CHAPTER 245

DEPARTMENT OF HUMAN SERVICES

245.03 DEPARTMENT OF HUMAN SERVICES ESTABLISHED; COMMISSIONER.

Subdivision 1. **Establishment.** There is created a department of human services. A commissioner of human services shall be appointed by the governor under the provisions of section 15.06. The commissioner shall be selected on the basis of ability and experience in welfare and without regard to political affiliations. The commissioner shall appoint a deputy commissioner.

Subd. 2. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor–management practices to the extent otherwise required by chapters 43A and 179A;

(6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and

(7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

History: *1995 c 248 art 11 s 18*

245.041 PROVISION OF FIREARMS BACKGROUND CHECK INFORMATION.

Notwithstanding section 253B.23, subdivision 9, the commissioner of human services shall provide commitment information to local law enforcement agencies on an individual request basis by means of electronic data transfer from the department of human services through the Minnesota crime information system for the sole purpose of facilitating a firearms background check under section 624.7131, 624.7132, or 624.714. The information to be provided is limited to whether the person has been committed under chapter 253B and, if so, the type of commitment.

History: *1995 c 207 art 8 s 1*

245.48 [Repealed, 1995 c 264 art 3 s 51]

245.487 CITATION; DECLARATION OF POLICY; MISSION.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. **Mission of children's mental health service system.** As part of the comprehensive children's mental health system established under sections 245.487 to 245.4888, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children as specified in section 256F.01 and that:

(1) identifies children who are eligible for mental health services;

(2) makes preventive services available to all children;

(3) assures access to a continuum of services that:

(i) educate the community about the mental health needs of children;

(ii) address the unique physical, emotional, social, and educational needs of children;

(iii) are coordinated with the range of social and human services provided to children and their families by the departments of children, families, and learning, human services, health, and corrections;

(iv) are appropriate to the developmental needs of children; and

(v) are sensitive to cultural differences and special needs;

(4) includes early screening and prompt intervention to:

(i) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and

(ii) prevent further deterioration;

(5) provides mental health services to children and their families in the context in which the children live and go to school;

(6) addresses the unique problems of paying for mental health services for children, including:

(i) access to private insurance coverage; and

(ii) public funding;

(7) includes the child and the child's family in planning the child's program of mental health services, unless clinically inappropriate to the child's needs; and

(8) when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age.

[For text of subds 4 to 6, see M.S.1994]

History: *1Sp1995 c 3 art 16 s 13*

245.4871 DEFINITIONS.

[For text of subds 1 to 11, see M.S.1994]

Subd. 12. **Mental health identification and intervention services.** "Mental health identification and intervention services" means services that are designed to identify children who are at risk of needing or who need mental health services and that arrange for intervention and treatment.

[For text of subds 13 to 33, see M.S.1994]

Subd. 33a. **Culturally informed mental health consultant.** "Culturally informed mental health consultant" is a person who is recognized by the culture as one who has knowledge of a particular culture and its definition of health and mental health; and who is used as necessary to assist the county board and its mental health providers in assessing and providing appropriate mental health services for children from that particular cultural, linguistic, or racial heritage and their families.

[For text of subd 34, see M.S.1994]

Subd. 35. **Transition services.** "Transition services" means mental health services, designed within an outcome oriented process that promotes movement from school to post-school activities, including post–secondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult mental health and social services, other adult services, independent living, or community participation.

History: *1995 c 207 art 8 s 2–4*

245.4873 COORDINATION OF CHILDREN'S MENTAL HEALTH SYSTEM.

[For text of subd 1, see M.S.1994]

Subd. 2. **State level; coordination.** The children's cabinet, under section 4.045, in consultation with a representative of the Minnesota district judges association juvenile committee, shall:

(1) educate each agency about the policies, procedures, funding, and services for children with emotional disturbances of all agencies represented;

(2) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;

(3) identify barriers including policies and procedures within all agencies represented that interfere with delivery of mental health services for children;

(4) recommend policy and procedural changes needed to improve development and delivery of mental health services for children in the agency or agencies they represent;

(5) identify mechanisms for better use of federal and state funding in the delivery of mental health services for children; and

(6) perform the duties required under sections 245.494 to 245.496.

[For text of subds 3 to 5, see M.S.1994]

Subd. 6. **Priorities.** By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4888 be developed for children with emotional disturbances within available resources based on the following ranked priorities. The commissioner shall reassign agency staff and use consultants as necessary to meet this deadline:

(1) the provision of locally available mental health emergency services;

(2) the provision of locally available mental health services to all children with severe emotional disturbance;

(3) the provision of mental health identification and intervention services to children who are at risk of needing or who need mental health services;

(4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;

(5) the provision of locally available services to children with emotional disturbances; and

(6) the provision of education and preventive mental health services.

