and

(ii) every 30 days, the treatment supervisor must review and sign the record indicating the supervisor has reviewed the client's care for all activities in the preceding 30-day period;

(6) meeting the treatment supervision standards in items (i) and (ii) for all other services provided under CTSS:

(i) the mental health professional is required to be present at the site of service delivery for observation as clinically appropriate when the clinical trainee, mental health practitioner, or mental health behavioral aide is providing CTSS services; and

(ii) when conducted, the on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;

(7) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the treatment supervisor must be employed by the provider entity or other provider certified to provide mental health behavioral aide services to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The staff giving direction must begin with the goals on the individual treatment plan, and instruct the mental health behavioral aide on how to implement therapeutic activities and interventions that will lead to goal attainment. The staff giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain or demonstrate the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the staff providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individual treatment plan and the individual behavior plan. When providing direction, the staff must:

(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the staff must approve and sign the progress notes;

(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;

(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider;

(v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide; and

(vi) ensure the immediate accessibility of a mental health professional, clinical trainee, or mental health practitioner to the behavioral aide during service delivery;

(8) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(9) individual treatment plan review. The review must determine the extent to which the services have met each of the goals and objectives in the treatment plan. The review must assess the client's

progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family.

Subd. 7. **Qualifications of individual and team providers.** (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider must be qualified as a:

(1) mental health professional;

(2) clinical trainee;

(3) mental health practitioner;

(4) mental health certified family peer specialist; or

(5) mental health behavioral aide.

(c) A day treatment team must include at least one mental health professional or clinical trainee and one mental health practitioner.

Subd. 8. **Required preservice and continuing education.** (a) A provider entity shall establish a plan to provide preservice and continuing education for staff. The plan must clearly describe the type of training necessary to maintain current skills and obtain new skills and that relates to the provider entity's goals and objectives for services offered.

(b) A provider that employs a mental health behavioral aide under this section must require the mental health behavioral aide to complete 30 hours of preservice training. The preservice training must include parent team training. The preservice training must include 15 hours of in-person training of a mental health behavioral aide in mental health services delivery and eight hours of parent team training. Curricula for parent team training must be approved in advance by the commissioner. Components of parent team training include:

(1) partnering with parents;

(2) fundamentals of family support;

(3) fundamentals of policy and decision making;

(4) defining equal partnership;

(5) complexities of the parent and service provider partnership in multiple service delivery systems due to system strengths and weaknesses;

(6) sibling impacts;

(7) support networks; and

(8) community resources.

(c) A provider entity that employs a mental health practitioner and a mental health behavioral aide to provide children's therapeutic services and supports under this section must require the mental health practitioner and mental health behavioral aide to complete 20 hours of continuing education every two calendar years. The continuing education must be related to serving the needs of a child with emotional disturbance in the child's home environment and the child's family.

(d) The provider entity must document the mental health practitioner's or mental health behavioral aide's annual completion of the required continuing education. The documentation must include the date, subject, and number of hours of the continuing education, and attendance records, as verified by the staff member's signature, job title, and the instructor's name. The provider entity must keep documentation for each employee, including records of attendance at professional workshops and conferences, at a central location and in the employee's personnel file.

Subd. 8a. **Level II mental health behavioral aide.** The commissioner of human services, in collaboration with children's mental health providers and the Board of Trustees of the Minnesota State Colleges and Universities, shall develop a certificate program for level II mental health behavioral aides.

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) the provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan; and

(3) a day treatment program is provided to a group of clients by a team under the treatment supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; or (iii) an entity that is certified under subdivision 4 to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available year-round at least three to five days per week, two or three hours per day, unless the normal five-day school week is shortened by a holiday, weather-related cancellation, or other districtwide reduction in a school week. A child transitioning into or out of day treatment must receive a minimum treatment of one day a week for a two-hour time block. The two-hour time block must include at least one hour of patient and/or family or group psychotherapy. The remainder of the structured treatment program may include patient and/or family or group psychotherapy, and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. When a day treatment group that meets the minimum group size requirement temporarily falls below the minimum group size because of a member's temporary absence, medical assistance covers a group session conducted for the group members in attendance. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.

