HOUSE RESEARCH

Bill Summary

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Authors: Huntley

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Analyst: Lynn Aves (651) 296-8079
Randall Chun (651) 296-8639
Emily Cleveland (651) 296-5808
Danyell Punelli (651) 296-5058

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Article 1: Redesigning Home and Community-Based Services

Overview

This article modifies the Disability LinkAge Line, the Senior LinkAge Line, long-term care consultations, SAIL projects, the common entry point for reporting maltreatment of a vulnerable adult, and creates community first services and supports.

1 Community first services and supports. Creates § 256B.85.

Subd. 1. Basis and scope. Requires the commissioner to establish a MA state plan option for the provision of home and community-based personal assistance service and supports called "community first services and supports (CFSS)," upon federal approval. Specifies program features. Makes CFSS replace the PCA program upon federal approval.

Subd. 2. Definitions. Defines "activities of daily living," "agency-provider model," "behavior," "complex health-related needs," "community first services and supports," "community first services and supports service delivery plan," "critical activities of daily living," "dependency," "financial management services contractor or vendor," "flexible spending model," "health-related procedures and tasks," "instrumental activities of daily living," "legal representative," "medication assistance," "participant's representative," "person-centered planning process," "shared services," "support specialist," "support worker," and "wages and benefits."

Subd. 3. Eligibility. Lists eligibility requirements in order to receive CFSS services. Specifies under what circumstances the commissioner must disenroll or exclude participants from the flexible spending model and transfer them to the agency-provider model. Specifies appeal rights.

Subd. 4. Eligibility for other services. Prohibits selection of CFSS by a participant from restricting access to other medically necessary care and services furnished under the state plan MA benefit or other services available through alternative care.

Subd. 5. Assessment requirements. Specifies requirements related to the assessment of functional needs. Allows a participant who is residing in a facility to be assessed and choose CFSS for the purpose of using CFSS to return to the community. Requires assessment results and recommendations and authorizations for CFSS to be determined and communicated in writing by the lead agency's certified assessor to the participant and the participant's chosen provider within 40 calendar days.

Subd. 6. Community first services and support service delivery plan. Requires the CFSS service delivery plan to be developed, implemented, and evaluated through a person-centered planning process by the participant, or the participant's representative

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or legal representative who may be assisted by a support specialist. Requires the service delivery plan to reflect the services and supports that are important to the participant and for the participant to meet the needs assessed by the certified assessor and identified in the support plan. Requires the commissioner to establish the format and criteria for the CFSS service delivery plan. Lists requirements for the CFSS service delivery plan. Allows the amount of funds used each month to vary, but additional funds must not be provided above the annual service authorization amount unless a change in condition is assessed, authorized, and documented.

Subd. 7. Community first services and supports; covered services. Lists the services and supports covered under CFSS.

Subd. 8. Determination of CFSS service methodology. Requires all CFSS services to be authorized by the commissioner before services begin except for certain assessments. Requires authorizations to be completed within 30 days after receiving a complete request. Requires the amount of CFSS authorized to be based on the recipient's home care rating. Specifies how the home care rating is determined. Specifies the methodology for determining the number of minutes of CFSS to authorize.

Subd. 9. Noncovered services. Lists services and supports that are not eligible for payment under CFSS.

Subd. 10. Provider qualifications and general requirements. Lists requirements for agency-providers delivering services under the agency-provider model and financial management service contractors. Requires the commissioner to develop policies and procedures designed to ensure program integrity and fiscal accountability for goods and services provided under CFSS.

Subd. 11. Agency-provider model. Limits the agency-provider model to the services provided by support workers and support specialists who are employed by an agency-provider. Requires the agency-provider to allow the participant to retain the ability to have a significant role in the selection and dismissal of the support workers for the delivery of the services and supports specified in the service delivery plan. Allows participants to use authorized units of CFSS services as needed within a service authorization that is not greater than 12 months. Allows participants to share services. Requires agency-providers to use a minimum of 72.5 percent of the revenue generated by MA payment for CFSS for support worker wages and benefits. Requires the agency-provider model to be used by individuals who have been restricted by the Minnesota restricted recipient program.

