

HOUSE RESEARCH

Bill Summary

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Article 1: Children and Family Services

Overview

This article modifies child care assistance programs (CCAP), the Minnesota Indian Family Preservation Act, and other child welfare provisions related to Indian children.

- 1 **Legal nonlicensed child care provider.** Amends § 119B.011, subd. 16. Modifies the definition of “legal nonlicensed child care provider” under CCAP. Makes this section effective the day following final enactment.
- 2 **Factors which must be verified.** Amends § 119B.025, subd. 1. Allows redetermination documents to be submitted on the next business day if the 30th day falls on a weekend or legal holiday.
- 3 **Licensed and legal nonlicensed family child care providers; assistance.** Amends § 119B.09, subd. 9. Specifies this subdivision applies to providers providing care in a setting other than a child care center in order to include the expanded definition of legal nonlicensed child care provider. Makes this section effective the day following final enactment.
- 4 **Emergency placement.** Amends §245A.035, subd. 1. Updates the definition of “relative” by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).
- 5 **Child foster care license application.** Amends § 245A.035, subd. 5. Updates the term “relative” by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).
- 6 **Classification of certain data.** Amends § 245C.22, subd. 7. For purposes of classification of data related to disqualifications, updates the definition of “relative” by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).
- 7 **American Indian child welfare projects.** Amends § 256.01, subd. 14b. The commissioner has the authority to allow the Indian child welfare projects to use alternative methods of investigating and assessing reports of child maltreatment. The amendment to this section provides the commissioner with the authority to authorize the projects to use alternative methods for administrative and judicial appeals of maltreatment determinations.
- 8 **Relative.** Amends § 256N. 02, subd. 18. Defines “relative” by including a cross-reference to section 260C.007, subd. 26b, and updates two cross-references to the Indian Child Welfare Act (ICWA).
- 9 **Exclusions.** Amends § 256N.23, subd. 6. Updates the definition of “relative” by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).
- 10 **Definitions.** Amends § 257.85, subd. 3. Updates the definition of “relative,” for purposes of relative custody assistance, by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).

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- 11** **Relative.** Amends § 259A.01, subd. 25. For purposes of adoption assistance, defines relative of an Indian child as a person who is a member of the Indian child’s family as defined in ICWA.
- 12** **Exclusions.** Amends § 259A.10, subd. 6. Provides that a relative is a person who is a member of the Indian child’s family as defined by ICWA.
- 13** **Purposes.** Creates § 260.753. Provides that the purposes of the Minnesota Indian Family Preservation Act are to protect the interests of Indian children, their families, and the child’s tribe, and to preserve the Indian family and tribal identity.
- 14** **Active efforts.** Amends § 260.755, by adding subdivision 1a. Defines “active efforts.” Active efforts is a term used in ICWA and the Minnesota Indian Family Preservation Act that means more than diligent efforts are required to preserve an Indian child’s family.
- 15** **Best interests of an Indian child.** Amends § 260.755, by adding subdivision 2a. Defines “best interests of an Indian child.”
- 16** **Indian child.** Amends § 260.755, subd. 8. Adds that determination by an Indian tribe that a child is a member of the tribe or eligible for membership in the Indian tribe is conclusive.
- 17** **Parent.** Amends § 260.755, subd. 14. Adds that a parent includes a father as defined by tribal law or custom, and that paternity has been acknowledged when an unmarried father takes any action to hold himself out as the biological father of an Indian child.
- 18** **Inquiry of tribal lineage.** Amends § 260.761, subd. 1. Requires the local social services agency at the time the child comes to the attention of the agency to inquire of the child, the child’s parents and custodians, and any other persons whether the child may have lineage to an Indian tribe.
- 19** **Agency and court notice to tribes.** Amends § 260.761. Paragraph (a) requires the local social services agency to notify an Indian child’s tribe when an investigation or assessment is being conducted. Requires the agency to request participation by the tribe in all aspects of the investigation or assessment.
- Paragraph (b) requires the social services agency to provide the tribe with all demographic information about a child believed to be an Indian child who is receiving services so the tribe can determine whether the child is a tribal member or eligible for members. Requires the social service agency to provide notice to the United States secretary of the interior when and Indian child’s custodian and tribe cannot be determined.
- Paragraph (c) requires the court administrator to notify the tribal social services agency of dates and times of hearings when an Indian child is placed in emergency protective care.
- Paragraph (d) instructs the local social services agency to provide notice the child’s tribe so that the tribe can be involved in the proceedings. Requires the social services agency to fully cooperate with the tribe, including disclosure of all data concerning the Indian child.
- 20** **Duty to prevent out-of-home placement and promote family reunification; active efforts.** Creates § 260.762.
- Subd. 1. Active efforts.** Provides that active efforts include acknowledging traditional helping and healing systems of the child’s tribe.

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Subd. 2. Requirements for social services agencies. Instructs agencies to work with an Indian child's tribe to develop alternatives to out-of-home placement and request participation of the Indian child's tribe, and seek guidance from the Indian child's tribe.

Subd. 3. Required findings that active efforts were provided. Requires the court, before ordering out-of-home placement of an Indian child, to make findings that the local social services agency complied with the list of active efforts to prevent removal of the child and preserve the family.