History: *1995 c 207 art 8 s 5; art 11 s 2*

245.4874 DUTIES OF COUNTY BOARD.

The county board in each county shall use its share of mental health and community social services act funds allocated by the commissioner according to a biennial children's mental health component of the community social services plan required under section 245.4888, and approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4888;

(2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;

(3) develop a biennial children's mental health component of the community social services plan required under section 256E.09 which considers the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;

(4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4888;

(5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost–effectiveness of their delivery;

(6) assure that mental health services delivered according to sections 245.487 to 245.4888 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase–of–service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4888;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age; and

(13) assure that culturally informed mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage.

History: *1995 c 207 art 8 s 6*

245.4875 LOCAL SERVICE DELIVERY SYSTEM.

[For text of subd 1, see M.S.1994]

Subd. 2. **Children's mental health services.** The children's mental health service system developed by each county board must include the following services:

(1) education and prevention services according to section 245.4877;

(2) mental health identification and intervention services according to section 245.4878;

(3) emergency services according to section 245.4879;

(4) outpatient services according to section 245.488;

(5) family community support services according to section 245.4881;

(6) day treatment services according to section 245.4884, subdivision 2;

(7) residential treatment services according to section 245.4882;

(8) acute care hospital inpatient treatment services according to section 245.4883;

(9) screening according to section 245.4885;

(10) case management according to section 245.4881;

(11) therapeutic support of foster care according to section 245.4884, subdivision 4; and

(12) professional home–based family treatment according to section 245.4884, subdivision 4.

[For text of subds 3 to 7, see M.S.1994]

Subd. 8. **Transition services.** The county board may continue to provide mental health services as defined in sections 245.487 to 245.4888 to persons over 18 years of age, but under 21 years of age, if the person was receiving case management or family community support services prior to age 18, and if one of the following conditions is met:

(1) the person is receiving special education services through the local school district; or

(2) it is in the best interest of the person to continue services defined in sections 245.487 to 245.4888.

History: *1995 c 207 art 8 s 7,8*

245.4878 MENTAL HEALTH IDENTIFICATION AND INTERVENTION.

By January 1, 1991, mental health identification and intervention services must be available to meet the needs of all children and their families residing in the county, consistent with section 245.4873. Mental health identification and intervention services must be designed to identify children who are at risk of needing or who need mental health services. The county board must provide intervention and offer treatment services to each child who is identified as needing mental health services. The county board must offer intervention services to each child who is identified as being at risk of needing mental health services.

History: *1995 c 207 art 8 s 9*

245.4882 RESIDENTIAL TREATMENT SERVICES.

[For text of subds 1 to 4, see M.S.1994]

Subd. 5. **Specialized residential treatment services.** The commissioner of human services shall continue efforts to further interagency collaboration to develop a comprehensive system of services, including family community support and specialized residential treatment services for children. The services shall be designed for children with emotional disturbance who exhibit violent or destructive behavior and for whom local treatment services are not feasible due to the small number of children statewide who need the services and the specialized nature of the services required. The services shall be located in community settings. If no appropriate services are available in Minnesota or within the geographical area in which the residents of the county normally do business, the commissioner is responsible, effective July 1, 1997, for 50 percent of the nonfederal costs of out–of–state treatment of children for whom no appropriate resources are available in Minnesota. Counties are eligible to receive enhanced state funding under this section only if they have established juvenile screening teams under section 260.151, subdivision 3, and if the out–of–state treatment has been approved by the commissioner. By January 1, 1995, the commissioners of human services and corrections shall jointly develop a plan, including a financing strategy, for increasing the in–state availability of treatment within a secure setting. By July 1, 1994, the commissioner of human services shall also:

(1) conduct a study and develop a plan to meet the needs of children with both a developmental disability and severe emotional disturbance; and

(2) study the feasibility of expanding medical assistance coverage to include specialized residential treatment for the children described in this subdivision.

History: *1995 c 207 art 8 s 10*

245.4885 SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.

[For text of subd 1, see M.S.1994]

Subd. 2. **Qualifications.** No later than July 1, 1991, screening of children for residential and inpatient services must be conducted by a mental health professional. Where appropriate

and available, culturally informed mental health consultants must participate in the screening. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation after July 1, 1991, if the county documents that:

(1) mental health professionals or mental health practitioners are unavailable to provide this service; and

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional.