Subd. 12. Requirements for initial enrollment of CFSS provider agencies. Lists the information and documentation CFSS provider agencies must provide to the commissioner at the time of enrollment as a CFSS provider agency. Specifies mandatory training requirements for certain CFSS provider agency employees and owners.

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Subd. 13. Flexible spending model. Allows participants to exercise more responsibility and control over services and supports under the flexible spending model. Lists functions of the flexible spending model. Lists service functions that must be provided by the financial management services contractor. Lists duties of the commissioner related to financial management services contractors. Specifies participants who are disenrolled from this model are transferred to the agency-provider model.

Subd. 14. Participant's responsibilities under flexible spending model. Lists participant responsibilities under the flexible spending model.

Subd. 15. Documentation of support services provided. Requires support services provided to a participant by a support worker to be documented daily by each support worker on a form approved by the commissioner. Allows documentation to be Web-based, electronic, or paper documentation. Requires completed forms to be submitted on a monthly basis. Requires the activity documentation to correspond to the written service delivery plan. Lists the criteria that must be included in the time sheet.

Subd. 16. Support workers requirements. Lists requirements for support workers. Allows the commissioner to deny or terminate a support worker's provider enrollment under certain circumstances. Allows support workers to appeal in writing to the commissioner to contest the decision to terminate the support worker's provider enrollment.

Subd. 17. Support specialist requirements and payments. Requires the commissioner to develop qualifications, scope of functions, and payment rates and service limits for a support specialist that may provide additional or specialized assistance necessary to plan, implement, arrange, augment, or evaluate services and supports.

Subd. 18. Service unit and budget allocation requirements. Specifies how services are authorized for the agency-provider model and the flexible spending model. Specifies how maximum CFSS budget allocations are determined.

Subd. 19. Support system. Requires the commissioner to provide information, consultation, training, and assistance to ensure the participant is able to manage the services and supports and budgets, if applicable. Requires the commissioner to provide assistance with the development of risk management agreements.

Subd. 20. Service-related rights. Requires participants to be provided with adequate information, counseling, training, and assistance to ensure that the participant is able to choose and manage services, models, and budgets. Lists information that must be provided. Requires the commissioner to ensure that the participant has a copy of the most recent service delivery plan.

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Subd. 21. Development and implementation council. Requires the commissioner to establish a Development and Implementation Council. Requires the commissioner to consult and collaborate with this council when developing and implementing CFSS.

Subd. 22. Quality assurance and risk management system. Requires the commissioner to establish quality assurance and risk management measures for use in developing and implementing CFSS. Requires the commissioner to provide ongoing technical assistance and resource and educational materials for CFSS participants. Requires performance assessment measures and ongoing monitoring of health and well-being to be identified in consultation with the Development and Implementation Council.

Subd. 23. Commissioner's access. Requires the commissioner to be given immediate access without prior notice to documentation and records related to services provided and submission of claims for services provided when the commissioner is investigating a possible overpayment of MA funds. States that denying the commissioner access to records is cause for immediate suspension of payment and terminating the agency provider's enrollment or the financial management services contract.

Subd. 24. CFSS agency-providers; background studies. Specifies background study requirements for CFSS agency providers.

Makes this section effective upon federal approval. Requires the commissioner of human services to notify the revisor of statutes when this occurs.

2 **Reporting.** Amends § 626.557, subd. 4. Modifies maltreatment of vulnerable adults reporting requirements by allowing the common entry point to accept electronic reports submitted through a Web-based reporting system established by the commissioner. Makes this section effective July 1, 2014.

3 **Common entry point designation.** Amends § 626.557, subd. 9. Removes language requiring each county board to designate a common entry point for reports of suspected maltreatment of vulnerable adults. Requires the commissioner to establish a common entry point effective July 1, 2014. Requires the common entry point to have access to the centralized database and to log reports into the database and immediately identify and locate prior reports of abuse, neglect, or exploitation. Specifies requirements for the operation of the common entry point. Requires the commissioners of human services and health to collaborate on the creation of a system for referring reports to the lead investigative agencies.

4 **Education requirements.** Amends § 626.557, subd. 9e. Requires the commissioner of human services to conduct an outreach campaign to promote the common entry point for reporting vulnerable adult maltreatment.