- 21 **Transfer of proceedings.** Amends § 260.771, subd. 3. Adds paragraph (c) establishing the conditions for transferring a proceeding for finalizing a permanency plan to tribal court.
- 22 **Relative.** Amends § 260B.007, subd. 12. States that for an Indian child, relative means a person who is a member of the Indian child's family as defined by ICWA.
- 23 **Relative of an Indian child.** Amends § 260C.007, subd. 26b. Defines relative of an Indian child as a person who is a member of the Indian child's family as defined by ICWA.
- 24 **Relative.** Amends § 260C.007, subd. 27. Strikes language defining relative of an Indian child.
- 25 **Compliance with Indian Child Welfare Act and Minnesota Indian Family Preservation Act.** Amends § 260C.168. Adds that chapter 260C must be construed consistently with both ICWA and Minnesota Indian Family Preservation Act.
- 26 **Hearing and release requirements.** Amends § 260C.178, subd. 1. Adds a cross-reference to section 260.762, the section on active efforts to preserve an Indian family.
- 27 **Visitation.** Amends § 260C.201, subd. 5. Updates the term relative by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).
- 28 **Out-of-home placement; plan.** Amends § 260C.212, subd. 1. Updates the term relative by including a cross-reference to the new definition of relative of an Indian child (260C.007, subd. 26b).
- 29 **Placement decisions based on best interests of the child.** Amends § 260C.212, subd. 2. Requires, for an Indian child, the social services agency to follow the order of placement preferences listed in ICWA. In determining the best interests of an Indian child inserts a cross-reference to section 260.755, subd. 2a.
- 30 **Best interests of the child.** Amends § 260C.511. In determining the best interests of an Indian child inserts a cross-reference to section 260.755, subd. 2a.
- 31 **Definitions.** Amends § 268.155, subd. 1. Updates the definition of "child support agency" to include tribal IV-B programs. This will allow DEED to respond to income withholding requests from the tribe that have IV-B programs.
- 32 **Duties of local welfare agency and local law enforcement agency upon receipt of report.** Amends § 626.556, subd. 10. Requires the local social services agency to provide immediate notice to an Indian child's tribe when the agency receives a report of child maltreatment involving an Indian child. Immediate notice means notice within 24 hours.

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- 33 Disclosure in child fatality or near-fatality cases.** Amends § 626.556, subd. 11d. Paragraph (a) changes the definition of “child fatality” from death of a child from suspected abuse, to death of a child from abuse or neglect. Does the same for the term “near fatality.” Paragraph (b) adds that a public agency shall disclose findings and information related to a child fatality or near fatality when a child protective investigation resulted in a determination of child abuse or neglect. Paragraph (c) lists the information that can be released in a written summary.
- 34 Revival and reenactment.** Revives and reenacts § 518A.53, subd. 7, retroactively from August 1, 2014. This provision deals with income withholding for purposes of child support. Provides an immediate effective date.

Article 2: Chemical and Mental Health Services

Overview

This article modifies provisions related to children’s therapeutic services and supports and various chemical and mental health services.

- 1 Vehicles exempt from tax, fees, or plate display.** Amends § 168.012, subd. 1. Allows the commissioner of human services to have unmarked vehicles for the use of inspector staff when performing tobacco inspections, investigations, and surveillance. Establishes requirements for original and renewal applications.
- 2 Case management service provider.** Amends § 245.462, subd. 4. Adds that a certified peer specialist is qualified to be a case manager associate under the adult mental health act.
- 3 Rate requirements.** Amends § 254B.05, subd. 5. Adds that on-site child care programs must meet a licensure exclusion requirement in 245A.03, subdivision 2, and meet the requirements for license holders serving clients with children for purposes of enhanced rate requirements for chemical dependency programs. Adds paragraph (f), allows covered chemical dependency services to be provided via two-way interactive video subject to federal approval. Requires that interactive video must be medically necessary and that the technology comply with Medicare standards. Provides that reimbursement shall be the same as for face-to-face services. Provides that this paragraph is effective the day following final enactment.
- 4 Definitions.** Amends § 256B.0943, subd. 1. Paragraph (a) clarifies that children’s therapeutic services and supports are provided to treat children with a diagnosed emotional disturbance or a diagnosed mental illness. Paragraph (c) strikes the definition of “county board” and creates a definition for “clinical trainee.” Provides that a clinical trainee is a mental health practitioner who is a student in a field placement to complete a degree as a mental health professional or complying with requirements for licensure or board certification as a mental health professional.

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Paragraph (d) supplements the definition of “crisis assistance” by clarifying that this service is not crisis intervention, but is a service to develop a written plan for the child’s family to contend with a potential crisis.

Adds paragraph (q), the definition of “mental illness” for persons at least 18, but under 21 years of age. Cross-references the definition of mental illness in § 245.462.

Adds paragraph (r), the definition of “psychotherapy.”

Adds paragraph (s), the definition of “rehabilitative services” or “psychiatric rehabilitative services.” States that these services are provided to restore a child or adolescent to age appropriate developmental and psychosocial skills or to assist a child in adapting to skill deficits as a result of a psychiatric illness.

Paragraph (t) modifies the definition of skills training by adding a cross-reference to the new criteria for skills training in 256B.0943, subd. 9 (section 11 of this article).

Provides an immediate effective date for this section.

5 Covered service components of children’s therapeutic services and supports. Amends § 256B.0943, subd. 2. Updates terminology to conform to the new definition of psychotherapy. Provides an immediate effective date.

6 Determination of client eligibility. Amends § 256B.0943, subd 3. Provides that a diagnostic assessment must include any differential diagnosis for the child. Strikes the provision allowing a diagnostic assessment once every three years for a client with an autism spectrum disorder. These clients will need to have an annual diagnostic assessment until age 18 as is required for all other children receiving CTSS services.

Adds that providers of services to children with autism spectrum disorder must report progress data as required under the autism early intensive intervention benefit upon implementation of the commissioner’s progress evaluation program.

Provides an immediate effective date for this section.

7 Provider entity certification. Amends § 256B.0943, subd. 4. Specifies that in order to be certified or recertified, a provider must be certified for core services of psychotherapy, skills training, and crisis assistance. If a provider no longer meets certification requirements or fails to meet clinical quality and administrative standards, the commissioner must require corrective action, medical assistance repayment, or decertification.