(b) To be eligible for medical assistance payment, a provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) psychotherapy to address the child's underlying mental health disorder must be documented as part of the child's ongoing treatment. A provider must deliver, or arrange for, medically necessary psychotherapy, unless the child's parent or caregiver chooses not to receive it. When a provider delivering other services to a child under this section deems it not medically necessary to provide psychotherapy to the child for a period of 90 days or longer, the provider entity must document the medical reasons why psychotherapy is not necessary. When a provider determines that a child needs psychotherapy but psychotherapy cannot be delivered due to a shortage of licensed mental health professionals in the child's community, the provider must document the lack of access in the child's medical record;

(2) individual, family, or group skills training is subject to the following requirements:

(i) a mental health professional, clinical trainee, or mental health practitioner shall provide skills training;

(ii) skills training delivered to a child or the child's family must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

(iii) the mental health professional delivering or supervising the delivery of skills training must document any underlying psychiatric condition and must document how skills training is being used in conjunction with psychotherapy to address the underlying condition;

(iv) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development, to help the child utilize daily life skills taught by a mental health professional, clinical trainee, or mental health practitioner, and to develop or maintain a home environment that supports the child's progressive use of skills;

(v) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(A) one mental health professional, clinical trainee, or mental health practitioner must work with a group of three to eight clients; or

(B) any combination of two mental health professionals, clinical trainees, or mental health practitioners must work with a group of nine to 12 clients;

(vi) a mental health professional, clinical trainee, or mental health practitioner must have taught the psychosocial skill before a mental health behavioral aide may practice that skill with the client; and

(vii) for group skills training, when a skills group that meets the minimum group size requirement temporarily falls below the minimum group size because of a group member's temporary absence, the provider may conduct the session for the group members in attendance;

(3) crisis planning to a child and family must include development of a written plan that anticipates the particular factors specific to the child that may precipitate a psychiatric crisis for the child in the near future. The written plan must document actions that the family should be prepared to take to resolve or stabilize a crisis, such as advance arrangements for direct intervention and support services to the child and the child's family. Crisis planning must include preparing resources designed to address abrupt or substantial changes in the functioning of the child or the child's family when sudden change in behavior or a loss of usual coping mechanisms is observed, or the child begins to present a danger to self or others;

(4) mental health behavioral aide services must be medically necessary treatment services, identified in the child's individual treatment plan and individual behavior plan, and which are designed to improve the functioning of the child in the progressive use of developmentally appropriate psychosocial skills. Activities involve working directly with the child, child-peer groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph (t), as previously taught by a mental health professional, clinical trainee, or mental health practitioner including:

(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions so that the child progressively recognizes and responds to the cues independently;

(ii) performing as a practice partner or role-play partner;

(iii) reinforcing the child's accomplishments;

(iv) generalizing skill-building activities in the child's multiple natural settings;

(v) assigning further practice activities; and

(vi) intervening as necessary to redirect the child's target behavior and to de-escalate behavior that puts the child or other person at risk of injury.

To be eligible for medical assistance payment, mental health behavioral aide services must be delivered to a child who has been diagnosed with an emotional disturbance or a mental illness, as provided in subdivision 1, paragraph (a). The mental health behavioral aide must implement treatment strategies in the individual treatment plan and the individual behavior plan as developed by the mental health professional, clinical trainee, or mental health practitioner providing direction for the mental health behavioral aide. The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment strategies, as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and

(5) mental health service plan development must be performed in consultation with the child's family and, when appropriate, with other key participants in the child's life by the child's treating mental health professional or clinical trainee or by a mental health practitioner and approved by the treating mental health professional. Treatment plan drafting consists of development, review, and revision by face-to-face or electronic communication. The provider must document events, including the time spent with the family and other key participants in the child's life to approve the individual treatment plan. Medical assistance covers service plan development before completion of the child's individual treatment plan. Service plan development is covered only if a treatment plan is completed for the child. If upon review it is determined that a treatment plan was not completed for the child, the commissioner shall recover the payment for the service plan development.

Subd. 10. **Service authorization.** Children's therapeutic services and supports are subject to authorization criteria and standards published by the commissioner according to section 256B.0625, subdivision 25.