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Article 2: Department of Human Services Program Integrity

1 **Use of data.** Amends § 243.166, subd. 7. Allows the commissioner of human services to have access to the predatory offender registry for purposes of completing background studies under chapter 245C.

2 **Agency background studies.** Amends § 245C.04, by adding subd. 4a. Paragraph (a) requires the commissioner to develop an electronic system to access new criminal history information from the Minnesota court information system. The commissioner must limit access to review only information that related to individuals who have been the subject of a background study and are affiliated with the agency that initiated the study.

Paragraph (b) requires the commissioner to develop an online system for agencies that initiate background studies to access and maintain records of background studies initiated by that agency. Requires that agencies notify the commissioner when an individual is no longer affiliated with the agency.

3 **Background studies conducted by Department of Human Services.** Amends § 245C.08, subd. 1. Requires the commissioner to review information from the predatory offender registry when performing a background study. Allows the commissioner to review criminal history information from the Minnesota court information system that relates to individuals who have already been studied under this chapter and remain affiliated with the agency that initiated the background study.

Article 3: Waiver Provider Standards

Overview

This article modifies human services licensing provisions and home and community-based services standards.

1 **Adult foster care data privacy and security.** Amends §245A.11, subd. 7b. Updates terminology and strikes obsolete language.

2 **Health services.** Amends § 245D.05.

Subd. 1. Health needs. Modifies terminology and phrasing related to license holder responsibilities for meeting health service needs of recipients.

Subd. 1a. Medication setup. Defines "medication setup" and lists information the license holder must document in the person's medication administration record.

Subd. 1b. Medication assistance. Defines "medication assistance" and specifies requirements that must be met by the license holder when staff provides medication

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assistance.

Subd. 2. Medication administration. Lists medication administration procedures that must be implemented by the license holder to ensure a person takes medications and treatments as prescribed. Modifies requirements that must be met before administering medication or treatment. Modifies the list of information that must be included in the person's medication administration record.

Subd. 3. Medication assistance. Repeals this subdivision.

Subd. 4. Reviewing and reporting medication and treatment issues. Modifies provisions related to reviewing and reporting medication and treatment issues.

Subd. 5. Injectable medications. No changes.

Makes this section effective January 1, 2014.

3 Psychotropic medication use and monitoring. Creates § 245D.051.

Subd. 1. Conditions for psychotropic medication administration. Lists requirements that must be met when the license holder is assigned responsibility for administering a person's psychotropic medication. Defines "target symptom."

Subd. 2. Refusal to authorize psychotropic medication. Specifies license holder duties when the person or the person's legal representative refuses to authorize the administration of a psychotropic medication ordered by the prescriber.

Makes this section effective January 1, 2014.

4 Protection standards. Amends § 245D.06.

Subd. 1. Incident response and reporting. Makes technical and conforming changes. Specifies when incident reviews must be conducted and what must be included in the review. Requires license holders to report the emergency use of manual restraint of a person to DHS within 24 hours of the occurrence. Specifies reporting requirements when a death or serious injury occurs at an ICF/DD.

Subd. 2. Environment and safety. Modifies the list of duties license holders must perform related to environment and safety.

Subd. 3. Compliance with fire and safety codes. Repeals this subdivision.

Subd. 4. Funds and property. Specifies when authorization must be received and other license holder duties when the license holder assists a person with the safekeeping of funds or other property. Removes language prohibiting license holders from being appointed a guardian or conservator of a person receiving services from the license holder. Specifies license holder duties upon the transfer or death of a person.

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Subd. 5. Prohibitions. Prohibits license holders from using chemical restraints, mechanical restraint practices, manual restraints, time out, or seclusion as a substitute for adequate staffing, a behavioral or therapeutic program to reduce or eliminate behavior, as punishment, or for staff convenience. Defines "chemical restraint" and "mechanical restraint practice." Makes this section effective January 1, 2014.

5 Record requirements. Creates § 245D.095.

Subd. 1. Record-keeping systems. Requires license holders to ensure that certain records are uniform and legible.

Subd. 2. Admission and discharge register. Requires the license holder to keep a written or electronic register listing the dates and names of all persons served by the program who have been admitted, discharged, or transferred.