Provides an immediate effective date.

8 Provider entity administrative infrastructure requirements. Amends § 256B.0943, subd. 5. Requires a provider to have at least one backup mental health professional available to cover an absence by the primary mental health professional. Requires a provider to have a client-specific treatment outcomes measurement system in place. Provides that effective July 1, 2017, providers must report individual client outcomes to the commissioner in order to be eligible for medical assistance payment.

Provides an immediate effective date.

9 Provider entity clinical infrastructure requirements. Amends § 256B.0943, subd. 6. Clarifies the requirements for clinical infrastructure written policies and procedures. Allows

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a parent to approve a child's treatment plan electronically or orally, but requires later written verification. Clarifies that mental health providers must provide services that are within their scope of practice in order to receive medical assistance reimbursement.

Provides an immediate effective date.

- 10** **Service delivery criteria.** Amends § 256B.0943, subd. 9. Strikes therapeutic preschool program language. Provides that day treatment programs must be available year-round at least three to five days a week, two to three hours a day. Provides an exception when a school week is shortened due to a holiday or weather-related cancellation.

Requires documentation of psychotherapy as part of the child's ongoing treatment. Requires services to be delivered by a mental health professional or practitioner who is delivering services within their scope of practice.

Lists the required elements of skills training.

Requires the service plan to be developed in consultation with the child's family and, when appropriate, other participants in the child's life.

Provides an immediate effective date.

- 11** **Documentation and billing.** Amends § 256B.0943, subd. 11. Requires the provider's records to comply with the health services records and electronic records provisions of Minnesota Rules. Requires documentation of more specific components of service delivery.

Provides an immediate effective date.

- 12** **Required covered service components.** Amends § 256B.0946, subd. 1. Provides that medical assistance covers medically necessary intensive treatment services to children placed in a foster home licensed by a federally recognized Minnesota tribe.

Provides an immediate effective date.

- 13** **Noncovered services.** Amends § 256B.0947, subd. 7a. Lists the medical assistance eligible services not covered by the rate for intensive rehabilitative mental health services.

Provides that mental health residential treatment and behavioral aide services are not eligible for medical assistance reimbursement while a child is receiving intensive rehabilitative mental health services.

Provides an immediate effective date.

- 14** **Report on the use of certified peer specialists.** Requires the commissioner to study the use of certified peer specialists in the mental health system and to issue a report as a result of this study. The study is to include the use of peer specialists in a variety of settings, the duties of the specialists and options for expanding their duties, and costs and funding sources. The report is to include proposed legislation. Requires the commissioner to consult with stakeholders. Instructs the commissioner to submit the report to legislative chairs and ranking minority members of committees with jurisdiction over health and human services finance by January 15, 2016.

- 15** **Repealer.** Repeals Minnesota Rules, parts 9535.2000; 9535.2100; 9535.2200; 9535.2300; 9535.2400; 9535.2500; 9535.2600; 9535.2700; 9535.2800; 9535.2900; and 9535.3000.

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These parts comprise all of the rules on residential services for adults who are mentally ill contained in chapter 9535, program grants; persons who are mentally ill.

Article 3: Direct Care and Treatment

Overview

This article amends a statute to allow the commissioner to contract with Indian tribes and the Indian Health Service in order to receive payment for treatment of tribal members who have been civilly committed.

- 1** **Cost of care; commitment by tribal court order; any federally recognized Indian tribe within the state of Minnesota.** Amends § 253B.212, by adding subd. 1b. Allows the commissioner of human services to contract with the Indian Health Service to receive payment for the care and treatment of members of Indian tribes who have been civilly committed by tribal court order or the Indian Health Service. Allows a tribe to contract directly with the commissioner. Requires the tribal court commitment process to include all required due process protections.
- 2** **Effect given to tribal court order.** Amends § 253B.212, by amending subd. 2. Adds cross-references to newly created 253B.212, subd. 1b (section 1 of this article).

Article 4: Operations

Overview

This article modifies provisions related to Department of Human Services Operations, including the Office of Inspector General and the licensing division.

- 1** **Authorization.** Amends § 119B.125, subd. 1. Gives the commissioner the authority to authorize a child care provider chosen by an applicant or participant before the county can authorize payment for care provided by that provider. Under current law, only the county has the authority to authorize a child care provider to receive CCAP payments.
- 2** **Record-keeping requirement.** Amends § 119B.125, subd. 6. Modifies child care provider record-keeping requirements under CCAP. Specifies a provider's failure to produce attendance records as requested on more than one occasion constitutes grounds for disqualification as a provider.
- 3** **Overpayment claim for failure to comply with access to records requirement.** Amends § 119B.125, by adding subd. 7. Establishes an overpayment claim process for failure of a provider to comply with access to attendance record requirements.
- 4** **Reporting required for child's part-time attendance.** Amends § 119B.125, by adding subd. 8. Requires providers to report to the county and report on the billing form when a child's attendance in child care falls to less than half of the child's authorized hours or days for a four-week period. Requires providers to provide additional information to the county or commissioner on the attendance of specific children if requested by the county or commissioner.

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5 **Limits on receiving public funds.** Creates § 245.095.

Subd. 1. Prohibition. States that if a provider, vendor, or grantee is excluded from a program administered by the commissioner, that entity is prohibited from enrolling or becoming licensed in any other program administered by the commissioner. Provides that the prohibition must last for the longest time allowable by state or federal law.

Subd. 2. Definitions. Defines the words “excluded,” “individual,” and “provider.”

6 **Individual who is related.** Amends § 245A.02, subd. 13. Makes a technical change from the term “natural child” to “birth child.”