[For text of subds 3 and 5, see M.S.1994]

History: *1995 c 207 art 8 s 11*

245.4886 CHILDREN'S COMMUNITY-BASED MENTAL HEALTH FUND.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. **Grants for adolescent services.** The commissioner may make grants for community-based services for adolescents who have serious emotional disturbance and exhibit violent behavior. The commissioner may administer these grants as a supplement to the grants for children's community-based mental health services under subdivision 1. The same administrative requirements shall apply to these grants as the grants under subdivision 1, except that these grants:

(1) shall be primarily for areas with the greatest need for services;

(2) may be used for assessment, family community support services, specialized treatment approaches, specialized adolescent community-based residential treatment, and community transition services for adolescents and preadolescents who have serious emotional disturbance and exhibit violent behavior;

(3) shall emphasize intensive services as an alternative to placement;

(4) shall not be used to supplant existing funds;

(5) shall require grantees to continue base level funding as defined in section 245.492, subdivision 2;

(6) must, wherever possible, be administered under the auspices of a children's mental health collaborative established under section 245.491 if the collaborative chooses to serve the target population;

(7) must be used for mental health services that are integrated with other services whenever possible; and

(8) must be based on a proposal submitted to the commissioner by a children's mental health collaborative or a county board that is based on guidelines published by the commissioner. The guidelines must require that proposed services be based on treatment methods that have proven effective, or that show promise, in meeting the needs of this population. The guidelines may incorporate preferences for proposals that would convert existing residential treatment beds for children in the county or collaborative's service area to community-based mental health services, encourage the active participation of the children's families in the treatment plans of these children, or promote the integration of these children into school, home, and community. The commissioner shall consult with parents, educators, mental health professionals, county mental health staff, and representatives of the children's subcommittee of the state advisory board on mental health in developing the guidelines and evaluating proposals.

History: *1995 c 207 art 8 s 12*

245.492 DEFINITIONS.

[For text of subd 1, see M.S.1994]

Subd. 2. **Base level funding.** "Base level funding" means funding received from state, federal, or local sources and expended across the local system of care in fiscal year 1995 for

children's mental health services, for special education services, and for other services for children with emotional or behavioral disturbances and their families.

In subsequent years, base level funding may be adjusted to reflect decreases in the numbers of children in the target population.

[For text of subds 3 to 5, see M.S.1994]

Subd. 6. **Operational target population.** "Operational target population" means a population of children that the local children's mental health collaborative agrees to serve and who fall within the criteria for the target population. The operational target population may be less than the target population.

[For text of subds 7 and 8, see M.S.1994]

Subd. 9. **Integrated service system.** "Integrated service system" means a coordinated set of procedures established by the local children's mental health collaborative for coordinating services and actions across categorical systems and agencies that results in:

(1) integrated funding;

(2) improved outreach, early identification, and intervention across systems;

(3) strong collaboration between parents and professionals in identifying children in the target population facilitating access to the integrated system, and coordinating care and services for these children;

(4) a coordinated assessment process across systems that determines which children need multiagency care coordination and wraparound services;

(5) multiagency plan of care; and

(6) individualized rehabilitation services.

Services provided by the integrated service system must meet the requirements set out in sections 245.487 to 245.4887. Children served by the integrated service system must be economically and culturally representative of children in the service delivery area.

[For text of subds 10 to 19, see M.S.1994]

Subd. 20. [Repealed, 1995 c 207 art 11 s 12]

[For text of subds 21 and 22, see M.S.1994]

Subd. 23. **Individualized rehabilitation services.** "Individualized rehabilitation services" are alternative, flexible, coordinated, and highly individualized services that are based on a multiagency plan of care. These services are designed to build on the strengths and respond to the needs identified in the child's multiagency assessment and to improve the child's ability to function in the home, school, and community. Individualized rehabilitation services may include, but are not limited to, residential services, respite services, services that assist the child or family in enrolling in or participating in recreational activities, assistance in purchasing otherwise unavailable items or services important to maintain a specific child in the family, and services that assist the child to participate in more traditional services and programs.

History: *1995 c 207 art 8 s 13–16*

245.493 LOCAL LEVEL COORDINATION.

[For text of subd 1, see M.S.1994]

Subd. 2. **General duties of the local children's mental health collaboratives.** Each local children's mental health collaborative must:

(1) notify the commissioner of human services within ten days of formation by signing a collaborative agreement and providing the commissioner with a copy of the signed agreement;

(2) identify a service delivery area and an operational target population within that service delivery area. The operational target population must be economically and culturally

representative of children in the service delivery area to be served by the local children's mental health collaborative. The size of the operational target population must also be economically viable for the service delivery area;

(3) seek to maximize federal revenues available to serve children in the target population by designating local expenditures for services for these children and their families that can be matched with federal dollars;

(4) in consultation with the local children's advisory council and the local coordinating council, if it is not the local children's mental health collaborative, design, develop, and ensure implementation of an integrated service system that meets the requirements for state and federal reimbursement and develop interagency agreements necessary to implement the system;

