

1.1 A bill for an act  
 1.2 relating to human services; establishing COVID-19-related retention grants for  
 1.3 home and community-based service providers and disability services provider  
 1.4 COVID-19-related public health reinvention grants; appropriating money.

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

1.6 Section 1. **APPROPRIATION; COVID-19-RELATED RETENTION GRANTS FOR**  
 1.7 **HOME AND COMMUNITY-BASED SERVICE PROVIDERS.**

1.8 Subdivision 1. **Appropriation.** (a) \$..... in fiscal year 2021 is appropriated from the  
 1.9 coronavirus relief fund to the commissioner of human services for retention grants to eligible  
 1.10 providers as defined in subdivision 2 to assist providers: (1) with the costs of business  
 1.11 interruptions caused by required closures due to the COVID-19 pandemic; and (2) to help  
 1.12 ensure access to eligible services during or following the COVID-19 pandemic.

1.13 (b) The commissioner may use up to \$125,000 of this appropriation to administer this  
 1.14 grant.

1.15 (c) Beginning September 30, 2020, any unencumbered appropriations may be used for  
 1.16 disability services provider COVID-19-related public health reinvention grants.

1.17 (d) This is a onetime appropriation and is available until December 5, 2020.

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

1.20 (b) "Eligible provider" means either an enrolled provider who provides either eligible  
 1.21 services, as defined in paragraph (c), clauses (1) or (2), and meets the attestation and  
 1.22 agreement requirements in subdivisions 5 and 6; or an agency, as defined in Minnesota

2.1 Statutes, section 256B.0949, subdivision 2, paragraph (b), who provides eligible services  
2.2 as defined in paragraph (c), clause (3), and meets the attestation and agreement requirements  
2.3 in subdivisions 5 and 6.

2.4 (c) "Eligible services" means the following services:

2.5 (1) adult day services, day training and habilitation, day support services, prevocational  
2.6 services, and structured day services provided by the home and community-based waiver  
2.7 programs under Minnesota Statutes, sections 256B.0913, 256B.092, and 256B.49, and  
2.8 Minnesota Statutes, chapter 256S;

2.9 (2) employment exploration services, employment development services, and employment  
2.10 support services provided by the home and community-based waiver programs under  
2.11 Minnesota Statutes, sections 256B.092 and 256B.49; and

2.12 (3) early intensive developmental and behavioral interventions under Minnesota Statutes,  
2.13 section 256B.0949.

2.14 (d) "Fixed costs" means costs determined by the commissioner that do not fluctuate with  
2.15 changes in service provision. Eligible fixed costs under this section are costs similar to costs  
2.16 considered in the rate methodology component values under Minnesota Statutes, section  
2.17 256B.4914, subdivision 5, paragraph (d), clauses (7) and (8), paragraph (e), clauses (7) and  
2.18 (8), paragraph (f), clauses (7) and (8), and subdivision 7, clause (11).

2.19 (e) "Total revenue from medical assistance" includes both fee-for-service revenue and  
2.20 revenue from managed care organizations. The commissioner shall determine each provider's  
2.21 total revenue from medical assistance for eligible services provided during January 2020,  
2.22 based on data for service claims paid as of July 1, 2020.

2.23 Subd. 3. **Allowable uses of funds.** Grantees must use funds awarded under this section  
2.24 for fixed costs incurred during the COVID-19 peacetime emergency associated with  
2.25 maintaining the provider's capacity to provide services to its clients during the COVID-19  
2.26 pandemic.

2.27 Subd. 4. **Grant request.** Eligible providers must request a grant under this section no  
2.28 later than August 15, 2020. The commissioner shall develop an expedited request process  
2.29 that includes a form allowing providers to meet the requirements of subdivisions 5 and 6  
2.30 in as timely a manner as possible. The commissioner shall allow the use of electronic  
2.31 submission of request forms and accept electronic signatures.

2.32 Subd. 5. **Attestation.** As a condition of obtaining funds under this section, an eligible  
2.33 provider must attest to the following on the grant request form:

- 3.1 (1) the intent to provide eligible services under this section through December 31, 2020;  
3.2 (2) unreimbursed costs incurred on or after March 1, 2020, related to COVID-19-related  
3.3 business interruptions caused by required closures, reduced capacity to promote social  
3.4 distancing measures, or reduced demand for services;  
3.5 (3) revenue losses due to the COVID-19 pandemic exceeded monthly fixed costs incurred  
3.6 from March 1, 2020, to June 30, 2020; and  
3.7 (4) without additional funds, the provider will be unable to maintain the continuity of  
3.8 the services provided.

3.9 Subd. 6. **Agreement.** As a condition of obtaining funds under this section, an eligible  
3.10 provider must agree to the following on the grant request form:

- 3.11 (1) cooperate with the commissioner of human services to deliver services according to  
3.12 the program and service waivers and modifications issued under the commissioner's authority;  
3.13 (2) maintain documentation sufficient to demonstrate the unreimbursed costs required  
3.14 in order to receive a grant under this section; and  
3.15 (3) acknowledge that retention grants may be subject to a special recoupment under this  
3.16 section if a state audit performed under this section determines that the provider used awarded  
3.17 funds for purposes not authorized under this section.