7 **Weekly.** Amends § 245A.02, by adding subd. 20. Defines “weekly” as at least every seven days.

8 **Monthly.** Amends § 245A.02, by adding subd. 21. Defines “monthly” as at least every 30 days.

9 **Quarterly.** Amends § 245.02, by adding subd. 22. Defines “quarterly” as at least every 90 days.

10 **Plan for transfer of clients and records upon closure.** Amends § 245A.04, subd. 15a. Requires all providers, except child care providers and license holders who reside on the premises, to have a written plan for the how the program will ensure the transfer of clients and records if the program closes.

11 **Temporary immediate suspension.** Amends § 245A.07, subd. 2. Clarifies that the commissioner can take action to issue a temporary immediate suspension under specified conditions.

12 **Immediate suspension expedited hearing.** Amends § 245A.07, subd. 2a. Provides that the burden of proof in an expedited hearing for a temporary immediate suspension based on the license holder’s continued violation of laws or rules while pending the appeal of an order of revocation is limited to the commissioner’s proof by a preponderance of evidence that the license holder committed additional violations of law or rules that could adversely affect persons served by the program.

13 **Location of residential programs.** Amends § 245A.11, subd. 4. Adds community residential settings, as defined under section 245D.02, subdivision 4a, to the types of residential programs that can be located within 1,320 feet of one another.

14 **Voluntary receivership for residential or nonresidential programs.** Amends § 245A.12. Adds nonresidential programs to the voluntary receivership statute.

15 **Involuntary receivership for residential or nonresidential programs.** Amends § 245A.13. Adds nonresidential programs to the involuntary receivership statute.

16 **Chemical dependency programs that serve parents with their children.** Creates § 245A.1443.

Subd. 1. Application. States that this section applies to licensed chemical dependency treatment facilities.

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Subd. 2. Requirements for providing education. Requires providers to educate parents on safe bathing and reducing the risk of sudden unexpected infant death and abusive head trauma. Requires the license holder to document the training in the parent's case file, and to document whether the parent agrees to comply with the safeguards. Requires the program, if the parent refuses to comply with the safeguards, to provide additional education at least weekly or until the parent agrees to comply.

Subd. 3. Parental supervision of children. Requires the license holder, on or before the child's physical presence at the facility, to conduct an assessment of a parent's ability to meet the health and safety needs of the child while on the facility premises. Requires the license holder to document the assessment, including circumstances when a parent may be unable to provide adequate care for the child. Requires license holders to have written procedures to specify actions that are to be taken by staff when a parent is unable to adequately care for the child.

Subd. 4. Alternative supervision arrangements. Requires license holders to have written procedures on whether a parent can have another program client care for the parent's child. If permitted, the facility must have procedures in place to assure that the child will be safely supervised by the nonparent.

- 17 **Family child care diapering area disinfection.** Amends § 245A.148. Requires providers to use a disinfectant that is effective against *Salmonella enterica*.
- 18 **Delegation of authority to agencies.** Amends § 245A.16, subd. 1. Provides that the commissioner cannot delegate authority to county or private agencies to grant variances to requirements relating to chemical use problems of a license holder or household member of the license holder.
- 19 **Mental health training requirements.** Amends § 245A.175. Requires training for child foster care license holders, caregivers, and program staff prior to the nonemergency placement of a child in a foster care home. Requires mental health training as a component of annual training requirements.
- 20 **Opioid addiction treatment education requirement for providers licensed to provide chemical dependency treatment services.** Amends § 245A.1915. Requires all substance use programs to provide educational information to clients on the recognition and response to opioid overdoses and the use and administration of naloxone.
- 21 **Medication orders.** Amends § 245A.192, subd. 3. Requires the medication order to dispense medication to treat opioid addiction in a licensed opioid treatment program to be issued by a licensed physician who is enrolled as a Minnesota health care program provider. If the physician is unable to sign the order at the time it was issued, the physician must sign the order within 72 hours.
- 22 **High dose requirement.** Amends § 245A.192, by adding subd. 3a. Provides that if a physician prescribes a high dose of methadone or buprenorphine for a client, the physician must have a face-to-face meeting with the client prior to administration of the medication.
- 23 **Criteria for unsupervised use.** Amends § 245A.192, subd. 5. Requires the prescribing physician, rather than the medical director of the program, to consider certain factors before allowing a patient to have medication for take-home use.

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- 24 Nonmedication treatment services; documentation.** Amends § 245A.192, subd. 10. Requires an assessment for treatment services to be completed within 21 days of service initiation, notwithstanding the comprehensive assessment requirements for chemical dependency treatment programs. Establishes a treatment plan review requirement for the first ten weeks after development of the treatment plan.
- 25 Prescription monitoring program.** Amends § 245A.192, subd. 11. Restructures this subdivision. Adds that a copy of the PMP data reviewed by the medical director must be maintained in the client's file, and when the PMP data reveals a recent history of multiple prescribers or prescriptions for controlled substances, the physician must document these findings and actions taken within 72 hours.
- 26 A program's duty to report suspected drug diversion.** Amends § 245A.192, by adding subd. 15. Requires an opioid treatment program to make an immediate report to law enforcement when it has any information that is related to a diversion crime on the program premises. States that failure to comply constitutes grounds for adverse licensing actions. Defined "diversion crime."
- 27 Variance.** Amends § 245A.192, by adding subd. 16. Provides the commissioner the authority to grant variances to the requirements in this section.
- 28 First aid.** Amends § 245A.40, subd. 3. Requires at least one staff person who has completed first aid training to be present at the center, during field trips, and when transporting children.
- 29 Cardiopulmonary resuscitation.** Amends § 245A.40, subd. 4. Clarifies that CPR training must include CPR techniques for infants and children. Establishes the CPR training requirements for staff at newly licensed child care centers. Requires at least one staff person who has completed CPR training to be present at the center, during field trips, and when transporting children.
- 30 Sudden unexpected infant death and abusive head trauma training.** Amends § 245A.40, subd. 5. Modifies the training requirements and allows a video presentation to be used in conjunction with the annual training.
- 31 Access to persons served by a program.** Amends § 245C.02, subd. 2. Modifies the definition of "access to persons served by a program" to include access to the person's personal, financial, or health information.
- 32 Supplemental nursing services agencies.** Amends § 245C.04, subd. 4. For agencies that initiate background studies using NETStudy 2.0, an exemption to annual background studies is provided for individuals who are on the agency's active roster. Provides an immediate effective date.
- 33 Personnel agencies; educational programs; professional services agencies.** Amends § 245C.04, subd. 5. Modifies the structure of the subdivision. For agencies that initiate background studies using NETStudy 2.0, an exemption to annual background studies is provided for individuals who are on the agency's active roster. Provides an immediate effective date.
- 34 Unlicensed home and community-based waiver providers of service to seniors and individuals with disabilities.** Amends § 245C.04, subd. 6. Allows an exemption to annual background study requirements for individuals on a provider's active roster when the