Subd. 3. Service recipient record. Requires license holders to maintain a record of current services provided to each person on the premises where the services are provided or coordinated. Lists the information that must be maintained for each person.

Subd. 4. Access to service recipient records. Requires license holders to ensure that certain people have access to service recipient records in accordance with applicable state and federal law, regulation, or rule.

Subd. 5. Personnel records. Requires the license holder to maintain a personnel record of each employee to document and verify staff qualifications, orientation, and training. Lists the information that must be included in the personnel record.

Makes this section effective January 1, 2014.

6 Policies and procedures. Amends § 245D.10.

Subd. 1. Policy and procedure requirements. Modifies license holder policy and procedure requirements.

Subd. 2. Grievances. Requires the complaint process to promote service recipient rights.

Subd. 3. Service suspension and service termination. Modifies requirements related to policies and procedures for service suspension and service termination.

Subd. 4. Availability of current written policies and procedures. Modifies license holder requirements related to making available current written policies and procedures.

Makes this section effective January 1, 2014.

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7 **Policies and procedures; intensive support services.** Creates § 245D.11.

Subd. 1. Policy and procedure requirements. Requires license holders providing intensive support services to establish, enforce, and maintain required policies and procedures.

Subd. 2. Health and safety. Requires license holders to establish policies and procedures that promote health and safety. Lists health and safety requirements.

Subd. 3. Data privacy. Requires license holders to establish policies and procedures that promote service recipient rights by ensuring data privacy according to the Minnesota Government Data Practices Act and the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Subd. 4. Admission criteria. Requires license holders to establish policies and procedures that promote continuity of care by ensuring certain admission or service initiation criteria are met.

Makes this section effective January 1, 2014.

Article 4: Home Care Providers

Overview

This article modifies regulation of home care providers. It classifies certain data collected by the commissioner of health; establishes two levels of home care licensure; codifies home care provider regulation in statute; increases fees; and requires the commissioner to inspect all licensees.

1 **Data classification; private data.** Amends § 144.051 by adding subd. 3. Classifies certain data collected, created or maintained by the commissioner of health as "private data" as defined in Minnesota Statutes, chapter 13.

2 **Data classification; public data.** Amends § 144.051, by adding subd. 4. Classifies certain data collected, created or maintained by the commissioner of health as "public data" as defined in Minnesota Statutes, chapter 13.

3 **Data classification; confidential data.** Amends § 144.051, by adding subd. 5. Classifies certain data collected, created or maintained by the commissioner of health as "confidential data" as defined in Minnesota Statutes, chapter 13.

4 **Release of private or confidential data.** Amends § 144.051, by adding subd. 6. Permits the Department of Health to release private or confidential data, except for social security numbers, to state, federal or local agencies and law enforcement to enhance investigate or enforcement efforts or to further public health protection.

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5 **Home care provider and home care services.** Adds § 144A.471. Requires home care providers to be licensed by the commissioner of health. Defines the phrases "direct home care service" and "regularly engaged" for purposes of license requirements. Establishes a misdemeanor for a home care provider who operates without a license. Establishes two categories of home care provider licensure: basic and comprehensive. Provides exemptions and exclusions from licensure, but specifies that exempted providers must still comply with the home care bill of rights.

6 **Home care provider license; application and renewal.** Adds § 144A.472. Specifies information that must be provided to the commissioner by applicants for a home care provider license. Requires applicants for a comprehensive home care license to provide verification of certain policies and procedures. Includes license renewal provisions and requires licensees with multiple units that cannot share supervision and administration to obtain separate licenses for each unit. Prohibits transfer of any home care license. Sets fee schedule for initial licensure and license renewal fees.

7 **Issuance of temporary license and license renewal.** Adds § 144A.473. Provides a process for temporary licensure, which is effective for one year, and requires inspection during that first year.

8 **Surveys and investigations.** Adds § 144A.474. Requires the commissioner to conduct inspections of each home care provider and requires that surveys and investigations be conducted without advance notice. Requires home care providers to provide accurate and truthful information and specifies certain information that must be provided upon request. Requires the commissioner to investigate complaints against home care providers. Provides a process for correction orders, reconsideration and assessing fines.