3.18 Subd. 7. **Retention grants.** (a) No later than August 30, 2020, the commissioner shall  
3.19 begin issuing retention grants equal to the monthly amount specified in paragraph (b)  
3.20 multiplied by three to eligible providers.

3.21 (b) The commissioner shall issue retention grants under this subdivision in an amount  
3.22 equal to 22 percent of the provider's total revenue from medical assistance for eligible  
3.23 services provided during January 2020.

3.24 (c) The commissioner, acting under the governor's authority under Minnesota Statutes,  
3.25 section 12.36, shall implement retention grants and the process of making grants under this  
3.26 subdivision without compliance with time-consuming procedures and formalities prescribed  
3.27 in law such as the following statutes and related policies: Minnesota Statutes, sections  
3.28 16A.15, subdivision 3; 16B.97; 16B.98, subdivisions 5 and 7; and 16B.98, subdivision 8,  
3.29 the express audit clause requirement.

3.30 (d) By accepting a grant under this subdivision, the grantee attests to the conditions  
3.31 specified in subdivisions 5 and 6.

4.1 (e) The commissioner's determination of the grant amount determined under this  
4.2 subdivision is final and is not subject to appeal. This paragraph does not apply to recoupment  
4.3 by the commissioner under subdivision 9.

4.4 Subd. 8. **Payments for services provided.** Providers who receive grants under this  
4.5 section may continue to bill for services provided.

4.6 Subd. 9. **Recoupment.** (a) The commissioner may perform an audit under this section  
4.7 up to six years after the grant is awarded to ensure the funds are utilized solely for the  
4.8 purposes stated in subdivision 1.

4.9 (b) If the commissioner determines that a provider used awarded funds for purposes not  
4.10 authorized under this section, the commissioner shall treat any amount used for a purpose  
4.11 not authorized under this section as an overpayment. The commissioner shall recover any  
4.12 overpayment.

4.13 Subd. 10. **Expiration.** This section expires December 30, 2020, except for subdivision  
4.14 9.

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

4.16 **Sec. 2. APPROPRIATION; DISABILITY SERVICES PROVIDER**  
4.17 **COVID-19-RELATED PUBLIC HEALTH REINVENTION GRANTS.**

4.18 Subdivision 1. **Appropriation.** (a) \$..... in fiscal year 2021 is appropriated from the  
4.19 coronavirus relief fund to the commissioner of human services for COVID-19-related public  
4.20 health reinvention grants to eligible providers under subdivision 3 who have implemented  
4.21 or intend to implement COVID-19-related public health measures that facilitate social  
4.22 distancing practices that align with the most current social distancing guidelines issued by  
4.23 the United States Centers for Disease Control and Prevention (CDC).

4.24 (b) The commissioner may use up to \$..... of this appropriation to administer this grant.

4.25 (c) This is a onetime appropriation and is available until December 30, 2020. Any  
4.26 unexpended balance on December 30, 2020, cancels to the coronavirus relief fund.

4.27 Subd. 2. **Purpose.** Reinvention grants under this section are established to maintain or  
4.28 increase utilization of integrated, community-based day or employment services and reduce  
4.29 utilization of congregate and sheltered workshop settings where people are at higher risk  
4.30 of COVID-19 exposure and transmission.

4.31 Subd. 3. **Definitions.** (a) For purposes of this section, the following terms have the  
4.32 meaning given.

5.1 (b) "Eligible provider" means an enrolled provider who provides eligible services and  
5.2 who meets the attestation and application requirements in subdivisions 5 and 6.

5.3 (c) "Eligible services" means the following services:

5.4 (1) day training and habilitation, day support services, prevocational services, and  
5.5 structured day services provided by the home and community-based waiver programs under  
5.6 Minnesota Statutes, sections 256B.092 and 256B.49; and

5.7 (2) employment exploration services, employment development services, and employment  
5.8 support services provided by the home and community-based waiver programs under  
5.9 Minnesota Statutes, sections 256B.092 and 256B.49.

