

House Research Act Summary

CHAPTER: 288

SESSION: 2004 Regular Session

TOPIC: DHS Licensing, DHS Technical, and Miscellaneous DHS Policy Bill

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Section**Article 1: Human Services**

This article makes various substantive and technical amendments to the Human Services Licensing Act, the Human Services Background Studies Act, provisions related to insurance for foster home providers, day training and habilitation, human services fair hearings, and the Maltreatment of Minors and Vulnerable Adults Acts. The bill establishes licensing standards for residence-based family adult day services.

- 1 **Insurance for foster home providers.** Amends § 245.814, subd. 1. Adds licensed family adult day services providers to the list of providers for which the Commissioner of Human Services must purchase and provide liability insurance.
- 2 **Adult day care or family adult day services.** Amends § 245A.02, subd. 2a. Updates terminology to reflect the new licensing standards for adult day services in section 0 of this article.
- 3 **Controlling individual.** Amends § 245A.02, subd. 5a. Adds “owner” and “managerial official” to the list of entities and individuals who are a “controlling individual” for purposes of the licensing act. Defines terms.
- 4 **Foster care for adults.** Amends § 245A.02, by adding subd. 6c. Adds a new definition related to the licensing standards for adult day services in section 0 of this article.
- 5 **Functional impairment.** Amends § 245A.02, subd. 7. Updates terminology to reflect the new licensing standards for adult day services in section 0 of this article.
- 6 **Nonresidential program.** Amends § 245A.02, subd. 10. Removes obsolete provisions related to nursing homes from the definition of nonresidential program.
- 7 **Residential program.** Amends § 245A.02, subd. 14. Removes obsolete provisions related to nursing homes from the definition of residential program.
- 8 **Exclusion from licensure.** Amends § 245A.03, subd. 2. Updates, clarifies, and removes obsolete language from provisions that exclude certain programs and facilities from licensure.
- 9 **Unlicensed programs.** Amends § 245A.03, subd. 3. Gives the commissioner the authority to seek an injunction preventing the continued operation of an unlicensed program if the program continues to operate after (1) it fails to apply for a license after receiving notice that a license is required; (2) the license is revoked or suspended; or (3) the license is temporarily suspended.
- 10 **Application for licensure.** Amends § 245A.04, subd. 1. (a) Requires an applicant with headquarters outside of Minnesota to have a program office located in the state if it is seeking licensure in Minnesota.

(c) Requires an applicant or license holder to have a drug and alcohol policy that prohibits individuals who are directly responsible for persons being served by the program from abusing prescription medications or being under the influence of a chemical that impairs the individual’s ability to provide services or care. Also requires the license holder to give staff training about the policy.

(d) Requires an applicant or license holder to have a program grievance procedure for persons served by the program.

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- 11 Commissioner's right of access.** Amends § 245A.04, subd. 5. Clarifies the commissioner's right to access licensed programs by adding a cross-reference to the section in current law authorizing the commissioner to approve or disapprove of public and private mental health centers and clinics. This provision clarifies the commissioner's right to access programs that are certified, not licensed.
- 12 Commissioner's evaluation.** Amends § 245A.04, subd. 6. Updates cross-reference.
- 13 Issuance of a license; extension of a license.** Amends § 245A.04, subd. 7. (d) Requires a license holder to notify and get the commissioner's approval before making any changes that alter the license.
- (e) Prohibits the commissioner from issuing a license if the applicant, license holder, or controlling individual has (1) been disqualified and the disqualification was not set aside; (2) been denied a license within the past two years; or (3) had a license revoked within the past five years.
- 14 Residential programs handling resident funds and property; additional requirements.** Amends § 245A.04, by adding subd. 13. Requires licensed residential programs to implement certain procedures regarding the handling and safekeeping of residents' personal funds or property.
- 15 Denial of application.** Amends § 245A.05. Allows the commissioner to give an applicant notice of a denial of a license application by personal service. Also allows the applicant to notify the commissioner of an appeal by personal service. Updates cross-reference.
- 16 Reconsideration of correction orders.** Amends § 245A.06, subd. 2. Requires an applicant's or license holder's request for reconsideration of a correction order to be made in writing and postmarked and sent to the commissioner within 20 days after receipt of the correction order.
- 17 Notice of conditional license; reconsideration of conditional license.** Amends § 245A.06, subd. 4. Modifies and clarifies notice and appeal requirements, including the manner of the notice provided and the timing for an appeal, if the commissioner makes a license conditional. Also provides for a contested case hearing if the commissioner issues a dual order of conditional license and orders the license holder to pay a fine.
- 18 Temporary immediate suspension.** Amends § 245A.07, subd. 2. Adds a provision authorizing the commissioner to act immediately to temporarily suspend a license if the actions of individuals other than the license holder or conditions in the program pose an imminent risk of harm to the health, safety, or rights of persons served by the program. Updates cross-reference to administrative hearing rules. Clarifies service and timing requirements for a license holder's appeal of an order immediately suspending a license.
- 19 Immediate suspension expedited hearing.** Amends § 245A.07, subd. 2a. Clarifies hearing notice requirements. Gives the parties ten calendar days to submit exceptions to the administrative law judge's report. Also specifies that the record closes at the end of the ten-day period for submitting exceptions and that the commissioner's final order must be issued within ten days after the record is closed.
- 20 License suspension, revocation, or fine.** Amends § 245A.07, subd. 3. Permits the commissioner to suspend or revoke a license or impose a fine if a license holder has a disqualification that has not been set aside. Modifies and clarifies notice and appeal requirements. Updates cross-reference to administrative hearing rules.
- 21 Receipt of appeal; conduct of hearing.** Amends § 245A.08, subd. 1. Updates cross-reference to administrative hearing rules.

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- 22 Consolidated contested case hearings for sanctions based on maltreatment determinations and disqualifications.** Amends § 245A.08, subd. 2a. Corrects cross-reference. Strikes language to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification.
- 23 Notice of the commissioner's final order.** Amends § 245A.08, subd. 5. Updates cross-references to administrative hearing rules.
- 24 Consolidation of hearings; reconsideration.** Amends § 245A.085. Adds cross-reference.
- 25 Adult foster care; family adult day services.** Amends § 245A.11, subd. 26. Updates terminology. Strikes capacity requirements codified in section 27 of the article. Requires authorization to provide family adult day services in the adult foster care setting to be printed on the license holder's license certificate.
- 26 Special family day care homes.** Amends § 245A.14, subd. 4. Requires that a community collaborative child care provider be licensed as family day care or group family day care if certain conditions are met.
- 27 Family adult day services.** Adds § 245A.143. Creates new licensing standards for residential-based family adult day services. These services are currently licensed under adult foster care licensing standards, which do not specifically regulate day services.

Subd. 1. Scope. Defines "family adult day services" for purposes of the licensing standards. Specifies when a license shall be issued, license application procedures, and the licensed capacity for the program.

Subd. 2. Definitions. Defines "caregiver," "participant," and "consultation by a health care professional."

Subd. 3. Policy and program information requirements. Specifies the written information a license holder must provide to participants and caregivers in the program.

Subd. 4. Admission screening and evaluation. Requires the license holder to screen an individual before admitting them into the family adult day services program.

Subd. 5. Service delivery plan. Requires the individual receiving services, the individual's caregiver, the legal representative, if any, the county or private case manager, and the license holder to develop a service delivery plan before services are provided. Specifies what the delivery plan must include.

Subd. 6. Individual service plan. Requires the license holder to develop a service plan for the individual receiving services. Specifies certain requirements for the plan.

Subd. 7. Health services. Requires the license holder to provide the health services specified in the service delivery plan. Specifies what the health services must include.

Subd. 8. Nutritional services. Specifies requirements the license holder must meet regarding food and beverages served in the program.