9 **Enforcement.** Adds § 144A.475. Sets out enforcement provisions. Provides reasons for which the commissioner may refuse to grant or renew or may suspend or revoke a license. Requires that providers must request an appeal no later than 15 days after receipt of notice of an action. Restricts eligibility for certain licenses for certain providers after a license is revoked or not renewed for noncompliance.

10 **Background studies.** Adds § 144A.476. Requires background studies for owners and managers of home care provider services and for employees, contractors and volunteers.

11 **Compliance.** Adds § 144A.477. Provides that the commissioner shall survey licensees under this chapter at the same time as for certification under Medicare, to the extent feasible. Provides that certain state regulations are equivalent to federal requirements for providers that are certified for participation in Medicare as a home health agency.

12 **Innovation variance.** Adds § 144A.478. Defines "innovation variance" for purposes of this section. Establishes a process by which a provider may apply for and the commissioner may grant an innovation variance from requirements of this chapter.

13 **Home care provider responsibilities; business operation.** Adds § 144A.479. Requires

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certain actions of home care providers with regard to business operations. Restricts non-governmental licensees from accepting powers-of-attorney from clients and from serving as a client's representative. Requires home care providers to report maltreatment of minors or vulnerable adults and must report suspected maltreatment. Requires each licensee to have an individual abuse prevention plan for vulnerable minors and adults for whom they provide services. Requires certain information to be kept as part of employee records.

14 **Home care provider responsibilities with respect to clients.** Adds § 144A.4791. Requires providers to give clients notice of their rights under the home care bill of rights. Provides special requirements for home care providers that serve clients with dementia. Sets out requirements for licensees related to only accepting clients for which the provider is qualified to provide services; making referrals when the provider reasonably believes medical services from another health care provider are required; assessment and monitoring of services provided under a basic- or comprehensive-level of licensure; actions required in response to a request to discontinue life-sustaining treatment; termination of services plans; emergency preparedness; and client complaint processes.

15 **Medication management.** Adds § 144A.4792. Prohibits medication management under a basic home care license. Provides requirements for medication management under a comprehensive home care license.

16 **Treatment and therapy management services.** Adds § 144A.4793. Prohibits treatment and therapy management under a basic home care license. Provides requirements for treatment and therapy management under a comprehensive home care license.

17 **Client record requirements.** Adds §144A.4793. Regulates licensee maintenance of client records, including disclosure and access requirements; content requirements; and the duration of retention of records after client discharge or termination.

18 **Home care provider responsibilities; staff.** Adds § 144A.4795. Provides requirements for the training and competency of staff providing home care services, including licensed health professionals and unlicensed personnel. Lists requirements for staff instructors and competency evaluators.

19 **Orientation and annual training requirements.** Adds § 144A.4796. Requires staff who provide or supervise direct home care services to complete certain orientation requirements. Requires special training for providers who provide services for clients with Alzheimer's disease. Requires certain annual training for all staff who provide direct home care services.

20 **Provision of services.** Adds § 144A.4797. Requires licensees to make available a contact person for staff consultations, and under a comprehensive license, that person must be a registered nurse. Provides supervision requirements for staff who perform basic home care services and for staff who perform delegated nursing or therapy tasks.

21 **Employee health status.** Adds §144A.4798. Requires licensees to have in place a TB prevention and control program and requires providers to follow guidelines for prevention

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and control of other communicable diseases.

22 **Department of Health licensed home care provider advisory council.** Adds § 144A.4799. Requires the commissioner of health establish a home care provider advisory council to advise the commissioner on home care provider regulation including, but not limited to, regulation of community standards, enforcement f licensing standards and training standards.

23 **Home care licensing implementation for new licensees and transition period for current licensees.** Adds §144A.481. Requires initial license applications to begin October 1, 2013. Provides that home care providers licensed under the current structure must apply for either a basic or comprehensive home care license beginning October 1, 2013. Requires that all home care providers be have either a basic or comprehensive home care license by September 30, 2014.

24 **Application of home care licensure during transition period.** Adds § 144A.4811. Describes application of licensure requirements during the transition period.

25 **Registration of home management providers.** Adds § 144A.482. Sets out requirements and regulation provisions for home management providers. Requires entities that operate home management services, such as housekeeping or meal preparation, to be registered with the commissioner of health. Provides an annual fee for this required registration.

