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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2914

01/31/2022

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The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; allowing the commissioner of human services to
1.3 reinstate waivers and modifications to certain human services programs.

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

1.5 Section 1. **REINSTATEMENT AND EXTENSION OF COVID-19 PROGRAM**
1.6 **WAIVERS AND MODIFICATIONS.**

1.7 The commissioner of human services may reinstate waivers and modifications to human
1.8 services programs issued by the commissioner pursuant to the governor's Executive Order
1.9 20-12, including any amendments to the waivers and modifications. The waivers and
1.10 modifications may remain in effect until June 30, 2022. The following waivers and
1.11 modifications to human services programs may be reinstated:

1.12 (1) CV03: allowing oral or written signatures by applicants on applications for public
1.13 assistance programs;

1.14 (2) CV04: allowing oral or written permission from public assistance program participants
1.15 for the Department of Human Services to contact third parties to verify reported information;

1.16 (3) CV23: waiving mandatory direct contact supervision requirements to allow
1.17 case-by-case decisions to permit certain individuals to work without supervision while that
1.18 individual's background studies are being processed, as permitted under federal law and
1.19 regulation, and allowing the transition from name and date of birth studies of Minnesota
1.20 records only, for both existing studies and studies that may be initiated during the transition
1.21 period, to fingerprint-based background studies to resume on a schedule established by the
1.22 commissioner and published on the department's website. Waiver provisions permitting the

2.1 return to background studies of Minnesota records only for providers who are currently
 2.2 transitioned to fingerprint-based studies shall not be reinstated;

2.3 (4) CV53: allowing qualified health professionals to provide required in-person oversight
 2.4 of personal care assistance workers via two-way interactive telecommunications for all
 2.5 program participants who receive personal care assistance services; and

2.6 (5) CV89: allowing program participants to give oral, written, or expressed approval of
 2.7 documents related to long-term services and supports that typically require in-person
 2.8 signatures.

2.9 **EFFECTIVE DATE.** This section is effective the day following final enactment except
 2.10 for clause (4), which is effective retroactively from September 1, 2021.

2.11 Sec. 2. **REINSTATEMENT AND EXTENSION OF COVID-19 PROGRAM**
 2.12 **WAIVERS AND MODIFICATIONS TO THE CHILD CARE ASSISTANCE**
 2.13 **PROGRAM.**

2.14 (a) The commissioner of human services may reinstate waivers and modifications to the
 2.15 child care assistance program. The waivers and modifications shall remain in effect until
 2.16 June 26, 2022. Waiver CV08, allowing a child care assistance program (CCAP) agency to
 2.17 pay child care assistance to a child care provider, may be reinstated when:

2.18 (1) children are not attending child care because the child care provider has temporarily
 2.19 closed an entire program due to health concerns related to COVID-19; or

2.20 (2) a provider chooses not to charge or reduces fees for privately paying families because
 2.21 of closed or absent days due to health concerns related to COVID-19.

2.22 (b) Child care assistance payments during closures related to COVID-19 are limited to
 2.23 up to eight weeks total per child care provider. A child care provider must report any closure
 2.24 to the Department of Human Services child care assistance program staff prior to submitting
 2.25 child care assistance bills for closed dates to a CCAP agency for payment.

2.26 **EFFECTIVE DATE.** This section is effective retroactively from November 1, 2021.

2.27 Sec. 3. **TEMPORARY MODIFICATIONS OF CHILD CARE CENTER STAFF;**
 2.28 **DISTRIBUTION REQUIREMENTS.**

2.29 (a) The commissioner of human services may temporarily suspend child care center
 2.30 staff distribution requirements under Minnesota Rules, part 9503.0040, subpart 2, item D,
 2.31 until June 30, 2022.

3.1 (b) A licensed child care center, except as allowed under Minnesota Rules, part
3.2 9503.0040, subpart 2, item B, must have at least one person qualified as a teacher on site
3.3 at all times when a child is in care at the licensed child care center. There must be a staff
3.4 person who is at least 18 years of age with each group of children, except as allowed under
3.5 Minnesota Rules, part 9503.0034, subpart 1.

3.6 (c) A licensed child care center must have a staff person on site who is responsible for
3.7 overseeing the operation of the daily activities of the program, ensuring the health and safety
3.8 of the children, and supervising staff. The on-site staff person is not required to meet the
3.9 qualifications of a director.

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

3.11 **Sec. 4. COMMISSIONER OF HUMAN SERVICES; TEMPORARY STAFFING**
3.12 **POOL; APPROPRIATION.**

3.13 (a) The commissioner of human services may contract with third-party staffing entities
3.14 under master contract with the commissioner of administration in order to recruit, hire, train,
3.15 and employ a temporary staffing pool. Vendor contracts may include retention bonuses,
3.16 sign-on bonuses, and payment for hours on call.