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Subd. 9. Social services. Requires the license holder to actively assist the participants in the program in meeting certain social services goals.

Subd. 10. Participant rights. Requires the license holder to comply with a participant bill of rights. Specifies a participant's rights in the program.

Subd. 11. Staffing. Specifies staffing requirements.

Subd. 12. Training. Specifies license holder and staff training requirements.

Subd. 13. Residential requirements. Specifies building code and fire code inspection requirements for the licensed home. Specifies other requirements related to the licensed capacity and square footage of the program. Also requires the home to comply with all applicable local ordinances.

Subd. 14. Variances. Authorizes the commissioner to grant a variance to any of the requirements in this section.

- 28 **Delegation of authority to agencies.** Amends § 245A.16, subd. 1. Adds a cross-reference to the background studies chapter. For family adult day services programs, authorizes licensing reviews every two years after a license has at least one annual review. Also authorizes the commissioner to issue licenses under this section for up to two years.
- 29 **Enforcement of the commissioner's orders.** Amends § 245A.16, subd. 4. Adds cross-references to the background studies chapter.
- 30 **Admission.** Amends § 245A.22, subd. 2. Specifies admission standards for independent living assistance programs for certain targeted youth. Makes this section effective the day following final enactment.
- 31 **Independent living plan.** Amends § 245A.22, subd. 3. Specifies the services that a license holder must make available to the targeted youth participating in independent living assistance programs. Makes this section effective the day following final enactment.
- 32 **Interdisciplinary team.** Amends § 245B.02, by adding subd. 12a. Defines "interdisciplinary team" for purposes of licensing standards governing services to persons with mental retardation or related conditions. Makes this section effective the day following final enactment.
- 33 **Relationship to other standards governing services for persons with mental retardation or related conditions.** Amends § 245B.03, subd. 2. Updates cross-reference.
- 34 **Licensed capacity for facility-based day training and habilitation services.** Amends § 245B.05, subd. 2. Modifies capacity requirements for licensed facility-based day training and habilitation sites. Specifies settings for which the capacity requirements do not apply. Also requires the license holder to comply with all applicable fire and safety codes and supervision requirements. Makes this section effective the day following final enactment.
- 35 **Minimum level of staffing required for day training and habilitation services.** Adds § 245B.055. Specifies the staffing levels for license holders providing day training and habilitation services. This section codifies the staffing requirements currently located in rule. Makes this section effective the day following final enactment.
- 36 **Policies and procedures.** Amends § 245B.07, subd. 8. Requires a license holder to develop and implement policies and procedures for a plan to respond to and report certain incidents involving consumer health and safety in the licensed program.

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- 37 **Separate license required for separate sites.** Amends § 245B.07, subd. 12. Provides that a day training and habilitation services site used only for the limited purpose of providing transportation to consumers receiving community-based day training and habilitation services does not have to have a separate license. Makes this section effective the day following final enactment.
- 38 **Serious maltreatment.** Amends § 245C.02, subd. 18. Provides that serious maltreatment includes neglect when it results in criminal sexual conduct against a child or vulnerable adult. Makes this section effective the day following final enactment.
- 39 **Licensed programs.** Amends § 245C.03, subd. 1. Clarifies language. Adds provision requiring the commissioner to conduct background studies on managerial officials defined under section 0 of this article. Provides that for family child foster care settings, a short-term substitute caregiver providing direct contact services for less than 72 hours of continuous care is not required to receive a background study. Makes this section effective the day following final enactment.
- 40 **Other state agencies.** Amends § 245C.03, by adding subd. 5. Clarifies that the commissioner must conduct background studies on applicants and license holders under the jurisdiction of other state agencies that are required to initiate background studies under other statutory sections. Makes this section effective the day following final enactment.
- 41 **Individual studied.** Amends § 245C.05, subd. 1. Modifies the information that the subject of a background study must provide for a background study. Also requires the subject of a background study conducted by counties or private agencies to provide certain information. This provision codifies the standards for background studies conducted by counties and private agencies currently located in rule. Makes this section effective the day following final enactment.
- 42 **Applicant, license holder, or other entity.** Amends § 245C.05, subd. 2. Corrects cross-reference. Adds language providing for the electronic submission of background study information. Makes this section effective the day following final enactment.
- 43 **Fingerprints.** Amends § 245C.05, subd. 5. Corrects cross-reference. Makes this section effective the day following final enactment.
- 44 **Applicant, license holder, other entities, and agencies.** Amends § 245C.05, subd. 6. Makes terminology change. Makes this section effective the day following final enactment.
- 45 **Background studies conducted by a county or private agency; foster care and family child care.** Amends § 245C.08, subd. 2. Authorizes the commissioner to review certain arrest and investigative records and criminal records for background studies conducted by a county or private agency. Also provides that, if an individual has resided in a county for less than five years, the study must include certain records from previous counties of residence. This new language codifies the standards for background studies conducted by counties and private agencies currently located in rule. Makes this section effective the day following final enactment.
- 46 **Arrest and investigative information.** Amends § 245C.08, subd. 3. Deletes unnecessary cross-reference. Makes this section effective the day following final enactment.
- 47 **Juvenile court records.** Amends § 245C.08, subd. 4. Makes technical correction. Makes this section effective the day following final enactment.
- 48 **Disqualification; licensing action.** Amends § 245C.09, subd. 1. Makes terminology change. Makes this section effective the day following final enactment.
- 49 **Timing.** Amends § 245C.13, subd. 1. Makes terminology change. Makes this section effective the day following final enactment.

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- 50 Disqualification from direct contact.** Amends § 245C.14, subd. 1. Clarifies standards for disqualification. Makes this section effective the day following final enactment.
- 51 15-year disqualification.** Amends § 245C.15, subd. 2. Adds clarifying language. Makes this section effective the day following final enactment.
- 52 Ten-year disqualification.** Amends § 245C.15, subd. 3. Adds clarifying language. Makes this section effective the day following final enactment.
- 53 Seven-year disqualification.** Amends § 245C.15, subd. 4. Provides that maltreatment in any other state is a grounds for disqualification, if the elements of maltreatment are substantially similar to Minnesota law. Makes this section effective the day following final enactment.
- 54 Determining immediate risk of harm.** Amends § 245C.16, subd. 1. Requires the commissioner to consider whether an individual has a disqualification from a previous background study that has not been set aside when determining the individual's immediate risk of harm. Authorizes the commissioner to order supervision or the immediate removal of an individual if the commissioner has reason to believe that, based on arrest or active maltreatment investigation information, an individual poses an imminent risk of harm to persons receiving services. Makes this section effective the day following final enactment.
- 55 Time frame for notice of study results.** Amends § 245C.17, subd. 1. Makes terminology change. Makes this section effective the day following final enactment.
- 56 Disqualification notice sent to applicant, license holder, or other entity.** Amends § 245C.17, subd. 3. Makes terminology change. Makes this section effective the day following final enactment.
- 57 Obligation to remove disqualified individual from direct contact.** Amends § 245C.18. Requires a license holder to remove a disqualified individual from direct contact with persons served by the licensed program if the individual does not timely request a hearing or the individual requests a hearing and the commissioner does not set aside the disqualification. Makes this section effective the day following final enactment.
- 58 License holder record keeping.** Amends § 245C.20. Requires a licensed program to document in its personnel files the date the program initiates a background study. Also requires the program to contact the commissioner if it does not receive a response within 45 days after it initiated the study. Makes this section effective the day following final enactment.
- 59 Information disqualified individuals must provide when requesting reconsideration.** Amends § 245C.21, subd. 3. Adds clarifying language. Makes terminology change and adds a cross-reference. Makes this section effective the day following final enactment.
- 60 Notice of request for reconsideration.** Amends § 245C.21, by adding subd. 4. Authorizes the commissioner under certain circumstances to inform the applicant, license holder, or other entity if the disqualified individual has requested reconsideration. Makes this section effective the day following final enactment.
- 61 Preeminent weight given to safety of persons being served.** Amends § 245C.22, subd. 3. Makes terminology changes. Provides that any risk of harm factor may be determinative of the commissioner's decision whether to set aside a disqualification. Makes this section effective the day following final enactment.
- 62 Risk of harm; set aside.** Amends § 245C.22, subd. 4. Makes terminology change. Clarifies language. Makes this section effective the day following final enactment.
- 63 Scope of set aside.** Amends § 245C.22, subd. 5. Adds a cross-reference. Makes this section effective the day following final enactment.