Article 5: Health Department

1 **Definitions.** Amends § 144.212. Modifies defined terms related to vital records.

2 **Office of Vital Records.** Amends § 144.213. Changes the title of the Office of State Registrar to the Office of Vital Records. Modifies the commissioners duties with regard to local issuance offices. Authorizes the state registrar to prepare reproductions of original records to preserve vital records and provides that certified reproductions must be accepted as originals. Specifies other duties of the registrar.

3 **Security of vital records system.** Adds § 144.2131. Sets out duties of the state registrar related to authenticating users of the vital statistics system; authorizing access for authenticated users; identifying fraud and misuse of the system; validating data submitted to the state registrar; protecting personally identifiable information; and handling death records.

4 **Father's name; child's name.** Amends § 144.215, subd. 3. Removes the requirement that the father's name be entered on a birth record in a case where declaration of parentage is executed under § 257.34.

5 **Social security number registration.** Amends § 144.215, subd. 4. Makes conforming changes to the office title. Specifies that parents' social security numbers shall not appear on certified records. Changes classification of social security numbers from "private data on

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individuals" to "confidential data" under Minnesota Statutes, chapter 13.

6 **Reporting a foundling.** Amends § 144.216, subd. 1. Makes conforming changes to the office title.

7 **Court petition.** Amends § 144.217, subd. 2. Specifies that a petition filed related to delayed record of birth, must be filed in the county in which the birth allegedly occurred. Makes conforming changes to the office title.

8 **Replacement of vital records.** Amends § 144.218, subd. 5. Removes requirements based on a declaration of parentage executed under § 257.34. Makes conforming changes.

9 **Amendment and correction of vital records.** Amends § 144.2181. Provides requirements for amending and correcting vital records, including permitting the commissioner of health to adopt rules related to protecting the integrity and accuracy of vital records.

10 **Disclosure of information from vital records.** Amends § 144.225. Makes conforming and technical changes. Modifies the classification of data pertaining to the birth of an individual and permitted disclosures of demographic birth data. Provides that the fact of birth of an individual, including the date, county of birth and the state file number is public. Removes obsolete language.

11 **Fees.** Amends § 144.226. Modifies fees related to provided an amended vital record. Makes conforming and technical changes related to vital records provisions.

12 to 14 **Alkaline hydrolysis.** Amends §§ 149A.02 to 149A.96. Modifies mortuary science provisions. Includes alkaline hydrolysis as a means of final disposition of dead human bodies and requires the commissioner of health to enforce all laws and adopt rules related to licensing and operation of alkaline hydrolysis facilities. Provides that fees collected by the commissioner shall be credited to the state government special revenue fund.

15 **Hospitals and Department of Health; recognition form.** Amends § 257.75, subd. 7. Makes conforming changes related to vital statistics.

16 **Legal effect.** Amends § 260C.635, subd. 1. Makes conforming changes to the title of office of vital statistics.

17 **Definition.** Amends § 517.001. Modifies the definition of "local registrar" for purposes of Minnesota Statutes, chapter 517 (Marriages).

18 **State-based risk adjustment system assessment.**

(a) Requires the commissioners of health, human services, and commerce, and the board of MNsure, to study whether Minnesota-based risk adjustment of the individual and small group insurance market, using either the federal risk adjustment model or a state-based alternative, can be more cost-effective and provide better performance than risk adjustment conducted by federal agencies. Specifies criteria for the study.

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(b) Requires the commissioner of health to collect from health carriers specified data necessary to conduct risk adjustment.

(c) Requires the commissioner of health to also assess whether the data collected are sufficient to develop and operate a state alternative risk adjustment methodology. Specifies evaluation criteria and related requirements.

(d) Requires the commissioner of human services to evaluate opportunities to maximize federal funding under the basic health plan provisions of the Affordable Care Act, and to make recommendations on risk adjustment strategies to maximize federal funding to the state.

(e) Requires the commissioners and the board of MNsure to submit an interim report to the legislature by March 15, 2014, and a final report by October 1, 2015. Specifies report requirements.

(f) Defines the MNsure board as that established in section 62V.03.