5.10 Subd. 4. Allowable uses of funds. (a) Grants must be used to maintain or increase access  
5.11 to integrated, community-based employment services and reduce facility-based and sheltered  
5.12 or crew-based day service settings in order to reduce exposure and transmission of  
5.13 COVID-19. Funds must be used in accordance with the federal Coronavirus Aid, Relief,  
5.14 and Economic Security Act, Public Law 116-136, and guidance. Funds may be used for:

5.15 (1) adapting business and service setting models to increase opportunities for people to  
5.16 use services while maintaining optimal social distancing to reduce the spread of COVID-19  
5.17 among people who use services and staff who provide direct care. Adaptations may include:

5.18 (i) increased opportunities to use non-facility-based employment development,  
5.19 employment exploration, and employment support services as referenced in Minnesota  
5.20 Statutes, section 256B.4914, subdivision 3; and

5.21 (ii) consultation and technical assistance to liquidate facility assets, strategically align  
5.22 resources, or develop short and long-term business plans to safeguard the health and safety  
5.23 of people who use services during the COVID-19 pandemic;

5.24 (2) supporting family and peer support systems during COVID-19-related adaptation  
5.25 from shelter and crew-based service settings to integrated, community-based employment;

5.26 (3) staff training to incorporate pandemic health-focused, individualized, person-centered  
5.27 approaches to support adaptations to non-facility-based employment during the COVID-19  
5.28 pandemic;

5.29 (4) advancing and improving informed decision-making processes that help people  
5.30 understand the public health risks associated with COVID-19 and those risks as they relate  
5.31 to:

5.32 (i) individual health status;

6.1 (ii) facility and shelter or crew-based day services; and

6.2 (iii) integrated, community-based employment options; and

6.3 (5) other activities as determined by the commissioner that align with the purpose in  
6.4 subdivision 2 and are in accordance with the federal Coronavirus Aid, Relief, and Economic  
6.5 Security Act, Public Law 116-136, and guidance.

6.6 Subd. 5. **Attestation.** (a) The commissioner shall develop an attestation process for  
6.7 eligible providers under subdivision 3. As a condition of applying for and accepting  
6.8 reinstitution grants under this section, each provider must attest in writing that the provider  
6.9 has unreimbursed costs related to the transition to non-facility-based service settings that  
6.10 allow for social distancing to reduce exposure to and transmission of COVID-19.

6.11 (b) In addition, eligible providers must agree to the following in writing:

6.12 (1) use funds to reduce exposure to and transmission of COVID-19 among people who  
6.13 use eligible services by decreasing use of facility, shelter-based, and crew-based service  
6.14 settings and increasing integrated, community-based employment; and

6.15 (2) maintain documentation sufficient to demonstrate the unreimbursed costs required  
6.16 in order to receive a grant under this section.

6.17 Subd. 6. **Application.** (a) The commissioner shall develop an application process, as  
6.18 allowed under Minnesota Statutes, section 12.36, for reinstitution grants under this section  
6.19 consistent with allowable uses of funds under subdivision 4.

6.20 (b) Eligible providers must apply for a grant under this section no later than November  
6.21 30, 2020.

6.22 Subd. 7. **Allocation.** (a) Beginning September 30, 2020, the commissioner shall award  
6.23 grants under this section to eligible providers who meet the attestation and application  
6.24 requirements under subdivisions 5 and 6.

6.25 (b) The commissioner may make reinstitution grants in an amount determined by the  
6.26 commissioner and based on each grantee's application, up to a maximum grant amount of  
6.27 \$200,000.

6.28 (c) Notwithstanding paragraph (b), if funds are available after all eligible providers have  
6.29 received a grant, the commissioner may award additional grant funds to providers who have  
6.30 already received the \$200,000 maximum grant amount.

6.31 (d) If applications for grants exceed the available appropriations, the commissioner shall  
6.32 give priority to grant applications from providers whose applications demonstrate the most

7.1 need or the most robust plan to ensure people have opportunities to participate in day or  
7.2 employment services that are not provided in a facility or sheltered or work crew setting.

7.3 (e) The commissioner's determination of the grant amount is final and not subject to  
7.4 appeal.

7.5 Subd. 8. **Recoupment.** (a) The commissioner may perform an audit under this section  
7.6 up to six years after the grant contract expires to ensure the funds are utilized solely for the  
7.7 purposes stated in subdivision 4.

7.8 (b) If the commissioner determines that a provider used awarded funds for purposes not  
7.9 authorized under this section, the commissioner shall treat any amount used for a purpose  
7.10 not authorized under this section as an overpayment. The commissioner shall recover any  
7.11 overpayment. All money recovered by the commissioner under this subdivision must be  
7.12 deposited in the federal fund.

7.13 Subd. 9. **Reporting.** The commissioner shall develop a reporting process for reinvention  
7.14 grants under this section. Each provider receiving funds under this section shall report to  
7.15 the commissioner by March 1, 2021, with a description of how the funds were utilized. By  
7.16 August 1, 2021, the commissioner shall report to the legislative committees with jurisdiction  
7.17 over human services policy and finance the total funds allocated to providers, uses of the  
7.18 funds, outcomes measured, people impacted, and other measures determined by the  
7.19 commissioner.

7.20 Subd. 10. **Expiration.** Subdivisions 1 to 7 expire December 30, 2020, or on a date  
7.21 determined by the United States Department of Treasury, whichever is later. Subdivision  
7.22 9 expires August 1, 2021, or on the date the commissioner submits the report required under  
7.23 subdivision 9, whichever is later.

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