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provider initiates background studies through NETStudy 2.0. Provides an immediate effective date.

- 35 Individual studied.** Amends § 245C.05, subd. 1. Changes the information a background study subject must provide from requiring a Minnesota driver's license or ID card to a driver's license or ID card from any jurisdiction. Provides an immediate effective date.
- 36 Study subject affiliated with multiple facilities.** Amends § 245C.07. Establishes the requirements for transferability of a background study.
- 37 Expenses.** Amends § 245C.10, by adding subd. 1a. Provides that the requirements for employer required background studies in section 181.645 do not apply to background studies completed under 245C (human services background studies).
- 38 Background studies initiated by others; personnel pool agencies, temporary personnel agencies, or professional services agencies.** Amends § 245C.20, subd. 2. Strikes educational programs from this subdivision.
- 39 Background studies initiated by others; educational programs.** Amends § 245C.20, by adding subd. 2a. Establishes the responsibility of the license holder when the license holder relies on a background study initiated by an educational program for a person required to have a background study and who is on the educational program's active roster.
- 40 Financial misconduct or misconduct.** Amends § 245E.01, subd. 8. Modifies the definition of financial misconduct under the Child Care Assistance Program Fraud Investigations chapter of statute. Stipulates that financial misconduct includes acting as a recruiter offering conditional employment on behalf of a provider that has received CCAP funds.
- 41 Recruiter offering conditional employment.** Amends § 245E.01, by adding subd. 13a. Defines "recruiter offering conditional employment."
- 42 Investigating provider or recipient financial misconduct.** Amends § 245E.02, subd. 1. Gives DHS the authority to investigate alleged or suspected financial misconduct related to acting as a recruiter offering conditional employment.
- 43 Prohibited hiring practice.** Amends § 245E.02, by adding subd. 3a. Prohibits a child care center provider from hiring an employee if the purpose of hiring the employee is to obtain CCAP funds.
- 44 Actions or administrative sanctions.** Amends § 245E.02, subd. 4. Upon a finding by the commissioner that a child care provider has acted as a recruiter offering conditional employment, requires the commissioner to suspend payments to the provider and immediately and permanently revoke the license of the child care center.
- 45 Written notice of department sanction; sanction effective date; informal meeting.** Amends § 245E.06, subd. 2. Modifies sanction effective date.
- 46 Appeal of department sanction.** Amends § 245E.06, subd. 3. Modifies the timeline for timely appeals when a provider has failed to provide access to the commissioner.
- 47 Duties as state agency.** Amends § 256.01, subd. 4. Allows the agency to administer oaths and issue subpoenas, among other things, for the purpose of any investigation, hearing proceeding, or inquiry related to the duties of the department.

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48 Cultural and Ethnic Communities Leadership Council. Creates § 256.041.

Subd. 1. Establishment; purposes. Establishes the Cultural and Ethnic Communities Leadership Council to advise the commissioner of human services on methods to reduce racial and ethnic disparities.

Subd. 2. Members. Lists the criteria for appointment as a member of the council.

Subd. 3. Guidelines. Instructs the commissioner, in consultation with specified legislative members and stakeholders, to develop guidelines for membership on the council and duties of the commissioner and members of the council.

Subd. 4. Chair. Requires the commissioner to appoint the council chair.

Subd. 5. Terms for first appointees. Provides that the terms for the first appointees expire January 15, 2016.

Subd. 6. Terms. Provides that terms are for two years and that appointees may be reappointed to two additional terms. Requires the commissioner to make appointments by January 15 each year.

Subd. 7. Duties of the commissioner. Lists the duties of the commissioner.

Subd. 8. Duties of the council. Lists the duties of the council.

Subd. 9. Duties of the council members. Lists the duties of the council members.

Subd. 10. Expiration. Provides that the council expires on June 30, 2020.

States that this section is effective retroactively from March 15, 2015.

49 Local agency hearing authority. Amends § 256.046, subd. 1. Allows DHS to hear appeals cases involving emergency assistance programs.

50 Documentation required. Amends § 256B.0625, by adding subd. 17b. Requires nonemergency medical transportation providers to document each occurrence of a service provided to a recipient, as a condition of payment. Specifies documentation requirements and requires DHS to recover funds paid for transportation that is not documented.

51 Personal care assistance services; Mandated service verification. Creates § 256B.0705.

Subd. 1. Definitions. Defines “personal care assistance services,” “personal care assistant,” and “service verification.”