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- 64 Rescission of set aside.** Amends § 245C.22, subd. 6. Makes terminology change and corrects and adds a cross-reference. Makes this section effective the day following final enactment.
- 65 Commissioner's notice of disqualification that is set aside.** Amends § 245C.23, subd. 1. Requires the commissioner to send a certain notice to license holders in cases where the commissioner has notified a license holder that more time was needed to complete a background study of disqualified individual, but the commissioner ultimately sets aside the disqualification. Makes this section effective the day following final enactment.
- 66 Commissioner's notice of disqualification that is not set aside.** Amends § 245C.23, subd. 2. Clarifies standards for when the commissioner must notify and order the license holder to immediately remove a disqualified individual from any position allowing direct contact with persons receiving services from the license holder. Provides that the order remains in effect pending a hearing on an appeal. Makes this section effective the day following final enactment.
- 67 Consolidated reconsideration of maltreatment determination and disqualification.** Amends § 245C.25. Requires the county to conduct the reconsideration of a subsequent disqualification if the county previously conducted a consolidated reconsideration. Specifies the scope of review. Makes this section effective the day following final enactment.
- 68 Reconsideration of a disqualification for an individual living in a licensed home.** Amends § 245C.26. Updates terminology. Makes this section effective the day following final enactment.
- 69 Fair hearing when disqualification is not set aside.** Amends § 245C.27, subd. 1. Provides that an individual does not have the right to a fair hearing if the disqualification is deemed conclusive. Corrects cross-references. Makes this section effective the day following final enactment.
- 70 Consolidated fair hearing for maltreatment determination and disqualification not set aside.** Amends § 245C.27, subd. 2. Strikes language to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification. Corrects cross-reference. Makes this section effective the day following final enactment.
- 71 License holder.** Amends § 245C.28, subd. 1. Strikes language to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification. Makes this section effective the day following final enactment.
- 72 Individual other than license holder.** Amends § 245C.28, subd. 2. Strikes language to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification. Makes this section effective the day following final enactment.
- 73 Employees of public employer.** Amends § 245C.28, subd. 3. Specifies the requirements for a disqualified employee's appeal of a disqualification that is not set aside, the scope of the hearing, and what the administrative law judge must consider when determining whether the disqualification should be set aside. Makes this section effective the day following final enactment.
- 74 Conclusive disqualification determination.** Amends § 245C.29, subd. 2. Provides that certain disqualifications are conclusive for purposes of a licensing action. Specifies appeal rights for subsequent disqualifications. Makes this section effective the day following final enactment.
- 75 Determinations; redeterminations.** Amends § 252.28, subd. 1. Adds provision requiring

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the commissioner to determine, at least every four years, the anticipated growth or decline in need for day training and habilitation services. Makes this section effective the day following final enactment.

- 76 State agency hearings.** Amends § 256.045, subd. 3. Strikes language to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification. Makes this section effective the day following final enactment.
- 77 Standard of evidence for maltreatment and disqualification hearings.** Amends § 256.045, subd. 3b. Requires state human services referees to determine whether a disqualification should be set aside. Specifies the factors the referee must consider when determining whether to set aside the disqualification. Also clarifies a disqualified individual's appeal rights under certain circumstances. Makes this section effective the day following final enactment.
- 78 Duties of local welfare agency and local law enforcement agency upon receipt of a report.** Amends § 626.556, subd. 10. Requires the agency assessing or investigating a child maltreatment report to inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the reporter.
- 79 Administrative reconsideration of final determination of maltreatment and disqualification based on serious or recurring maltreatment; review panel.** Amends § 626.556, subd. 10i. Strikes language in the maltreatment of minors act to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification. Updates a cross-reference to administrative hearing rules. Makes this section effective the day following final enactment.
- 80 Administrative reconsideration of final disposition of maltreatment and disqualification based on serious or recurring maltreatment; review panel.** Amends § 626.557, subd. 9d. Strikes language in the vulnerable adults act to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification. Updates a cross-reference to administrative hearing rules. Makes this section effective the day following final enactment.
- 81 Direction to commissioner; report.** Requires the commissioner to report to the legislature by September 15, 2006, on the number of adult foster care licenses, family adult day services licenses, combined licenses, adult day services center licenses and their capacities, including the changes in the number of licenses and capacities from August 1, 2004, to August 1, 2006.
- 82 Revisor's instruction.** Requires the revisor to update certain terminology related to adult day services.
- 83 Repealer.** Repeals § 245C.02, subd. 17 (definition of registrant); and Minnesota Rules, parts 9525.1600 (minimum staffing requirements); 9543.0040, subp. 3 (background study); 9543.1000 (applicability); 9543.1010 (definitions); 9543.1020 (application and license requirements); 9543.1030 (denial of application); 9543.1040 (licensing actions for failure to comply with rule); 9543.1050 (administrative licensing actions); and 9543.1060 (negative licensing actions).

Article 2: Corrections

- 1 Background studies.** Amends § 241.021. Corrects cross-reference.

Article 3: Miscellaneous

- 1 **Public data.** Amends § 13.43, subd. 2. Updates cross-reference.
- Also makes private: city and county of residence of public employees.
- 2 **Limitation on disclosures of certain personnel data.** Amends § 13.43, by adding a subdivision. Specifies information about employees of secure treatment facilities, corrections facilities, or involved in community supervision of offenders that must not be disclosed to patients, inmates, or others if administrators reasonably believe the information will be used to harass, intimidate or assault the employees.
- 3 **Family coverage; coverage of newborn infants.** Amends § 62A.042. The changes to subdivision 1 require individual family policies of indemnity insurers and HMOs to cover the expenses of medical and dental treatment for cleft lip and cleft palate up to “the limiting age for coverage” of the dependent. (Under current law, coverage of expenses is limited to dependents up to age 18. Adding a reference to the limiting age allows coverage of individuals up to age 19 and certain students up to age 25.) Benefits for individuals age 19 up to the limiting age of coverage are limited to coverage of expenses arising from treatment scheduled or initiated prior to the dependent turning age 19.
- The changes to subdivision 2 apply the same provisions added in subdivision 1 to group family policies.
- Effective date.** States that the section is effective January 1, 2005, and applies to coverage issued or renewed on or after that date.
- 4 **Newborn infant coverage.** Amends § 62C.14, subd. 14. Requires nonprofit health service plan corporations to provide coverage for cleft lip and cleft palate to the same extent as indemnity insurers and HMOs.
- Effective date.** States that the section is effective January 1, 2005, and applies to coverage issued or renewed on or after that date.
- 5 **Payment disclosure.** Creates a new § 151.214. Requires pharmacists to provide to certain purchasers the purchaser’s co-payment amount and the usual and customary price of the prescription.
- 6 **Contraband articles; exceptions; penalty.** Amends § 243.55, subd. 1. Expands current law to include possession of contraband items (such as controlled substances, firearms, weapons, explosives, or alcoholic liquor or malt beverages) in secure treatment facilities as a violation of criminal statutes. Current law limits a violation to the introduction of contraband items. Makes this section effective August 1, 2004, and applicable to crimes committed on or after that date.
- 7 **Mental health professional.** Amends § 245.462, subd. 18. Modifies the definition of “mental health professional.”
- 8 **Public-private partnerships.** Amends § 245.464, by adding a subdivision. Allows the commissioner to establish a mechanism by which counties, DHS, hospitals, health plans, consumers, and others may enter into agreements that allow for capacity building and oversight of any agreed-upon entity that is developed through these partnerships. The purpose of these partnerships is the development and effective, efficient, and accessible provision of mental health services.
- 9 **Duties of county board.** Amends § 245.4874. Clarifies that county boards are required to provide children’s mental health screening to certain children within the limits of legislative appropriations.