Subd. 11. **Documentation and billing.** A provider entity must document the services it provides under this section. The provider entity must ensure that documentation complies with Minnesota Rules, parts 9505.2175 and 9505.2197. Services billed under this section that are not documented according to this subdivision shall be subject to monetary recovery by the commissioner. Billing for covered service components under subdivision 2, paragraph (b), must not include anything other than direct service time.

Subd. 12. **Excluded services.** The following services are not eligible for medical assistance payment as children's therapeutic services and supports:

(1) service components of children's therapeutic services and supports simultaneously provided by more than one provider entity unless prior authorization is obtained;

(2) treatment by multiple providers within the same agency at the same clock time;

(3) children's therapeutic services and supports provided in violation of medical assistance policy in Minnesota Rules, part 9505.0220;

(4) mental health behavioral aide services provided by a personal care assistant who is not qualified as a mental health behavioral aide and employed by a certified children's therapeutic services and supports provider entity;

(5) service components of CTSS that are the responsibility of a residential or program license holder, including foster care providers under the terms of a service agreement or administrative rules governing licensure; and

(6) adjunctive activities that may be offered by a provider entity but are not otherwise covered by medical assistance, including:

(i) a service that is primarily recreation oriented or that is provided in a setting that is not medically supervised. This includes sports activities, exercise groups, activities such as craft hours, leisure time, social hours, meal or snack time, trips to community activities, and tours;

(ii) a social or educational service that does not have or cannot reasonably be expected to have a therapeutic outcome related to the client's emotional disturbance;

(iii) prevention or education programs provided to the community; and

(iv) treatment for clients with primary diagnoses of alcohol or other drug abuse.

Subd. 13. **Exception to excluded services.** Notwithstanding subdivision 12, up to 15 hours of children's therapeutic services and supports provided within a six-month period to a child with severe emotional disturbance who is residing in a hospital; a residential treatment facility licensed under Minnesota Rules, parts 2960.0580 to 2960.0690; a psychiatric residential treatment facility under section 256B.0625, subdivision 45a; a regional treatment center; or other institutional group setting or who is participating in a program of partial hospitalization are eligible for medical assistance payment if part of the discharge plan.

***Laws 1998, chapter 382, article 1, section 23***

Sec. 23. Laws 1995, chapter 257, article 1, section 34, is amended to read:

Sec. 34. **REPORT.**

(a) The commissioner of human services shall evaluate all child support programs and enforcement mechanisms. ~~The evaluation must include a cost-benefit analysis of each program or enforcement mechanism, and information related to which programs produce the highest revenue, reduce arrears, avoid litigation, and result in the best outcome for children and their parents.~~

~~The reports related to the provisions in this chapter are due two years after the implementation date. All other reports on existing programs and enforcement mechanisms are due January 15, 1997~~ to determine the following:

(1) Minnesota's performance on the child support and incentive measures submitted by the federal Office of Child Support to the United States Congress;

(2) Minnesota's performance relative to other states;

(3) individual county performance; and

(4) recommendations for further improvement.

(b) The commissioner shall evaluate in separate categories the federal, state, and local government costs of child support enforcement in this state. The evaluation must also include a representative sample of private business costs relating to child support enforcement based on a survey of at least 50 Minnesota businesses and nonprofit organizations.

(c) The commissioner shall also report on the amount of child support arrearages in this state with separate categories for the amount of child support in arrears for 90 days, six months, one year, and two or more years. The report must establish a process for determining when an arrearage is considered uncollectible based on the age of the arrearage and likelihood of collection of the amount owed. The amounts determined to be uncollectible must be deducted from the total amount of outstanding arrearages for purposes of determining arrearages that are considered collectible.

(d) The first report on these topics shall be submitted to the legislature by January 1, 1999, and subsequent reports shall be submitted biennially before January 15 of each odd-numbered year.

**9530.7000 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 9530.7000 to 9530.7030, the following terms have the meanings given them.

Subp. 2. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances, including controlled substances as defined in Minnesota Statutes, chapter 152.

Subp. 5. **Chemical dependency treatment services.** "Chemical dependency treatment services" means services provided by chemical dependency treatment programs licensed according to Minnesota Statutes, chapter 245G, or certified according to parts 2960.0450 to 2960.0490.