(5) expand membership to include representatives of other services in the local system of care including prepaid health plans under contract with the commissioner of human services to serve the needs of children in the target population and their families;

(6) create or designate a management structure for fiscal and clinical responsibility and outcome evaluation;

(7) spend funds generated by the local children's mental health collaborative as required in sections 245.491 to 245.496;

(8) explore methods and recommend changes needed at the state level to reduce duplication and promote coordination of services including the use of uniform forms for reporting, billing, and planning of services;

(9) submit its integrated service system design to the children's cabinet for approval within one year of notifying the commissioner of human services of its formation;

(10) provide an annual report that includes the elements listed in section 245.494, subdivision 2, and the collaborative's planned timeline to expand its operational target population to the children's cabinet; and

(11) expand its operational target population.

Each local children's mental health collaborative may contract with the commissioner of human services to become a medical assistance provider of mental health services according to section 245.4933.

[For text of subd 3, see M.S.1994]

History: *1995 c 207 art 8 s 17; art 11 s 11*

245.4932 REVENUE ENHANCEMENT; AUTHORITY AND RESPONSIBILITIES.

Subdivision 1. **Collaborative responsibilities.** The children's mental health collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the collaborative must establish an integrated fund;

(2) the collaborative shall designate a lead county or other qualified entity as the fiscal agency for reporting, claiming, and receiving payments;

(3) the collaborative or lead county may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement;

(4) the collaborative shall use any enhanced revenue attributable to the activities of the collaborative, including administrative and service revenue, solely to provide mental health services or to expand the operational target population. The lead county or other qualified entity may not use enhanced federal revenue for any other purpose;

(5) the members of the collaborative must continue the base level of expenditures, as defined in section 245.492, subdivision 2, for services for children with emotional or behavioral disturbances and their families from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under sections 245.491 to 245.496, would have been available for those services. The base year for purposes of this subdivision shall be the accounting period closest to state fiscal year 1993;

(6) the collaborative or lead county must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the contract with the commissioner of human services;

(7) the collaborative or its members may elect to pay the nonfederal share of the medical assistance costs for services designated by the collaborative; and

(8) the lead county or other qualified entity may not use federal funds or local funds designated as matching for other federal funds to provide the nonfederal share of medical assistance.

Subd. 2. **Commissioner's responsibilities.** (1) Notwithstanding sections 256B.19, subdivision 1, and 256B.0625, the commissioner shall be required to amend the state medical assistance plan to include as covered services eligible for medical assistance reimbursement, those services eligible for reimbursement under federal law or waiver, which a collaborative elects to provide and for which the collaborative elects to pay the nonfederal share of the medical assistance costs.

(2) The commissioner may suspend, reduce, or terminate the federal reimbursement to a collaborative that does not meet the requirements of sections 245.493 to 245.496.

(3) The commissioner shall recover from the collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the collaborative's actions or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample.

Subd. 3. **Payments.** Notwithstanding section 256.025, subdivision 2, payments under sections 245.493 to 245.496 to providers for services for which the collaborative elects to pay the nonfederal share of medical assistance shall only be made of federal earnings from services provided under sections 245.493 to 245.496.

Subd. 4. **Centralized disbursement of medical assistance payments.** Notwithstanding section 256B.041, and except for family community support services and therapeutic support of foster care, county payments for the cost of services for which the collaborative elects to pay the nonfederal share, for reimbursement under medical assistance, shall not be made to the state treasurer. For purposes of individualized rehabilitation services under sections 245.493 to 245.496, the centralized disbursement of payments to providers under section 256B.041 consists only of federal earnings from services provided under sections 245.493 to 245.496.

History: *1995 c 207 art 8 s 18–21*

245.4933 MEDICAL ASSISTANCE PROVIDER STATUS.

Subdivision 1. **Requirements to serve children not enrolled in a prepaid medical assistance or MinnesotaCare health plan.** (a) In order for a local children's mental health collaborative to become a prepaid provider of medical assistance services and be eligible to receive medical assistance reimbursement, the collaborative must:

(1) enter into a contract with the commissioner of human services to provide mental health services including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services;

(2) meet the applicable federal requirements;

(3) either carry stop–loss insurance or enter into a risk–sharing agreement with the commissioner of human services; and

(4) provide medically necessary medical assistance mental health services to children in the target population who enroll in the local children's mental health collaborative.

(b) Upon execution of the provider contract with the commissioner of human services the local children's mental health collaborative may:

(1) provide mental health services which are not medical assistance state plan services in addition to the state plan services described in the contract with the commissioner of human services; and

(2) enter into subcontracts which meet the requirements of Code of Federal Regulations, title 42, section 434.6, with other providers of mental health services including prepaid health plans established under section 256B.69.