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- 10 Availability of case management services.** Amends § 245.4881, subd. 1. Removes obsolete language. Allows case management services to be provided for a child with a serious emotional disturbance who is over the age of 18 consistent with the provision in current law regarding transition services. Makes this section effective July 1, 2004.
- 11 Savings account.** Amends § 246.15, by adding a subdivision. Requires the commissioner to create a savings account for each patient receiving treatment in a secure treatment facility. Requires that the money come from a portion of the patient's share of the cost of care. Requires the money in this saving account to be made available to the patient when the patient is ready to be transitioned into the community. Requires the money in the account to be used for expenses associated with obtaining housing and other personal needs. Requires the savings account to be called "forensic patient transition savings account."
- 12 Minnesota Sex Offender Program; productive day program.** Amends § 246B.05. Requires the Commissioner of Human Services, in consultation with the Commissioner of Corrections, to develop an employment option for persons committed to a sexual psychopathic personality treatment center. The commissioner may retain 50 percent of the earnings to reimburse the state for the cost of administering the work program and for the purpose of reducing state costs associated with the Minnesota Sex Offender Program, and the remaining 50 percent of the earnings are returned by the participating patient.
- 13 Contribution amount.** Amends § 252.27, subd. 2a. Modifies the age of allowable dependents. Exempts certain one-time income from being counted as income for the purposes of establishing the parental fee.
- 14 Administrative restriction.** Amends § 253B.02, subd. 24. Defines the term "administrative restriction." Administrative restriction means any measure utilized by the commissioner to maintain safety and security, protect possible evidence, and prevent the continuation of suspected criminal acts.
- 15 Safety.** Amends § 253B.02, by adding a subdivision. Defines "safety."
- 16 Security.** Amends § 253B.02, by adding a subdivision. Defines "security."
- 17 Administrative restriction.** Amends § 253B.03, subd. 1a. Establishes how administrative restriction may be used in the rights of patients statute.
- 18 Rights of patients committed under this section.** Amends § 253B.185, by adding a subdivision. Allows the commissioner or the commissioner's designee to limit certain statutory rights for patients committed to the Minnesota Sex Offender Program in order to maintain a therapeutic environment, or the security of the facility or to protect the safety and well-being of patients, staff, and the public. Lists the rights that may be limited. Makes this section effective immediately.
- 19 Single benefit demonstration.** Amends § 256.01, by adding subd. 14a. Permits the Commissioner of Human Services to conduct a demonstration program under certain conditions, to demonstrate the impact of a single benefit level on the rate of permanency for children in long-term foster care through transfer of permanent legal custody or adoption. Requires the program to be cost neutral and permits the Commissioner to use certain funds in a specified manner.
- 20 Homeless services.** Amends § 256.01, by adding a subdivision. Allows the commissioner of human services to contract directly with nonprofit organizations providing homeless services in two or more counties. Makes this section effective immediately following final enactment.
- 21 Children.** Amends § 256B.055, by adding subd. 10b. Reinstates MA coverage for infants age 1 to age 2 up to 275 percent of FPG.

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- 22 Mental health case management.** Amends § 256B.0596. Clarifies that this section authorizing counties to contract with eligible providers is not intended to limit a county's ability to provide its own mental health case management services.
- 23 Medical assistance payment for intensive rehabilitative mental health services.** Amends § 256B.0622, subd. 8. Expands allowable medical assistance payments to include staff travel time to provide rehabilitative services and nonresidential crisis stabilization services. Includes case management in the rate for intensive rehabilitative mental health services. Removes language requiring the county to allocate costs which are reimbursable under this section versus costs which are reimbursable through case management or other reimbursement.
- 24 Distribution of funds; partnerships.** Amends § 256B.0916, subd. 2. Establishes an additional priority category for the MR/RC waiver based on the need to serve persons whose consumer support grant exception amount was eliminated in 2004.
- 25 Report.** Amends § 256B.49, by adding a subdivision. Expands the information required in an annual waived services report.
- 26 Limitation of choice.** Amends § 256B.69, subd. 4. Requires the commissioner to retroactively enroll an infant born to a woman who is eligible for and receiving MA through PMAP into the same managed care plan as the mother once the child is enrolled in MA, unless the child is excluded from enrollment in PMAP.
- 27 Case managers.** Amends § 256F.10, subd. 5. Authorizes a tribal child welfare case manager certified by a federally recognized tribal government in Minnesota and that meets applicable standards to provide child welfare targeted case management services.
- 28 Foster care.** Amends § 260C.007, subd. 18. Modifies the definition of "foster care."
- 29 Review of court ordered placements; permanent placement determinations.** Amends § 260C.201, subd. 11. (a) Clarifies requirements for court review of a child's foster care placement.

(b) Specifies requirements for a permanency hearing when the responsible social services agency recommends permanent placement of the child away from the parents.

(c) Modifies provisions regarding what a court may order at the conclusion of a hearing or trial on the permanency or termination of parental rights petition.

(d) Modifies provisions regarding the dispositions a court may order when the child is not returned home, including provisions related to termination of parental rights, long-term foster care, foster care for a specified time period, and guardianship and legal custody to the Commissioner of Human Services.

(g) Modifies provisions regarding court reviews of long-term foster care placements, including the agency's efforts to finalize the permanent plan for the child.

(h) Requires cases in which a child has been ordered into foster care for a specified period of time exceeding one year to return to court not later than 12 months after the order for a court review of the appropriateness of continuing the foster care placement and the agency's reasonable efforts to finalize a permanent plan for the child.

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(i) Makes conforming changes.

(j) Specifies circumstances in which a court may vacate an order for long-term foster care and enter a different order for permanent placement of the child.

30 **Relative search; nature.** Amends § 260C.212, subd. 5. (a) Requires the responsible social services agency to consider placement with a relative without delay after identifying the need for a child's placement in foster care. Requires the agency's relative search to be comprehensive in scope. Also requires the agency's relative search to include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. Also provides that a relative's decision not to be a placement resource at the beginning of a child protection case shall not affect whether the relative is later considered for placement of the child.

(b) Strikes language authorizing the agency to determine whether a parent's refusal to give the agency information sufficient to identify the child's maternal and paternal relatives is in the child's best interest. Instead, if a parent refuses to cooperate with the agency's relative search, the agency must ask the juvenile court to order the parent to provide the necessary information to conduct a relative search.

(e) Requires the Department of Human Services to develop a best practices guide and staff training to assist agencies in performing and complying with the relative search requirements under this subdivision.

31 **Lead reduction study.** Requires the Commissioner of Health, in consultation with others, to develop and evaluate the best strategies to reduce the number of children endangered by lead paint. Lists the strategies that must be examined.

32 **Consumer directed community support evaluation.** Requires the commissioner to consult with specified entities in evaluating the new consumer directed community support option under the home- and community-based waiver programs. Lists the items the evaluation must include. Requires the preliminary findings to be presented to the legislature by February 15, 2005.