Subp. 6. **Client.** "Client" means an individual who has requested chemical abuse or dependency services, or for whom chemical abuse or dependency services have been requested, from a local agency.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 8. **Behavioral health fund.** "Behavioral health fund" means money appropriated for payment of chemical dependency treatment services under Minnesota Statutes, chapter 254B.

Subp. 9. **Copayment.** "Copayment" means the amount an insured person is obligated to pay before the person's third-party payment source is obligated to make a payment, or the amount an insured person is obligated to pay in addition to the amount the person's third-party payment source is obligated to pay.

Subp. 10. **Drug and Alcohol Abuse Normative Evaluation System or DAANES.** "Drug and Alcohol Abuse Normative Evaluation System" or "DAANES" means the client information system operated by the department's Chemical Dependency Program Division.

Subp. 11. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 13. **Income.** "Income" means the total amount of cash received by an individual from the following sources:

A. cash payments for wages or salaries;

B. cash receipts from nonfarm or farm self-employment, minus deductions allowed by the federal Internal Revenue Service for business or farm expenses;

C. regular cash payments from social security, railroad retirement, unemployment compensation, workers' union funds, veterans' benefits, the Minnesota family investment program, Supplemental Security Income, General Assistance, training stipends, alimony, child support, and military family allotments;

D. cash payments from private pensions, government employee pensions, and regular insurance or annuity payments;

E. cash payments for dividends, interest, rents, or royalties; and

F. periodic cash receipts from estates or trusts.

Income does not include capital gains; any cash assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, lump sum inheritances, one time insurance payments, or compensation for injury; court-ordered child support or health insurance premium payments made by the client or responsible relative; and noncash benefits such as health insurance, food or rent received in lieu of wages, and noncash benefits from programs such as Medicare, Medical Assistance, the Supplemental Nutrition Assistance Program, school lunches, and housing assistance. Annual income is the amount reported and verified by an individual as current income calculated prospectively to cover one year.

Subp. 14. **Local agency.** "Local agency" means the county or multicounty agency authorized under Minnesota Statutes, sections 254B.01, subdivision 5, and 254B.03, subdivision 1, to make placements under the behavioral health fund.

Subp. 15. **Minor child.** "Minor child" means an individual under the age of 18 years.

Subp. 17a. **Policyholder.** "Policyholder" means a person who has a third-party payment policy under which a third-party payment source has an obligation to pay all or part of a client's treatment costs.

Subp. 19. **Responsible relative.** "Responsible relative" means a person who is a member of the client's household and is a client's spouse or the parent of a minor child who is a client.

Subp. 20. **Third-party payment source.** "Third-party payment source" means a person, entity, or public or private agency other than medical assistance or general assistance medical care that has a probable obligation to pay all or part of the costs of a client's chemical dependency treatment.

Subp. 21. **Vendor.** "Vendor" means a licensed provider of chemical dependency treatment services that meets the criteria established in Minnesota Statutes, section 254B.05, and that has applied according to part 9505.0195 to participate as a provider in the medical assistance program.

**9530.7005 SCOPE AND APPLICABILITY.**

Parts 9530.7000 to 9530.7030 govern the administration of the behavioral health fund, establish the criteria to be applied by local agencies to determine a client's eligibility under the behavioral health fund, and establish a client's obligation to pay for chemical dependency treatment services.

These parts must be read in conjunction with Minnesota Statutes, chapter 254B, and parts 9530.6600 to 9530.6655.

**9530.7010 COUNTY RESPONSIBILITY TO PROVIDE SERVICES.**

The local agency shall provide chemical dependency treatment services to eligible clients who have been assessed and placed by the county according to parts 9530.6600 to 9530.6655 and Minnesota Statutes, chapter 256G.

**9530.7012 VENDOR AGREEMENTS.**

When a local agency enters into an agreement with a vendor of chemical dependency treatment services, the agreement must distinguish client per unit room and board costs from per unit chemical dependency treatment services costs.

For purposes of this part, "chemical dependency treatment services costs" are costs, including related administrative costs, of services that meet the criteria in items A to C:

A. The services are provided within a program licensed according to Minnesota Statutes, chapter 245G, or certified according to parts 2960.0430 to 2960.0490.