Subd. 2. **Requirements to serve children enrolled in a prepaid health plan.** A children's mental health collaborative may serve children in the collaborative's target population who are enrolled in a prepaid health plan under contract with the commissioner of human services by contracting with one or more such health plans to provide medical assistance or MinnesotaCare mental health services to children enrolled in the health plan. The collaborative and the health plan shall work cooperatively to ensure the integration of physical and mental health services.

Subd. 3. **Requirements to serve children who become enrolled in a prepaid health plan.** A children's mental health collaborative may provide prepaid medical assistance or MinnesotaCare mental health services to children who are not enrolled in prepaid health plans until those children are enrolled. Publication of a request for proposals in the State Register shall serve as notice to the collaborative of the commissioner's intent to execute contracts for medical assistance and MinnesotaCare services. In order to become or continue to be a provider of medical assistance or MinnesotaCare services the collaborative may contract with one or more such prepaid health plans after the collaborative's target population is enrolled in a prepaid health plan. The collaborative and the health plan shall work cooperatively to ensure the integration of physical and mental health services.

Subd. 4. **Commissioner's duties.** (a) The commissioner of human services shall provide to each children's mental health collaborative that is considering whether to become a prepaid provider of mental health services the commissioner's best estimate of a capitated payment rate prior to an actuarial study based upon the collaborative's operational target population. The capitated payment rate shall be adjusted annually, if necessary, for changes in the operational target population.

(b) The commissioner shall negotiate risk adjustment and reinsurance mechanisms with children's mental health collaboratives that become medical assistance providers including those that subcontract with prepaid health plans.

Subd. 5. **Noncontracting collaboratives.** A local children's mental health collaborative that does not become a prepaid provider of medical assistance or MinnesotaCare services may provide services through individual members of a noncontracting collaborative who have a medical assistance provider agreement to eligible recipients who are not enrolled in the health plan.

Subd. 6. **Individualized rehabilitation services.** A children's mental health collaborative with an integrated service system approved by the children's cabinet may become a medical assistance provider for the purpose of obtaining prior authorization for and providing individualized rehabilitation services.

History: *1995 c 207 art 8 s 22; art 11 s 11*

245.494 STATE LEVEL COORDINATION.

Subdivision 1. **Children's cabinet.** The children's cabinet, in consultation with the integrated fund task force, shall:

(1) assist local children's mental health collaboratives in meeting the requirements of sections 245.491 to 245.496, by seeking consultation and technical assistance from national experts and coordinating presentations and assistance from these experts to local children's mental health collaboratives;

(2) assist local children's mental health collaboratives in identifying an economically viable operational target population;

(3) develop methods to reduce duplication and promote coordinated services including uniform forms for reporting, billing, and planning of services;

(4) by September 1, 1994, develop a model multiagency plan of care that can be used by local children's mental health collaboratives in place of an individual education plan, individual family community support plan, individual family support plan, and an individual treatment plan;

(5) assist in the implementation and operation of local children's mental health collaboratives by facilitating the integration of funds, coordination of services, and measurement of results, and by providing other assistance as needed;

(6) by July 1, 1993, develop a procedure for awarding start–up funds. Development of this procedure shall be exempt from chapter 14;

(7) develop procedures and provide technical assistance to allow local children's mental health collaboratives to integrate resources for children's mental health services with other resources available to serve children in the target population in order to maximize federal participation and improve efficiency of funding;

(8) ensure that local children's mental health collaboratives and the services received through these collaboratives meet the requirements set out in sections 245.491 to 245.496;

(9) identify base level funding from state and federal sources across systems;

(10) explore ways to access additional federal funds and enhance revenues available to address the needs of the target population;

(11) develop a mechanism for identifying the state share of funding for services to children in the target population and for making these funds available on a per capita basis for services provided through the local children's mental health collaborative to children in the target population. Each year beginning January 1, 1994, forecast the growth in the state share and increase funding for local children's mental health collaboratives accordingly;

(12) identify barriers to integrated service systems that arise from data practices and make recommendations including legislative changes needed in the data practices act to address these barriers; and

(13) annually review the expenditures of local children's mental health collaboratives to ensure that funding for services provided to the target population continues from sources other than the federal funds earned under sections 245.491 to 245.496 and that federal funds earned are spent consistent with sections 245.491 to 245.496.