33 **Repealer.** Repeals Laws 2003, First Special Session, chapter 14, article 3, section 56, effective immediately following final enactment. Section 20 of this article codifies the same uncodified language that is being repealed.

Article 4: Child Care; Minnesota Family Investment Program

Overview

This article modifies the child care assistance and MFIP programs.

1 **Child care fund.** Amends § 119B.011, subd. 6. Modifies the definition of "child care fund."

2 **Commissioner.** Amends § 119B.011, subd. 8. Modifies the definition of "commissioner" to mean Commissioner of Human Services.

3 **Department.** Amends § 119B.011, subd. 10. Modifies the definition of "department" to mean the Department of Human Services (DHS).

4 **Diversions work program.** Amends § 119B.011, by adding a subdivision. Defines

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“diversionary work program” (DWP).

- 5** **Income.** Amends § 119B.011, subd. 15. Modifies the definition of “income.”
- 6** **Transition year families.** Amends § 119B.011, subd. 20. Makes families who have received DWP assistance eligible for transition year child care. DWP families are not eligible for transition year child care when they have been disqualified from DWP due to fraud. Adds a new subdivision for transition year extension families.
- 7** **Universal application form.** Amends § 119B.02, subd. 4. Allows the commissioner to develop and make available to all counties a child care addendum form to be used to supplement the combined application form for MFIP, DWP, or Food Support, or to supplement other statewide application forms for public assistance programs for families applying for one of these programs in addition to child care assistance.
- 8** **Eligible participants.** Amends § 119B.03, subd. 3. Removes obsolete language. Includes DWP families in the list of families who are not eligible for Basic Sliding Fee (BSF) child care assistance.
- 9** **Funding priority.** Amends § 119B.03, subd. 4. Removes obsolete language. Includes DWP transition year families under the second priority category for funding priority.
- 10** **Allocation due to increased funding.** Amends § 119B.03, subd. 6a. Clarifies that every county must receive an allocation at least equal to its original allocation for the same time period if funding is decreased.
- 11** **Allocation due to decreased funding.** Amends § 119B.03, by adding a subdivision. Requires county allocations to be reduced in an amount proportionate to the reduction in the total allocation for the same time period if funding is decreased. Clarifies that this applies when a funding decrease necessitates the revision of an existing calendar year allocation.
- 12** **At-home infant child care program.** Adds § 119B.035.

Subd. 1. Establishment. Allows families in which a parent provides care for the family’s infant to receive a subsidy in lieu of assistance if the family is eligible for, or is receiving assistance under the Basic Sliding Fee (BSF) program. Specifies general eligibility requirements. Requires the commissioner to establish a pool of up to 3 percent of the annual appropriation for the BSF program to provide assistance under the at-home infant child care program and for administrative costs associated with the program. Allows the commissioner to carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the BSF program.

Subd. 2. Eligible families. Specifies eligibility requirements for families.

Subd. 3. Eligible parent. Makes families eligible for assistance under this section if one parent cares for the family’s eligible child. Specifies the eligibility requirements the parent who stays home with the child must meet.

Subd. 4. Assistance. (a) Limits families to a lifetime total of 12 months of assistance under the at-home infant child care program. Sets the maximum rate of assistance.

(b) Requires participating families to report income and other family changes as

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specified in the county plan.

(c) Provides that families who are admitted to the at-home infant child care program retain their position in any BSF program. Provides that families leaving the at-home infant child care program re-enter the BSF program at the position they would have occupied.

(d) Provides that assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

Subd. 5. Implementation. Requires the commissioner to implement the at-home infant child care program through counties that administer the BSF program. Requires the commissioner to develop and distribute consumer information on the at-home infant child care program to assist parents of infants or expectant parents in making informed child care decisions.

Makes this section effective July 1, 2004.

- 13 Eligible participants.** Amends § 119B.05, subd. 1. Includes DWP participants. Removes obsolete language. Removes obsolete references.
- 14 Date of eligibility for assistance.** Amends § 119B.09, subd. 7. Establishes the date of eligibility for the at-home infant child care program. Requires payment to cease for a family receiving at-home infant child care assistance when the family has used the maximum of 12 months of assistance. Removes obsolete language and references. Includes DWP participants. Makes this section effective July 1, 2004.
- 15 Parent fee.** Amends § 119B.12, subd. 2. Specifies that parent fees begin at 75 percent of the federal poverty level and the minimum parent fee is \$10 per month.
- 16 Authorization.** Amends § 119B.125, subd. 1. Requires providers to be reauthorized every two years. Requires legal, nonlicensed providers to be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. Requires providers to report all changes that would require reauthorization. Establishes which county is responsible for reauthorization when a provider is authorized to provide care for families in more than one county.
- 17 Persons who cannot be authorized.** Amends § 119B.125, subd. 2. Requires the county to request information about the provider from the Bureau of Criminal Apprehension, the juvenile courts, and social service agencies to determine if a provider may be authorized. Allows a provider who has been authorized in one county to provide care for a family in another county without the second county conducting a new background investigation on the provider, unless certain conditions exist. Makes technical changes.
- 18 Subsidy restrictions.** Amends § 119B.13, subd. 1. Removes an obsolete reference.
- 19 Legal nonlicensed family child care provider.** Amends § 119B.13, subd. 1a. Removes an obsolete reference.
- 20 Interim financing.** Amends § 119B.189, subd. 2. Changes references to the Commissioner of Education to the Commissioner of Human Services.
- 21 Training program.** Amends § 119B.189, subd. 4. Changes references to the Commissioner of Education to the Commissioner of Human Services.

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- 22 Distribution of funds for operation of child care resource and referral programs.** Amends § 119B.19, subd. 1. Changes references to the Commissioner of Education to the Commissioner of Human Services.
- 23 Duties of commissioner.** Amends § 119B.24. Changes references to the Commissioner of Education to the Commissioner of Human Services.
- 24 Grants.** Amends § 119B.25, subd. 2. Changes references to the Department of Education to DHS.
- 25 Hearing authority.** Amends 256.046, subd. 1. Includes DWP in the list of programs for which local agencies are required to initiate administrative hearings if a participant is accused of wrongfully obtaining assistance or intentional program violations.
- 26 Disqualification from program.** Amends § 256.98, subd. 8. Requires participants who have been found guilty of wrongfully obtaining assistance to be disqualified from DWP.
- 27 Program funding.** Amends § 256D.051, subd. 6c. (a) Prohibits the cost of services for each county's food stamp employment and training program from exceeding the annual allocated amount. Current law prohibits the cost of services for the program from exceeding an average of \$400 per participant.
- (b) This subdivision expires effective June 30, 2005.
- 28 Implementation of Minnesota Family Investment Program.** Amends § 256J.01, subd. 1. Qualifies that chapters 256J and 256K apply to MFIP, except for sections that apply to DWP.
- 29 Qualified noncitizen.** Amends § 256J.08, subd. 73. Modifies the definition of "qualified noncitizen" to align with federal law.
- 30 Shared household standard.** Amends § 256J.08, subd. 82a. Clarifies that the shared household standard also applies to a caregiver disqualified under the 60-month time limit.
- 31 Interview to determine referrals and services.** Amends § 256J.09, subd. 3b. Clarifies universal participation requirements to include an explanation to participants that they may be entitled to a plan including special circumstances and if they are not required to participate in employment services, they may choose to volunteer to participate in employment and training services.
- 32 Income exclusions.** Amends § 256J.21, subd. 2. Allows state adoption assistance payments and up to an equal amount of county adoption assistance payments to be excluded in determining a family's available income for the MFIP program.
- 33 Initial income test.** Amends § 256J.21, subd. 3. Removes obsolete language.
- 34 MFIP transitional standard.** Amends § 256J.24, subd. 5. Updates standards effective October 1, 2003.
- 35 Documentation.** Amends § 256J.32, subd. 2. Corrects language regarding the use of affidavits so it is consistent with legal requirements for the use of affidavits. Substitutes the term "signed personal statement" for "affidavit."
- 36 Personal statement.** Amends § 256J.32, subd. 8. Makes conforming changes. Specifies that the signed personal statement may only be used as a last resort to meet verification requirements.
- 37 Unearned income.** Amends § 256J.37, subd. 9. Clarifies the treatment of unearned income. Income not paid on a monthly basis must be converted to a monthly amount for budgeting. These payments must be counted beginning in the month they are received.
- 38 Notice of time limit 12 months prior to 60-month time limit expiring.** Amends 256J.415. Clarifies that when less than 12 months of the 60 months is remaining due to

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previous receipt of TANF in Minnesota, or from another state, the notification of the number of months remaining is provided at the time of MFIP approval.