Subd. 2. Verification schedule. Requires PCA agencies that submit claims for MA reimbursement to develop and implement administrative policies and procedures to verify the services provided by a PCA. Limits eligibility for service verifications.

Subd. 3. Documentation of verification. Requires agencies to fully document service verifications in a legible manner and maintain the documentation on site for at least five years from the date of documentation. Lists the information that must be included in the documentation.

Subd. 4. Variance. Allows the Office of Inspector General to grant variances to the service verification requirements under certain conditions. Specifies that a decision to grant or deny a variance request is final and not subject to appeal.

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- 52 Establishment of a performance management system for human services.** Amends § 402A.12. In the commissioner’s charge to implement a performance management system for essential human services, initial performance measures and standards are to be developed. The amendment to this section strikes the word “standard” and inserts “threshold.”
- 53 Duties.** Amends § 402A.16, subd. 2. Strikes “standard” and inserts “threshold.”
- 54 Commissioner duties.** Amends § 402A.16, subd. 4. Strikes “standard” and inserts “threshold.”
- 55 Commissioner power to remedy failure to meet performance outcomes.** Amends § 402A.18. Strikes “standard” and inserts “threshold.”
- 56 Publicly owned and leased vehicles identified.** Amends § 471.346. Excludes vehicles used by DHS for investigations conducted by central office staff and county or contract staff conducting county fraud investigations from the requirement for use of marked vehicles.
- 57 Wrongful employment at a child care center.** Creates § 609.816. Makes it a crime for certain persons who engage in the recruitment or screening of potential employees or applicants and require, as a condition of obtaining or continuing employment at a child care center, in order to obtain child care assistance, that the applicant, potential employee, or employee has one or more children who are eligible for or receive child care assistance. Makes this section effective August 1, 2015, and apply to crimes committed on or after that date.
- 58 Financial transaction card fraud.** Amends § 609.821.
- Subd. 1. Definitions.** Defines “trafficking of SNAP benefits.”
- Subd. 2. Violations; penalties.** Includes trafficking of SNAP benefits in the list of actions constituting financial transaction card fraud.
- Subd. 3. Sentence.** Makes a conforming change.
- Makes this section effective the day following final enactment and apply to crimes committed on or after that date.
- 59 Repealer.** Repeals Minn. Stat. § 245E.07, subd. 3 (Office of Inspector General Recoveries).

Article 5: Health Care

Overview

This article expands the allowable use of electronic tablets by waiver recipients, requires rules related to medical supplies and equipment to be amended, and eliminates the requirement in rule that providers submit EPSDT screening forms.

- 1 Medical supplies and equipment.** Amends § 256B.0625, subd. 31. Allows a waiver recipient to use an electronic tablet for a use not related to communication, when the recipient is authorized under the waiver to receive one or more additional applications, and allowing additional use would prevent the purchase of another tablet with waiver funds.
- 2 Obsolete rules regarding prior authorizations for medical supplies and equipment.** (a) Directs the commissioner of human services to amend MN Rules, part 9505.0310, subpart 3,

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to eliminate the MA prior authorization requirement for: a nondurable medical supply that costs more than the performance agreement limit and durable medical equipment, prostheses, and orthoses if the cost of purchase, rental, or repair exceeds the performance agreement limit.

(b) Directs the commissioner to amend MN Rules, part 9505.0365, subpart 3, to remove the prior authorization requirement for an ambulatory aid whose cost exceeds the limits in the provider's performance agreement.

(c) Allows the commissioner to use the good cause exemption to adopt rules under this section.

- 3** **Repealer.** Repeals MN Rules, parts 9505.0175, subpart 32 (provider performance agreements); 9505.0365, subpart 2 (requirement that providers of prosthetic or orthotic device: sign performance agreements); 9505.1696, subpart 10 (definition of EPSDT screening form); and 9505.1709 (requirement that providers submit EPSDT screening forms).

Article 6: Continuing Care

Overview

This article modifies various continuing care programs including long-term care consultation services, the Alternative Care (AC) program, Community First Services and Supports (CFSS), and the Maltreatment of Vulnerable Adults Act.

- 1** **Appeal of nursing facility level of care determination.** Amends § 144.0724, subd. 12. Makes a conforming cross-reference change related to administrative appeals.
- 2** **City, county, and state social workers.** Amends § 148E.065, subd. 4a. Removes an exemption allowing city, county, and state agencies to employ unlicensed social workers.
- 3** **Service suspension.** Amends § 245D.10, subd. 3. Requires license holders to limit temporary service suspension to situations in which the person's conduct poses an imminent risk of physical harm to self or others and less restrictive or positive support strategies would not achieve and maintain safety. Prohibits service termination, with certain exceptions. Modifies the list of information that a license holder must include in a service suspension and service termination policy.
- 4** **Service termination.** Amends § 245D.10, by adding subd. 3a. Requires license holders to establish policies and procedures for service termination. Lists items that must be included in the policy.
- 5** **State agency hearings.** Amends § 256.045, subd. 3. Adds persons issued a notice of service termination under residential supports and services and individual disability waiver recipients who are denied a rate exception under the disability waiver rates system to the list of people who may appeal decisions to the state agency. Limits the scope of hearings for persons issued a notice of service termination under residential supports and services.
- 6** **Additional powers of commissioner; subpoenas.** Amends § 256.045, subd. 6. Gives the commissioner the authority to issue a temporary order staying a proposed demission by a residential facility when the individual is seeking a temporary stay of demission because the county agency has not yet finalized arrangements for a residential facility, a program, or

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services that will meet the assessed needs of the recipient by the effective date of the termination. Limits the length of the stay of demission.