Subd. 2. **Children's cabinet report.** By February 1, 1996, the children's cabinet, under section 4.045, in consultation with a representative of the Minnesota district judges association juvenile committee, must submit a report to the legislature on the status of the local children's mental health collaboratives. The report must include the number of local children's mental health collaboratives, the amount and type of resources committed to local children's mental health collaboratives, the additional federal revenue received as a result of local children's mental health collaboratives, the services provided, the number of children served, outcome indicators, the identification of barriers to additional collaboratives and funding integration, and recommendations for further improving service coordination and funding integration.

Subd. 3. **Duties of the commissioner of human services.** The commissioner of human services, in consultation with the integrated fund task force, shall:

(1) in the first quarter of 1994, in areas where a local children's mental health collaborative has been established, based on an independent actuarial analysis, identify all medical assistance and MinnesotaCare resources devoted to mental health services for children in the target population including inpatient, outpatient, medication management, services under the rehabilitation option, and related physician services in the total health capitation of prepaid plans under contract with the commissioner to provide medical assistance services under section 256B.69;

(2) assist each children's mental health collaborative to determine an actuarially feasible operational target population;

(3) ensure that a prepaid health plan that contracts with the commissioner to provide medical assistance or MinnesotaCare services shall pass through the identified resources to a collaborative or collaboratives upon the collaboratives meeting the requirements of section 245.4933 to serve the collaborative's operational target population. The commissioner shall, through an independent actuarial analysis, specify differential rates the prepaid health plan must pay the collaborative based upon severity, functioning, and other risk factors, taking into consideration the fee–for–service experience of children excluded from prepaid medical assistance participation;

(4) ensure that a children's mental health collaborative that enters into an agreement with a prepaid health plan under contract with the commissioner shall accept medical assistance recipients in the operational target population on a first–come, first–served basis up to

the collaborative's operating capacity or as determined in the agreement between the collaborative and the commissioner;

(5) ensure that a children's mental health collaborative that receives resources passed through a prepaid health plan under contract with the commissioner shall be subject to the quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4888, and other requirements established in Minnesota Rules, part 9500.1460;

(6) ensure that any prepaid health plan that contracts with the commissioner, including a plan that contracts under section 256B.69, must enter into an agreement with any collaborative operating in the same service delivery area that:

(i) meets the requirements of section 245.4933;

(ii) is willing to accept the rate determined by the commissioner to provide medical assistance services; and

(iii) requests to contract with the prepaid health plan;

(7) ensure that no agreement between a health plan and a collaborative shall terminate the legal responsibility of the health plan to assure that all activities under the contract are carried out. The agreement may require the collaborative to indemnify the health plan for activities that are not carried out;

(8) ensure that where a collaborative enters into an agreement with the commissioner to provide medical assistance and MinnesotaCare services a separate capitation rate will be determined through an independent actuarial analysis which is based upon the factors set forth in clause (3) to be paid to a collaborative for children in the operational target population who are eligible for medical assistance but not included in the prepaid health plan contract with the commissioner;

(9) ensure that in counties where no prepaid health plan contract to provide medical assistance or MinnesotaCare services exists, a children's mental health collaborative that meets the requirements of section 245.4933 shall:

(i) be paid a capitated rate, actuarially determined, that is based upon the collaborative's operational target population;

(ii) accept medical assistance or MinnesotaCare recipients in the operational target population on a first–come, first–served basis up to the collaborative's operating capacity or as determined in the contract between the collaborative and the commissioner; and

(iii) comply with quality assurance standards, reporting of utilization information, standards set out in sections 245.487 to 245.4888, and other requirements established in Minnesota Rules, part 9500.1460;

(10) subject to federal approval, in the development of rates for local children's mental health collaboratives, the commissioner shall consider, and may adjust, trend and utilization factors, to reflect changes in mental health service utilization and access;

(11) consider changes in mental health service utilization, access, and price, and determine the actuarial value of the services in the maintenance of rates for local children's mental health collaborative provided services, subject to federal approval;

(12) provide written notice to any prepaid health plan operating within the service delivery area of a children's mental health collaborative of the collaborative's existence within 30 days of the commissioner's receipt of notice of the collaborative's formation;

(13) ensure that in a geographic area where both a prepaid health plan including those established under either section 256.9363 or 256B.69 and a local children's mental health collaborative exist, medical assistance and MinnesotaCare recipients in the operational target population who are enrolled in prepaid health plans will have the choice to receive mental health services through either the prepaid health plan or the collaborative that has a contract with the prepaid health plan, according to the terms of the contract;

(14) develop a mechanism for integrating medical assistance resources for mental health service with MinnesotaCare and any other state and local resources available for services for children in the operational target population, and develop a procedure for making these resources available for use by a local children's mental health collaborative;

(15) gather data needed to manage mental health care including evaluation data and data necessary to establish a separate capitation rate for children's mental health services if that option is selected;