- 39 **Eligibility.** Amends § 256J.425, subd. 1. Prior to denying an extension, requires that a review of good cause eligibility be completed if a sanction has been applied.
- 40 **Employed participants.** Amends § 256J.425, subd. 4. For the purposes of hardship extension eligibility, clarifies how the 10 out of 12 months of compliance is applied when less than 10 months of eligibility remain. Also clarifies the minimum number of hours needed for the purpose of meeting the requirements for an extension.
- 41 **Accrual of certain exempt months.** Amends § 256J.425, subd. 5. Clarifies the accrual of exempt months related to the 60-month time limit. Makes changes to align with the elimination of exemptions and implementation of universal participation.
- 42 **Sanctions for extended cases.** Amends § 256J.425, subd. 6. For two-parent families receiving and extension, clarifies that when a parent is out of compliance with the employment and training services requirements, the sanction in the 61st month is considered the first sanction for the purposes of applying sanctions, except that the amount of the sanction is 30 percent.
- 43 **Participants not complying with program requirements.** Amends § 256J.46, subd. 1. Requires the county to redetermine the family's continued eligibility for food support payments when an MFIP case is closed due to noncompliance.
- 44 **Employment and training service provider.** Amends § 256J.49, subd. 4. Modifies the definition of "employment and training service provider."
- 45 **Overview of employment and training services.** Amends § 256J.515. Exempts applicants who request and qualify for a family violence waiver from attending a group overview. Information usually presented in an overview must be covered during the development of an employment plan.
- 46 **Assessments.** Amends § 256J.521, subd. 1. Clarifies that job counselors must use assessment information to determine whether a participant qualifies for a family violence waiver.
- 47 **Employment plan; contents.** Amends § 256J.521, subd. 2. Clarifies that priority must be given for activities related to a family violence waiver when developing an employment plan.
- 48 **Approval of postsecondary education or training.** Amends § 256J.53, subd. 2. Clarifies that the hourly unsubsidized employment requirement does not apply for intensive education or training programs lasting 12 weeks or less.
- 49 **Employment and training services component; exemptions.** Amends § 256J.56. Clarifies the transition period requirements for employment services exemptions, which are scheduled to sunset on June 30, 2004.
- 50 **Good cause for failure to comply.** Amends § 256J.57, subd. 1. Specifies that good cause provisions apply to all participants, including nonparental caregivers. Conforms to other sections of statute.
- 51 **Allowable expenditures.** Amends § 256J.626, subd. 2. Makes a technical change to align with the way expenditures work with the consolidated fund. Substitutes the word "allocation" for "reimbursement."
- 52 **Base allocation to counties and tribes.** Amends § 256J.626, subd. 6. With the commencement of a new or expanded tribal TANF program, creates an allocation mechanism to allocate funds that are part of the consolidated fund among affected counties to the tribe.

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- 53 Performance base funds.** Amends § 256J.626, subd. 7. Modifies the performance based allocation formula and phases in the changes.
- 54 Quarterly comparison report.** Amends § 256J.751, subd. 2. Includes DWP in the quarterly report.
- 55 Establishing a Diversionary Work Program.** Amends § 256J.95, subd. 1. Clarifies that family units are eligible for DWP for four consecutive months.
- 56 Eligibility for Diversionary Work Program.** Amends § 256J.95, subd. 3. Clarifies which family units are not eligible for DWP, including, family units with a caregiver who received 60 or more months of TANF assistance and family units with a caregiver who is disqualified from DWP or MFIP due to fraud.
- 57 Universal participation required.** Amends § 256J.95, subd. 11. Makes technical changes. Requires claims of family violence to be documented by the applicant or participant by providing a sworn statement, which is supported by collateral documentation.
- 58 Conversion or referral to MFIP.** Amends § 256J.95, subd. 12. Makes technical and clarifying changes.
- 59 DWP overpayments and underpayments.** Amends § 256J.95, subd. 19. Requires overpayment and underpayment corrections to be calculated using prospective budgeting. Requires ATM errors to be recovered. DWP overpayments are not subject to cross program recoupment.
- 60 Federal funds for visitation and access.** Amends Laws 1997, ch. 245, art. 2, § 11, as amended by Laws 2003, 1st Spec. Sess, ch. 14, art. 10, § 7. Requires the commissioner to apply for and accept any federal funding for access and visitation programs. Requires the commissioner to transfer these funds to three specified organizations.
- 61 Temporary ineligibility of military personnel.** Requires counties to reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service. Allows activated military personnel to be temporarily ineligible until deactivated. Also requires counties to reserve a military family's position on the Basic Sliding Fee waiting list if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.
- 62 Repealer.** Repeals sections 119B.211 (child development education and training loans) and 256D.051, subdivision 17 (start work grants under the food stamp employment and training program). Repeals Laws 2000, chapter 489, article 1, section 36 (MFIP social services child care sunset and report).

Article 5: Long-term Care

- 1 Canteen, coffee shop, and wood shop.** Amends § 198.261. Requires profits from the Minnesota Veterans Homes wood shops to be used for the benefit of residents.
- 2 Adult foster care license capacity.** Amends § 245A.11, subd. 2a. Corrects a reference to the maximum number of persons that can be served by an adult foster care provider.
- 3 Skilled nursing facility and hospice services for dual eligibles.** Amends § 256B.0625, by adding subd. 2a. Specifies that MA covers nursing facility services for dual eligibles who have waived the Medicare nursing facility benefit and enrolled in the Medicare hospice program.
- 4 Preadmission screening activities related to nursing facility admissions.** Amends § 256B.0911, subd. 4a. Corrects a reference to federal law.

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- 5 Elderly waiver cost limits.** Amends § 256B.0915, subd. 3a. Clarifies the method by which the elderly waiver monthly spending limit is adjusted.
- 6 Cost limits for elderly waiver applicants who reside in a nursing facility.** Amends § 256B.0915, subd. 3b. Clarifies the method by which the elderly waiver monthly conversion limit for persons residing in nursing facilities is adjusted.
- 7 Payment during first 90 days.** Amends § 256B.431, subd. 32. Provides that enhanced nursing home reimbursement rates for the first 90 days after admission are not available to a nursing facility or part of a facility that is in the process of closing. (The current restriction applies to facilities or parts of facilities that have closed.)
- 8 Designation of areas to receive metropolitan rates.** Amends § 256B.431, by adding subd. 40.

(a) For rate years beginning on or after July 1, 2004, requires nursing facilities located in areas designated as metropolitan areas by the federal Office of Management and Budget to be considered metro, in order to:

- (1) determine rate increases; and
- (2) establish nursing facility reimbursement rates for the new nursing facility reimbursement system.

(b) Provides that paragraph (a) applies only if designation as a metro facility results in a higher level of reimbursement for the facility.

Effective date. Provides a July 1, 2004, effective date.