- 7 Consumer information and assistance and long-term care options counseling; Senior LinkAge Line.** Amends § 256.975, subd. 7. Requires long-term care options counseling to be provided to former residents of nursing homes who were discharged to community settings. Requires nursing homes to provide contact information to the Senior LinkAge Line for certain residents. Lists the contact information that must be provided.
- 8 Definitions.** Amends § 256B.0911, subd. 1a. Adds a cross-reference to the Community First Services and Supports (CFSS) program under the definition of “long-term care consultation services.”
- 9 MnCHOICES certified assessors.** Amends § 256B.0911, subd. 2b. Clarifies that certified assessors are certified to complete the MnCHOICES assessment.
- 10 Long-term care consultation team.** Amends § 256B.0911, subd. 3. Requires each lead agency to establish and maintain a team of certified assessors. Requires each team of certified assessors to include a social worker and a public health nurse or registered nurse.
- 11 Assessment and support planning.** Amends § 256B.0911, subd. 3a. Makes conforming changes. Requires the MnCHOICES assessment tool to be used for assessments. Clarifies that a community support plan is provided to every person who receives a MnCHOICES assessment, regardless of what service option the person chooses.
- 12 Eligibility for funding for services for nonmedical assistance recipients.** Amends § 256B.0913, subd. 4. Requires persons receiving funding under the Alternative Care (AC) program to be United States citizens or United States nationals.
- 13 Services covered under alternative care.** Amends § 256B.0913, subd. 5. Modifies terminology in the list of services available under AC. Specifies how funding is allocated when AC services receive federal financial participation under the federal 1115 waiver demonstration.
- 14 Services; service definitions; service standards.** Amends § 256B.0913, subd. 5a. Adds sign language and spoken language interpreter services as covered services under the AC program under certain circumstances.
- 15 Alternative care program administration.** Amends § 256B.0913, subd. 6. Requires the commissioner to recover overpayments when a determination has been made that the state has made an overpayment.
- 16 Allocation formula.** Amends § 256B.0913, subd. 10. Makes conforming changes related to AC allocations when the AC program receives federal financial participation. This eliminates the need for counties and tribes to track their monthly and yearly AC allocations.
- 17 Targeted funding.** Amends § 256B.0913, subd. 11. Makes conforming changes related to AC allocations when the AC program receives federal financial participation. This means counties and tribes will no longer be required to submit paper forms to request additional target funding.

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- 18 Client fees.** Amends § 256B.0913, subd. 12. Modifies the conditions under which AC client fees are waived by eliminating the fees for all AC participants that use consumer-directed community supports and participants receiving temporary AC services.
- 19 Allocation under 1115 waiver demonstration.** Amends § 256B.0913, by adding subd. 17. Specifies how AC funds are allocated when AC services receive federal financial participation under the federal 1115 waiver demonstration. States that discretionary AC services require approval from the commissioner.
- 20 Community First Services and Supports.** Amends § 256B.85.
- Subd. 1. Basis and scope.** Removes unnecessary language and modifies terminology.
- Subd. 2. Definitions.** Modifies definitions under the CFSS program by making technical changes; correcting cross-references; adding definitions of “lead agency,” “participant,” “service budget,” “unit,” and “vendor fiscal employer agent;” and moving the definition of “level I behavior” within the subdivision.
- Subd. 3. Eligibility.** Modifies terminology related to people who have individualized education programs.
- Subd. 4. Eligibility for other services.** Removes unnecessary language.
- Subd. 5. Assessment requirements.** No changes.
- Subd. 6. CFSS service delivery plan.** Makes technical changes, updates terminology, and removes an obsolete cross-reference.
- Subd. 6a. Person-centered planning process.** Adds a new subdivision listing activities that must be included in the person-centered planning process.
- Subd. 7. CFSS; covered services.** Removes obsolete language and adds cross-references. Removes language related to qualifying as having a need for assistance due to behaviors.
- Subd. 8. Determination of CFSS services authorization amount.** Updates terminology, removes obsolete cross-references, and modifies the process to determine additional service units.
- Subd. 9. Noncovered services.** Updates terminology.
- Subd. 10. Agency-provider and FMS provider qualifications and duties.** Updates a cross-reference and makes technical changes. Modifies the agency-provider and FMS provider lists of duties.
- Subd. 11. Agency-provider model.** Updates terminology and makes technical changes.
- Subd. 11a. Agency-provider model; evaluation of CFSS services.** Adds a new subdivision establishing an evaluation process for the agency-provider model under CFSS. Lists the information that must be included in each CFSS evaluation.
- Subd. 11b. Agency-provider model; support worker competency.** Adds a new subdivision requiring agency-providers to ensure that support workers are competent

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to meet the participant's assessed needs, goals, and additional requirements included in the CFSS service delivery plan. Requires agency-providers to verify and maintain evidence of support worker competency and lists the information that must be documented. Requires the agency provider to develop a worker training and development plan to ensure support worker competency and specifies when the plan must be updated.

Subd. 12. Requirements for enrollment of CFSS agency-providers. Updates terminology and modifies the list of information and documentation agency-providers must provide to the commissioner. Modifies the commissioner's authority to sanction an agency-provider that fails to submit all required documentation.

Subd. 12a. CFSS agency-provider requirements; policies for complaint process and incident response. Adds a new subdivision that requires agency-providers to establish policies and procedures that promote services recipient rights by providing a simple complaint process. Lists the requirements the complaint process must meet. Requires agency-providers to establish policies and procedures for responding to incidents that occur while services are being provided. Defines "incident."

Subd. 12b. CFSS agency-provider requirements; notice regarding termination of services. Adds a subdivision requiring an agency-provider to give written notice when it intends to terminate services with a participant at least ten calendar days before the proposed service termination becomes effective, with certain exceptions. Specifies the process when a participant initiates a request to terminate services with the agency-provider. Requires the agency-provider to participate in a coordinated transfer of the participant to a new agency-provider to ensure continuity of care.