B. The services meet the definition of chemical dependency services in Minnesota Statutes, section 254B.01, subdivision 3.

C. The services meet the applicable service standards for licensed chemical dependency treatment programs in item A, but are not under the jurisdiction of the commissioner.

This part also applies to vendors of room and board services that are provided concurrently with chemical dependency treatment services according to Minnesota Statutes, sections 254B.03, subdivision 2, and 254B.05, subdivision 1.

This part does not apply when a county contracts for chemical dependency services in an acute care inpatient hospital licensed by the Department of Health under chapter 4640.

**9530.7015 CLIENT ELIGIBILITY; BEHAVIORAL HEALTH FUND.**

Subpart 1. **Client eligibility to have treatment totally paid under the behavioral health fund.** A client who meets the criteria established in item A, B, C, or D shall be eligible to have chemical dependency treatment paid for totally with funds from the behavioral health fund.

A. The client is eligible for MFIP as determined under Minnesota Statutes, chapter 256J.

B. The client is eligible for medical assistance as determined under parts 9505.0010 to 9505.0140.

C. The client is eligible for general assistance, general assistance medical care, or work readiness as determined under parts 9500.1200 to 9500.1272.

D. The client's income is within current household size and income guidelines for entitled persons, as defined in Minnesota Statutes, section 254B.04, subdivision 1, and as determined by the local agency under part 9530.7020, subpart 1.

Subp. 2a. **Third-party payment source and client eligibility for the behavioral health fund.** Clients who meet the financial eligibility requirement in subpart 1 and who have a third-party payment source are eligible for the behavioral health fund if the third party payment source pays less than 100 percent of the treatment services determined according to parts 9530.6600 to 9530.6655.

Subp. 4. **Client ineligible to have treatment paid for from the behavioral health fund.** A client who meets the criteria in item A or B shall be ineligible to have chemical dependency treatment services paid for with behavioral health funds.

A. The client has an income that exceeds current household size and income guidelines for entitled persons as defined in Minnesota Statutes, section 254B.04, subdivision 1, and as determined by the local agency under part 9530.7020, subpart 1.

B. The client has an available third-party payment source that will pay the total cost of the client's treatment.

Subp. 5. **Eligibility of clients disenrolled from prepaid health plans.** A client who is disenrolled from a state prepaid health plan during a treatment episode is eligible for continued treatment service that is paid for by the behavioral health fund, until the treatment episode is completed or the client is re-enrolled in a state prepaid health plan if the client meets the criteria in item A or B. The client must:

A. continue to be enrolled in MinnesotaCare, medical assistance, or general assistance medical care; or

B. be eligible according to subparts 1 and 2a and be determined eligible by a local agency under part 9530.7020.

Subp. 6. **County responsibility.** When a county commits a client under Minnesota Statutes, chapter 253B, to a regional treatment center for chemical dependency treatment services and the client is ineligible for the behavioral health fund, the county is responsible for the payment to the regional treatment center according to Minnesota Statutes, section 254B.05, subdivision 4.

**9530.7020 LOCAL AGENCY TO DETERMINE CLIENT ELIGIBILITY.**

Subpart 1. **Local agency duty to determine client eligibility.** The local agency shall determine a client's eligibility for the behavioral health fund at the time the client is assessed under parts 9530.6600 to 9530.6655. Client eligibility must be determined using forms

prescribed by the department. To determine a client's eligibility, the local agency must determine the client's income, the size of the client's household, the availability of a third-party payment source, and a responsible relative's ability to pay for the client's chemical dependency treatment, as specified in items A to C.

A. The local agency must determine the client's income. A client who is a minor child shall not be deemed to have income available to pay for chemical dependency treatment, unless the minor child is responsible for payment under Minnesota Statutes, section 144.347, for chemical dependency treatment services sought under Minnesota Statutes, section 144.343, subdivision 1.

B. The local agency must determine the client's household size according to subitems (1), (2), and (3).

(1) If the client is a minor child, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's birth or adoptive parents; and

(c) the client's siblings who are minors.

(2) If the client is an adult, the household size includes the following persons living in the same dwelling unit:

(a) the client;

(b) the client's spouse;

(c) the client's minor children; and

(d) the client's spouse's minor children.