- 9 Home and community-based waiver services.** Amends § 256B.69, subd. 6b. Requires the Commissioner of Human Services to issue requests for proposals for collaborate service models between counties and managed care organizations, to integrate elderly waiver services and additional nursing services into the prepaid medical assistance program (PMAP). Prohibits statewide coverage under PMAP of elderly waiver services before July 1, 2006. Requires the commissioner to phase-in implementation, beginning with counties participating in county-based purchasing and counties where a viable collaborate service model has been developed. Requires the commissioner, in consultation with counties and interested managed care organizations, to evaluate the models and consider the evaluation in selecting the most appropriate models for statewide implementation.

Article 6: Health Care

- 1 Birth defects information system.** Amends § 13.3806 by adding subd. 4a. Provides a cross-reference in the Data Practices Act to the statutes governing the birth defects information system. Effective upon receipt of a federal grant to establish the system.
- 2 Required coverage.** Amends § 62A.30, subd. 2. Requires health plan companies to provide coverage for surveillance tests for ovarian cancer for women who are at risk of ovarian cancer.
- 3 Ovarian cancer surveillance tests.** Amends § 62A.30, by adding subd. 3. Defines “at risk for ovarian cancer” and “surveillance tests for ovarian cancer,” for purposes of the preceding section.
- 4 Authority to jointly self-insure.** Amends § 62H.01. Changes the 1,000 “lives” MEWA

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threshold to apply to enrollees, rather than employees. This permits dependents to count toward the threshold. Also eliminates a provision involving covering people in other states.

- 5 **Required provisions.** Amends § 62H.02. Permits the Commissioner of Commerce to waive the solvency requirements for MEWAs if the commissioner determines that other arrangements are equivalent. Prohibits waiver of the requirement for excess stop-loss coverage.
- 6 **Compliance with other laws.** Amends § 62H.04. Adds to the list of health insurance laws to which MEWAs are not subject. The additions are continuation coverage for survivors and conversion coverage (the right to convert to an individual policy when continuation ends).
- 7 **Restrictions.** Amends § 62J.23, subd. 2. The amendment to a newly designated (a) eliminates obsolete language. A new (b) provides an exemption from the state's antikickback laws for the receipt by individuals of discounts or other reductions in price or a limited time free supply or samples of a prescription drug, medical supply, or medical equipment offered by a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager, as long as specified conditions are met. A new (c) prohibits the provision of benefits, rewards, remuneration, or incentives for continued product use, but provides exceptions for activities permitted in (b), the provision of ancillary products, and the provision of trinkets or mementos of insignificant value. A new (d) provides an exemption for tiered formularies.
- 8 **Audits conducted by a nationally recognized independent organization.** Adds § 62Q.37.

Subd. 1. Applicability. Makes this section apply to Blue Cross and Delta Dental, health maintenance organizations, and managed care organizations operating under chapters relating to government health programs.

Subd. 2. Definitions. Defines the terms commissioner, health plan company, nationally recognized independent organization, and performance standard. Performance standard is defined broadly to include standards involving almost everything a health plan company does.

Subd. 3. Audits. Permits state regulators to (continue to) conduct routine audits and investigations of health plan companies. Permits the commissioner to instead accept, in whole or in part, the results of an audit of the relevant performance standard by a nationally recognized independent organization. Permits the commissioner to use a negative finding as the basis for a targeted audit or enforcement action.

Subd. 4. Disclosure of national standards and reports. Requires the health plan company to request that the organization provide the commissioner with the organization's standards. Requires the health plan company to provide the commissioner with the organization's most current final audit report on the health plan company.

Subd. 5. Accreditation not required. Provides that nothing in this section requires a health plan company to become accredited.

Subd. 6. Continued authority. Preserves the current auditing and investigating

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powers of the commissioners.

Subd. 7. Human Services. Requires the Commissioner of Human Services to use this section consistently with federal law.

Subd. 8. Confidentiality. Provides a data classification for documents related to an audit report accepted by the commissioner.

9 Seasonal employees. Amends § 62T.02 by adding subd. 3. Permits a purchasing alliance to define “eligible employees” to include seasonal employees. If seasonal members are included, alliances must follow specified requirements. Permits the purchasing alliance to require a specified employee-member contribution. Defines “seasonal employees.”

10 Supervised competitive high school diving. Amends § 128C.05, subd. 1a. Permits high schools to use certain non-conforming pools for one-meter board diving. Requires parents to be informed of the variance and the risk it presents for training practice.

11 Minnesota birth defects information system. Amends § 144.2215.

Subd. 1. Establishment. Requires the Commissioner of Health to establish and maintain an information system on birth defects.

Subd. 2. Duties of the commissioner. The system must allow the commissioner to:

- (1) monitor trends;
- (2) target services more accurately;
- (3) inform health professionals and citizens about birth defects;
- (4) conduct investigations and surveys;
- (5) modify the information system through demonstration projects;
- (6) remove identifying information about a child if requested;
- (7) protect individually identifying information;
- (8) limit the dissemination of the information;
- (9) use a specified federal coding scheme.

12 Birth defects records and reports required. Adds § 144.2216.

Subd. 1. Hospitals and similar institutions. Requires a hospital, clinic, laboratory, or other institution to provide the commissioner with access to information on each birth defect case in the manner and at the times that the commissioner designates.

Subd. 2. Other information repositories. Authorizes other repositories of data

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on the diagnosis or care of infants to provide the commissioner, with permission from the parents or guardian, with access to information on each case of birth defects in the manner and at the times that the commissioner designates.

Subd. 3. Reporting without liability. Provides that furnishing information under this section does not subject the entity or person to any action for damages or relief.

Subd. 4. Opt out. Requires parents or guardians to be informed at the time of the initial data collection of the opportunity to request removal at any time of personal identifying information from the information system, using a form prescribed by the commissioner. The commissioner must advise the parents or guardian:

- (1) that the information on birth defects may be retained by the Department of Health;
- (2) the benefit of retaining the information;
- (3) parents or guardians may choose to have all personally identifying information removed from the information system; and
- (4) that if the parents or guardian chooses to opt out, the commissioner will not be able to inform the parents or guardian of certain information related to the birth defect.

Effective upon receipt of a federal grant to establish the system.

- 13 Classification of birth defects information.** Adds § 144.2217. Classifies data collected through the birth defects information systems as private data on individuals, restricts use of the data, and provides that any violation is a misdemeanor. Effective upon receipt of a federal grant to establish the system.
- 14 Transfers of information to other government agencies.** Adds § 144.2218. Permits data collected by the birth defects information system to be disseminated to a state or local government agency in Minnesota or another state solely for the purposes consistent with this act, provided that the state or local government agency agrees to maintain the confidentiality of the data. Data collected by other states consistent with this act may be received by the commissioner and maintained according to section 144.2217. Effective upon receipt of a federal grant to establish the system.
- 15 Transfers of information to research entities.** Adds § 144.2219. Permits the non-personally identifying information from the birth defects information system to be shared with research institutions if approved by specified parties. For personally identifying information, the commissioner must obtain informed consent from parents or guardians before the data is shared, and the commissioner may collect costs for this purpose from the research entity. Effective upon receipt of a federal grant to establish the system.
- 16 Health care facility.** Amends § 145C.01, subd. 7. Adds “an adult foster care provider” to the definition of “health care facility” for purposes of health care directives.
- 17 Specific powers.** Amends § 256.01, subd. 2. Requires the commissioner to designate community information and referral call centers and to incorporate claims from these centers into the federal cost reimbursement claiming process. Requires the commissioner to designate existing information and referral centers provided or represented by the Greater Twin Cities United Way, upon review and assurance that these services are accredited and in

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compliance with national standards. Requires the payment schedules used to be established upon final approval by the federal government or other appropriate authorities. Corrects a citation to the federal prescription drug rebate. Recodifies provisions in the subdivision, by changing clauses to paragraphs and making conforming changes.