3.17 (b) Temporary staff, at the request of the commissioner, may be deployed to long-term
3.18 care facilities and other congregate care residential facilities and programs experiencing an
3.19 emergency staffing crisis on or after the effective date of this section. Temporary staff must
3.20 be provided at no cost to the facility or program receiving the temporary staff.

3.21 (c) Members of the temporary staffing pool under this section are not state employees.

3.22 (d) The commissioner must coordinate the activities under this section with any other
3.23 impacted state agencies, to appropriately prioritize locations to deploy contracted temporary
3.24 staff.

3.25 (e) The commissioner must give priority for deploying staff to facilities and programs
3.26 with the most significant staffing crises and where, but for this assistance, residents would
3.27 be at significant risk of injury due to the need to transfer to another facility or a hospital for
3.28 adequately staffed care.

3.29 (f) A facility or program may seek assistance from the temporary staffing pool only after
3.30 the facility or program has used all resources available to obtain temporary staff but is unable
3.31 to meet the facility's or program's temporary staffing needs. A facility or program may
3.32 request temporary staff for up to 30 days along with a proposed plan for ensuring resident
3.33 safety at the end of that time period.

4.1 (g) As a condition of receiving staffing assistance from the temporary staffing pool, a
4.2 facility or program must attest it has provided employees a total of at least 80 hours of paid
4.3 leave, prorated for part-time employees, to be used if the employee must isolate or quarantine
4.4 due to COVID-19 infection or exposure, except as provided in paragraph (h). Paid leave
4.5 provided under this paragraph must be paid at the employee's regular salary or wages.

4.6 (h) An employee who has exhausted emergency paid sick leave provided under the
4.7 federal Families First Coronavirus Response Act is not entitled to paid leave under paragraph
4.8 (g). A facility or program shall not require an employee to use the employee's existing paid
4.9 or unpaid leave in lieu of the paid leave provided under paragraph (g), unless the facility
4.10 or program:

4.11 (1) already provides additional paid leave that is for the purpose of the paid leave provided
4.12 under paragraph (g);

4.13 (2) compensates the employee in an amount equal to or greater than the employee's
4.14 regular salary or wages; and

4.15 (3) provides paid leave that is in addition to the regular amount of paid leave provided
4.16 to the employee under the facility's or program's regular leave policies or applicable collective
4.17 bargaining agreement.

4.18 (i) Facilities and programs eligible to obtain temporary staff from the temporary staffing
4.19 pool include:

4.20 (1) nursing facilities;

4.21 (2) assisted living facilities;

4.22 (3) intermediate care facilities for persons with developmental disabilities;

4.23 (4) adult foster care or community residential settings;

4.24 (5) licensed substance use disorder treatment facilities;

4.25 (6) unlicensed county-based substance use disorder treatment facilities;

4.26 (7) licensed facilities for adults with mental illness;

4.27 (8) licensed detoxification programs;

4.28 (9) licensed withdrawal management programs;

4.29 (10) licensed children's residential facilities;

4.30 (11) licensed child foster residence settings;

5.1 (12) unlicensed, Tribal-certified facilities that perform functions similar to the licensed
5.2 facilities listed in this paragraph;

5.3 (13) boarding care homes;

5.4 (14) board and lodging establishments serving people with disabilities or disabling
5.5 conditions;

5.6 (15) board and lodging establishments with special services;

5.7 (16) supervised living facilities;

5.8 (17) supportive housing;

5.9 (18) sober homes;

5.10 (19) community-based halfway houses for people exiting the correctional system;

5.11 (20) shelters serving people experiencing homelessness;

5.12 (21) drop-in centers for people experiencing homelessness;

5.13 (22) homeless outreach services for unsheltered individuals;

5.14 (23) shelters for people experiencing domestic violence; and

5.15 (24) temporary isolation spaces for people who test positive for COVID-19.

5.16 (j) Notwithstanding any other law to the contrary, the commissioner may allocate funding
5.17 to maintain, extend, or renew contracts for temporary staffing entered into on or after
5.18 September 1, 2020. The commissioner may also allocate funding to enter into new contracts
5.19 with eligible entities and may allocate funding for the costs needed for temporary staff
5.20 deployed in the temporary staffing pool. The commissioner may use up to 6.5 percent of
5.21 this funding for the commissioner's costs related to administration of this program.

5.22 (k) The commissioner shall seek all allowable FEMA reimbursement for the costs of
5.23 this activity. If after receiving payment from the commissioner for a documented cost, the
5.24 provider is able to acquire payment from another source for that cost, the provider shall
5.25 reimburse the commissioner in the amount paid.

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