Subd. 13. Budget model. Updates cross-references and terminology. Removes language requiring the commissioner to develop policies for determining if a participant is unable to manage responsibilities under the budget model.

Subd. 13a. Financial management services. Adds a subdivision listing the services provided by an FMS provider (this language was moved from the definition of FMS contractor). Modifies the duties of the FMS provider. Updates terminology.

Subd. 14. Participant's responsibilities. Modifies participant responsibilities under CFSS for both the agency-provider and budget models.

Subd. 15. Documentation of support services provided; time sheets. Modifies requirements related to time sheet documentation, verification, and submittal.

Subd. 16. Support workers requirements. Modifies support worker requirements and makes conforming changes. Removes language prohibiting a support worker from being a CFSS participant.

Subd. 16a. Exception to support worker requirements for continuity of services. No changes.

Subd. 17. Consultation services duties. Modifies consultation services provider duties. Updates terminology.

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Subd. 17a. Consultation services provider qualifications and requirements. Modifies consultation services provider qualifications and requirements.

Subd. 18. Service unit and budget allocation requirements and limits. Makes a technical wording change.

Subd. 18a. Worker training and development services. Updates cross-references, modifies terminology, and modifies worker training and development services requirements.

Subd. 19. Support system. Repeals this subdivision.

Subd. 20. Participant protections. Modifies terminology, clarifies that all CFSS participants have the protections identified in this subdivision, modifies the list of information that must be provided to a participant by the consultation services provider, and requires the consultation services provider to ensure that the participant chooses freely between the agency-provider model and the budget model and among available agency-providers.

Subd. 20a. Notice of participant rights from an agency-provider. Adds a new subdivision requiring agency-providers to notify participants of their rights.

Subd. 20b. Service-related rights under an agency-provider. Adds a new subdivision that lists a participant's service-related rights under an agency-provider.

Subd. 20c. Protection-related rights under an agency-provider or through an FMS provider. Adds a new subdivision that lists a participant's protection-related rights under an agency-provider or FMS provider.

Subd. 21. Development and Implementation Council. Modifies terminology and removes obsolete language.

Subd. 22. Quality assurance and risk management system. Modifies language requiring the commissioner to develop performance measures and data reporting requirements.

Subd. 23. Commissioner's access. Increases the commissioner's access to certain people, places, and documents when conducting an investigation into possible overpayment of Medicaid funds.

Subd. 23a. Sanctions; information for participants upon termination of services. Adds a new subdivision that gives the commissioner the authority to issue sanctions against a provider for failing to comply with applicable laws or rules, including withholding payment or suspending or terminating the provider enrollment number. Gives the commissioner the authority to disenroll a participant from the budget model if the participant employer fails to comply with applicable laws or rules. Allows providers and participant employers to appeal the decision of the commissioner.

Subd. 24. CFSS agency-providers and FMS providers; background studies. Updates terminology, updates a cross-reference, and requires FMS providers to comply with background study requirements.

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Subd. 25. Commissioner recommendations required. Repeals this subdivision.

Subd. 26. Oversight plan. Adds a new subdivision that requires the commissioner, in consultation with others, to develop recommendations for the oversight of CFSS.

Makes the amendments to this section effective upon federal approval. Requires CFSS to begin 90 days after federal approval. Requires the commissioner to notify the revisor of statutes when this occurs.

- 21 Evaluation and referral of reports made to common entry point.** Amends § 626.557, subd. 9a. For reports involving multiple locations or changing circumstances, requires the common entry point to determine the county agency responsible for protective services and the county responsible as the lead investigative agency under the Maltreatment of Vulnerable Adults Act. Creates a process for an agency to follow if the lead investigative agency believes the report was referred by the common entry point in error.
- 22 Response to reports.** Amends § 626.557, subd. 9b. Requires the lead investigative agency, county, and certain others to cooperate in the provision of protective services, coordinating investigations, and assisting other agencies.
- 23 Duties of county social service agency.** Amends § 626.557, subd. 10. Describes the responsibilities of county social service agencies when a report is referred from the common entry point or another lead investigative agency.
- 24 Common entry point.** Amends § 626.5572, subd. 5. Modifies the definition of “common entry point.”
- 25 Facility.** Amends § 626.5572, subd. 6. Modifies the definition of “facility” under the Maltreatment of Vulnerable Adults Act.
- 26 Vulnerable adult.** Amends § 626.5572, subd. 21. Modifies the definition of “vulnerable adult” by adding CFSS to the list of services a vulnerable adult may receive and by expanding the definition to include people who receive licensed services, not just people who receive services in a licensed facility.
- 27 Nursing home level of care report.** Amends Laws 2013, ch. 108, art. 7, § 58. Delays due dates for two legislative reports related to the implementation of the nursing home level of care.
- 28 Home and community-based settings transition plan.** Upon federal approval, requires DHS to take initial steps to come into compliance with the home and community-based settings transition plan for the HCBS waivers. Requires legislative reports on the transition process beginning January 15, 2016, and annually thereafter during the transition period.
- 29 Revisor’s instruction.** Instructs the revisor to change the term “community alternatives for disabled individuals” to “community access for disability inclusion” wherever it appears in statute and instructs the revisor to make related grammatical changes and changes in headnotes.
- 30 Repealer.** Paragraph (a) repeals Minn. Stat. § 245D.061, subd. 3 (emergency use of manual restraints); and 256B.0911, subd. 6a (long-term care consultation services withholding).

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Paragraph (b) repeals Minn. Rules, parts 9555.7400 (emergency protective services); and 9555.7500 (classification of complaints).