(3) For purposes of this item, household size includes a person listed in subitems (1) and (2) who is in out-of-home placement if a person listed in subitem (1) or (2) is contributing to the cost of care of the person in out-of-home placement.

C. The local agency must determine the client's current prepaid health plan enrollment, the availability of a third-party payment source, including the availability of total payment, partial payment, and amount of copayment.

D. The local agency must provide the required eligibility information to the department in the manner specified by the department.

E. The local agency shall require the client and policyholder to conditionally assign to the department the client and policyholder's rights and the rights of minor children to benefits or services provided to the client if the department is required to collect from a third-party pay source.

Subp. 1a. **Redetermination of client eligibility.** The local agency shall redetermine a client's eligibility for CCDTF every six months after the initial eligibility determination, if the client has continued to receive uninterrupted chemical dependency treatment services for that six months. For purposes of this subpart, placement of a client into more than one chemical dependency treatment program in less than ten working days, or placement of a client into a residential chemical dependency treatment program followed by nonresidential chemical dependency treatment services shall be treated as a single placement.

Subp. 2. **Client, responsible relative, and policyholder obligation to cooperate.** A client, responsible relative, and policyholder shall provide income or wage verification, household size verification, and shall make an assignment of third-party payment rights under subpart 1, item C. If a client, responsible relative, or policyholder does not comply with the provisions of this subpart, the client shall be deemed to be ineligible to have the behavioral health fund pay for his or her chemical dependency treatment, and the client and

responsible relative shall be obligated to pay for the full cost of chemical dependency treatment services provided to the client.

**9530.7021 PAYMENT AGREEMENTS.**

When the local agency, the client, and the vendor agree that the vendor will accept payment from a third-party payment source for an eligible client's treatment, the local agency, the client, and the vendor shall enter into a third-party payment agreement. The agreement must stipulate that the vendor will accept, as payment in full for services provided to the client, the amount the third-party payor is obligated to pay for services provided to the client. The agreement must be executed in a form prescribed by the commissioner and is not effective unless an authorized representative of each of the three parties has signed it. The local agency shall maintain a record of third-party payment agreements into which the local agency has entered.

The vendor shall notify the local agency as soon as possible and not less than one business day before discharging a client whose treatment is covered by a payment agreement under this part if the discharge is caused by disruption of the third-party payment.

**9530.7022 CLIENT FEES.**

Subpart 1. **Income and household size criteria.** A client whose household income is within current household size and income guidelines for entitled persons as defined in Minnesota Statutes, section 254B.04, subdivision 1, shall pay no fee.

**9530.7025 DENIAL OF PAYMENT.**

Subpart 1. **Denial of payment when required assessment not completed.** The department shall deny payments from the behavioral health fund to vendors for chemical dependency treatment services provided to clients who have not been assessed and placed by the county in accordance with parts 9530.6600 to 9530.6655.

Subp. 2. **Denial of state participation in behavioral health fund payments when client found not eligible.** The department shall pay vendors from the behavioral health fund for chemical dependency treatment services provided to clients and shall bill the county for 100 percent of the costs of chemical dependency treatment services as follows:

A. The department shall bill the county for 100 percent of the costs of a client's chemical dependency treatment services when the department determines that the client was not placed in accordance with parts 9530.6600 to 9530.6655.

B. When a county's allocation under Minnesota Statutes, section 254B.02, subdivisions 1 and 2, has been exhausted, and the county's maintenance of effort has been met as required under Minnesota Statutes, section 254B.02, subdivision 3, and the local agency has been notified by the department that the only clients who are eligible to have their treatment paid for from the behavioral health fund are clients who are eligible under part 9530.7015, subpart 1, the department shall bill the county for 100 percent of the costs of a client's chemical dependency treatment services when the department determines that the client was not eligible under part 9530.7015, subpart 1.

**9530.7030 VENDOR MUST PARTICIPATE IN DAANES SYSTEM.**

Subpart 1. **Participation a condition of eligibility.** To be eligible for payment under the behavioral health fund, a vendor must participate in the Drug and Alcohol Normative Evaluation System (DAANES) or submit to the commissioner the information required in DAANES in the format specified by the commissioner.