(16) by January 1, 1994, develop a model contract for providers of mental health managed care that meets the requirements set out in sections 245.491 to 245.496 and 256B.69, and utilize this contract for all subsequent awards, and before January 1, 1995, the commissioner of human services shall not enter into or extend any contract for any prepaid plan that would impede the implementation of sections 245.491 to 245.496;

(17) develop revenue enhancement or rebate mechanisms and procedures to certify expenditures made through local children's mental health collaboratives for services including administration and outreach that may be eligible for federal financial participation under medical assistance and other federal programs;

(18) ensure that new contracts and extensions or modifications to existing contracts under section 256B.69 do not impede implementation of sections 245.491 to 245.496;

(19) provide technical assistance to help local children's mental health collaboratives certify local expenditures for federal financial participation, using due diligence in order to meet implementation timelines for sections 245.491 to 245.496 and recommend necessary legislation to enhance federal revenue, provide clinical and management flexibility, and otherwise meet the goals of local children's mental health collaboratives and request necessary state plan amendments to maximize the availability of medical assistance for activities undertaken by the local children's mental health collaborative;

(20) take all steps necessary to secure medical assistance reimbursement under the rehabilitation option for family community support services and therapeutic support of foster care and for individualized rehabilitation services;

(21) provide a mechanism to identify separately the reimbursement to a county for child welfare targeted case management provided to children served by the local collaborative for purposes of subsequent transfer by the county to the integrated fund;

(22) ensure that family members who are enrolled in a prepaid health plan and whose children are receiving mental health services through a local children's mental health collaborative file complaints about mental health services needed by the family members, the commissioner shall comply with section 256B.031, subdivision 6. A collaborative may assist a family to make a complaint; and

(23) facilitate a smooth transition for children receiving prepaid medical assistance or MinnesotaCare services through a children's mental health collaborative who become enrolled in a prepaid health plan.

[For text of subds 4 and 5, see M.S.1994]

History: *1995 c 207 art 8 s 23,24; art 11 s 3,11*

245.495 ADDITIONAL FEDERAL REVENUES.

(a) Each local children's mental health collaborative shall report expenditures eligible for federal reimbursement in a manner prescribed by the commissioner of human services under section 256.01, subdivision 2, clause (17). The commissioner of human services shall pay all funds earned by each local children's mental health collaborative to the collaborative. Each local children's mental health collaborative must use these funds to expand the operational target population or to develop or provide mental health services through the local integrated service system to children in the target population. Funds may not be used to supplant funding for services to children in the target population.

For purposes of this section, "mental health services" are community–based, nonresidential services, which may include respite care, that are identified in the child's multiagency plan of care.

(b) The commissioner may set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The set–aside must not exceed five percent of the federal reimbursement earned by collaboratives and repayment is limited to:

(1) the costs of developing and implementing sections 245.491 to 245.496, including the costs of technical assistance from the departments of human services, children, families,

and learning, health, and corrections to implement the children's mental health integrated fund;

(2) programming the information systems; and

(3) any lost federal revenue for the central office claim directly caused by the implementation of these sections.

(c) Any unexpended funds from the set–aside described in paragraph (b) shall be distributed to counties according to section 245.496, subdivision 2.

History: *1995 c 207 art 8 s 25; 1Sp1995 c 3 art 16 s 13*

245.496 IMPLEMENTATION.

Subdivision 1. **Applications for start–up funds for local children's mental health collaboratives.** By July 1, 1993, the commissioner of human services shall publish the procedures for awarding start–up funds. Applications for local children's mental health collaboratives shall be obtained through the commissioner of human services and submitted to the children's cabinet. The application must state the amount of start–up funds requested by the local children's mental health collaborative and how the local children's mental health collaborative intends on using these funds.

Subd. 2. **Distribution of start–up funds.** By October 1, 1993, the children's cabinet must ensure distribution of start–up funds to local children's mental health collaboratives that meet the requirements established in section 245.493 and whose applications have been approved by the cabinet. The remaining appropriation for start–up funds shall be distributed by February 1, 1994. If the number of applications received exceed the number of local children's mental health collaboratives that can be funded, the funds must be geographically distributed across the state and balanced between the seven county metro area and the rest of the state. Preference must be given to collaboratives that include the juvenile court and correctional systems, multiple school districts, or other multiple government entities from the local system of care. In rural areas, preference must also be given to local children's mental health collaboratives that include multiple counties.

Subd. 3. **Submission of local collaborative proposals for integrated systems.** By December 31, 1994, a local children's mental health collaborative that received start–up funds must submit to the children's cabinet its proposal for creating and funding an integrated service system for children in the target population. A local children's mental health collaborative which forms without receiving start–up funds must submit its proposal for creating and funding an integrated service system within one year of notifying the commissioner of human services of its existence. Within 60 days of receiving the local collaborative proposal the children's cabinet must review the proposal and notify the local children's mental health collaborative as to whether or not the proposal has been approved. If the proposal is not approved, the children's cabinet must indicate changes needed to receive approval.