- 18** **Definitions.** Amends § 256.955, subd. 2. Strikes language allowing persons enrolled in GAMC under a spenddown to be eligible for the prescription drug program (the GAMC spenddown was eliminated during the 2003 session).
- 19** **Eligibility.** Amends § 256.955, subd. 2a. Strikes references to the GAMC spenddown.
- 20** **Eligibility.** Amends § 256.955, subd. 2b. Strikes references to the GAMC spenddown.
- 21** **Citizenship requirements.** Amends § 256B.06, subd. 4. Eliminates the requirement that persons served by the center for victims of torture not be eligible for GAMC in order to qualify for MA without federal financial participation. (GAMC eligibility for these individuals ended October 1, 2003.)
- 22** **Dental services.** Amends § 256B.0625, subd. 9. Eliminates use of the term “basic” when referring to restorative dental services.
- 23** **General assistance medical care; eligibility.** Amends § 256D.03, subd. 3. Eliminates a reference to GAMC coverage for persons served by the center for victims of torture, to reflect elimination of this coverage as of October 1, 2003.
- 24** **General assistance medical care; services.** Amends § 256D.03, subd. 4. Limits GAMC copayments to one per day per provider for nonpreventive visits, eyeglasses, and non-emergency visits to a hospital emergency room. Also eliminates use of the term “basic” when referring to restorative dental services.
- 25** **Patient services.** Amends § 295.50, subd. 9b. Excludes home and community-based waived services, targeted case management, and other specified MA services from the definition of “patient services” for purposes of the MinnesotaCare provider tax. Also states that services “provided to” supervised living facilities, housing with services establishments, and other specified entities are not patient services. Provides a retroactive effective date of January 1, 2004.
- 26** **Exemptions.** Amends § 295.53, subd. 1. Excludes from gross revenues subject to the MinnesotaCare provider tax Medicare cost-sharing paid by MA and services identified in and provided under an individualized education plan. Also updates terminology. Provides a retroactive effective date of January 1, 2004.
- 27** **Fetal alcohol spectrum disorder appropriation transfer.** Appropriates funding from the general fund to be transferred to a statewide organization that focuses on prevention of and intervention with fetal alcohol spectrum disorder for specified purposes. Requires the organization to report to the commissioner annually.
- 28** **Rule amendment.** Requires the Commissioner of Human Services to amend rules to expand the definition of “legal representative” to include a health care agent appointed by a principal in a health care power of attorney to make health care decisions as provided under chapter 145C (health care directives).
- 29** **Cost of health care reporting.** Requires the Commissioners of Human Services, Health, and Commerce to meet with representatives of health plan companies and hospitals prior to August 30, 2004, and evaluate reporting requirements. Requires the commissioners to present recommendations, for reducing the number of required reports, to the legislature by January 15, 2005.
- 30** **Transfer from the University of Minnesota.** Allows the transfer of funds dedicated to the Academic Health Center from cigarette tax proceeds to occur twice in FY 2005, with the

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approval of the Commissioners of Human Services, Health, and Finance, for purposes of obtaining federal financial participation.

- 31 Repealer.** Repeals a section requiring MEWAs to pay a two percent revenue fee, as an equivalent of the two percent insurance premium tax. This is a technical correction, since the new chapter 297I, enacted a few years ago, consolidated all insurance related taxes, including this one, in that chapter. The section being repealed here is therefore no longer necessary.

Article 7: Health Care Cost Containment

- 1 Coverage for scalp hair prostheses.** Amends § 62A.28. Amends the requirement that health plan companies cover scalp hair prostheses for alopecia areata, by specifying the coverage is subject to coinsurance, deductible, and other types of cost-sharing that apply to similar items of coverage. (Current law makes the coverage subject only to co-payments.)
- 2 Best practices and quality improvement.** Adds § 62J.43. (a) Requires state agencies to encourage the adoption of best practices guidelines and participation in best practices measurement activities by health care providers and health plan companies. Requires the commissioner to facilitate access to best practice guidelines and quality of care measurement information to providers, purchasers, and consumers.
- (b) Requires the commissioner to collaborate with a nonprofit quality improvement organization to provide best practices criteria and assist in the collection of the data.
- (c) States that the initial criteria developed shall include asthma, diabetes, and at least two other measures, with hypertension and coronary artery disease being added when available.
- (d) Allows the Commissioners of Human Services and Employee Relations to use this data to make decisions about contracts entered into with health plan companies.
- (e) Specifies that this section does not apply if the best practices guidelines authorize or recommend denial of treatment, food, or fluids necessary to sustain life on the basis of the patient's age, expected length of life, disability, medical dependency, or quality of life.
- (f) Requires the commissioners to report to the legislature by January 15, 2005, on the status of best practices and quality of care initiatives, and present recommendations to the legislature on any needed statutory changes.
- (g) Provides a June 30, 2006, expiration date for the section.
- 3 Disclosure of payments for health care services.** Adds § 62J.81.

Subd. 1. Required disclosure of estimated payments. Requires health care providers, at the request of a consumer, to provide a good faith estimate of the reimbursement the provider expects to receive from the consumer's health plan company. Requires health plan companies to allow providers to release this information. Also requires a good faith estimate to be provided to consumers who are not enrolled in a health plan company. Provides that the information provided is not a legally binding estimate.

Subd. 2. Applicability. Provides that "consumer" does not include MA,

Section

MinnesotaCare, or GAMC enrollees for purposes of services covered by those programs.

- 4 Electronic transmission of required information.** Amends § 72A.20, by adding subd. 37. Permits health plan companies to electronically provide to enrollees information otherwise required to be mailed to them in paper form. This could be e-mail or placing the information on a web page accessible to the enrollee. The health plan company may offer this on either an opt-in or opt-out basis. The enrollee has the right to change back to mail delivery at any time. Private information must be provided in a secure way. An enrollee must be able to call to request a paper copy.
- 5 Endorsement; reciprocity.** Amends § 147.03, subd. 1. Allows the Board of Medical Practice, upon the request of an applicant, to conduct the final interview of the applicant by teleconference.
- 6 Disease management programs.** Adds § 256B.075.

Subd. 1. General. Requires the Commissioner of Human Services to implement disease management initiatives to improve patient care and health outcomes and reduce health care costs by managing care for recipients with chronic conditions.

Subd. 2. Fee-for-services. Requires the commissioner to develop and implement a disease management program for MA and GAMC recipients who are not enrolled in the prepaid MA or prepaid GAMC programs and who are receiving services on a fee-for-service basis. Also requires the commissioner to seek any federal approval necessary to implement this section and obtain federal matching funds.

Subd. 3. Prepaid managed care programs. Requires the commissioner to ensure that contracting health plans implement appropriate disease management programs for recipients in the prepaid MA, prepaid GAMC, and MinnesotaCare programs.

Subd. 4. Report. Requires the commissioner to report to the legislature by January 15, 2005, on the status of disease management initiatives and present recommendations for any necessary statutory changes.

Subd. 5. Expiration. Provides a June 30, 2006, expiration date for the section.

- 7 Electronic health record work group.** Requires the Commissioner of Health to convene an Electronic Health Record Planning and Implementation Work Group. Specifies membership and assigns duties. Requires the work group to provide assessments and recommendations to legislative chairs by December 31, 2004, including recommendations on the appropriate role of the state in the development, financing, promotion, and implementation of an electronic health records system.
- 8 Repealer; bone marrow transplant mandate.** Repeals § 62A.309. Repeals a law enacted in 1995, mandating that private state-regulated health coverage include coverage of autologous bone marrow transplantation (ABMT), which is used in connection with high dose chemotherapy as a treatment for breast cancer.