Subd. 4. **Approval of a collaborative's integrated service system.** A collaborative may not become a medical assistance provider unless the children's cabinet approves a collaborative's proposed integrated service system design. The children's cabinet shall approve the integrated service system proposal only when the following elements are present:

(1) interagency agreements signed by the head of each member agency who has the authority to obligate the agency and which set forth the specific financial commitments of each member agency;

(2) an adequate management structure for fiscal and clinical responsibility including appropriate allocation of risk and liability;

(3) a process of utilization review; and

(4) compliance with sections 245.491 to 245.496.

History: *1995 c 207 art 8 s 26,27; art 11 s 11*

245.697 STATE ADVISORY COUNCIL ON MENTAL HEALTH.

[For text of subds 1 and 2, see M.S.1994]

Subd. 2a. **Subcommittee on children's mental health.** The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental

health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, children, families, and learning, state planning, finance, and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with emotional disturbances;

(4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital–based provider;

(5) parents of children who have emotional disturbances;

(6) a present or former consumer of adolescent mental health services;

(7) educators currently working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council;

(11) one person from the local corrections department and one representative of the Minnesota district judges association juvenile committee; and

(12) county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) to (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are governed by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

[For text of subd 3, see M.S.1994]

History: *1Sp1995 c 3 art 16 s 13*

245.825 USE OF AVERSIVE OR DEPRIVATION PROCEDURES IN FACILITIES SERVING PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

Subdivision 1. **Rules governing use of aversive and deprivation procedures.** The commissioner of human services shall by October, 1983, promulgate rules governing the use of aversive and deprivation procedures in all licensed facilities and licensed services serving persons with mental retardation or related conditions, as defined in section 252.27, subdivision 1a. No provision of these rules shall encourage or require the use of aversive and deprivation procedures. The rules shall prohibit: (a) the application of certain aversive or deprivation procedures in facilities except as authorized and monitored by the commissioner; (b) the use of aversive or deprivation procedures that restrict the consumers' normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing; and (c) the use of faradic shock without a court order. The rule shall further specify that consumers may not be denied ordinary access to legal counsel and next of kin. In addition, the rule may specify other prohibited practices and the specific conditions under which permitted practices are to be carried out. For any persons receiving faradic shock, a plan to reduce and eliminate the use of faradic shock shall be in effect upon implementation of the procedure.

Subd. 1a. **Advisory committee.** Notwithstanding the provisions of Minnesota Rules, parts 9525.2700 to 9525.2810, the commissioner shall establish an advisory committee on the use of aversive and deprivation procedures.

Subd. 1b. **Review and approval.** Notwithstanding the provisions of Minnesota Rules, parts 9525.2700 to 9525.2810, the commissioner may designate the county case manager to authorize the use of controlled procedures as defined in Minnesota Rules, parts 9525.2710, subpart 9, and 9525.2740, subparts 1 and 2, after review and approval by the interdisciplinary team and the internal review committee as required in Minnesota Rules, part 9525.2750, subparts 1a and 2. Use of controlled procedures must be reported to the commissioner in accordance with the requirements of Minnesota Rules, part 9525.2750, subpart 2a. The commissioner must provide all reports to the advisory committee at least quarterly.

Subd. 2. [Repealed, 1995 c 207 art 11 s 12]

History: *1995 c 207 art 11 s 4*

245.98 COMPULSIVE GAMBLING TREATMENT PROGRAM.

[For text of subd 1, see M.S.1994]

Subd. 2. **Program.** The commissioner of human services shall establish a program for the treatment of compulsive gamblers. The commissioner may contract with an entity with expertise regarding the treatment of compulsive gambling to operate the program. The program may include the establishment of a statewide toll–free number, resource library, public education programs; regional in–service training programs and conferences for health care professionals, educators, treatment providers, employee assistance programs, and criminal justice representatives; and the establishment of certification standards for programs and service providers. The commissioner may enter into agreements with other entities and may employ or contract with consultants to facilitate the provision of these services or the training of individuals to qualify them to provide these services. The program may also include inpatient and outpatient treatment and rehabilitation services and research studies. The research studies must include baseline and prevalence studies for adolescents and adults to identify those at the highest risk. The program must be approved by the commissioner before it is established.

[For text of subd 2a, see M.S.1994]

Subd. 3. [Repealed, 1995 c 207 art 11 s 12]

[For text of subd 4, see M.S.1994]

History: *1995 c 86 s 1*