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**Authors:** Dean

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**Analyst:** Danyell A. Punelli

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### Overview

This bill makes changes to the statutes governing child care assistance programs and child care assistance program fraud investigations to improve program integrity.

#### Section

- 1**      **Law enforcement authority.** Amends § 119B.011, by adding subd. 15b. Defines “law enforcement authority.” Makes this section effective July 1, 2017.
- 2**      **Stop payment.** Amends § 119B.011, by adding subd. 19c. Defines “stop payment.” Makes this section effective July 1, 2017.
- 3**      **Program integrity.** Amends § 119B.02, subd. 5. Adds a cross-reference to the chapter of statutes governing child care assistance program fraud investigations. Makes this section effective July 1, 2017.
- 4**      **Child care centers; assistance.** Amends § 119B.09, subd. 9a. Modifies the provision limiting the number of children in a child care center who are dependents of center employees and who may receive child care assistance. Allows a center to receive authorizations for 25 or fewer children who are dependents of the center’s employees. Makes this section effective April 23, 2018.
- 5**      **Authorization with a secondary provider.** Creates § 119B.097. Requires a parent to choose one primary provider and one secondary provider per child that can be paid by child care assistance if a child uses certain combinations of providers paid by child care assistance.

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Limits the amount of child care authorized with the secondary provider and the total amount of child care authorized with both providers. Makes this section effective April 23, 2018.

- 6** **Unsafe care.** Amends § 119B.125, subd. 4. Makes a technical change. Makes this section effective April 23, 2018.
- 7** **Record-keeping requirement.** Amends § 119B.125, subd. 6. Requires providers to keep accurate and legible daily attendance records as a condition of payment under the child care assistance programs. Allows the county or commissioner to revoke a provider's authorization to receive child care assistance, pursue a fraud disqualification, take action against the provider according to the fraud investigation statutes, or establish an attendance record overpayment when a provider has not complied with the record-keeping requirement. Establishes the calculation for attendance record overpayments. Requires the commissioner to develop criteria for counties regarding the establishment of overpayments. Makes this section effective April 23, 2018.
- 8** **Subsidy restrictions.** Amends § 119B.13, subd. 1. Limits maximum payments if a child uses two providers. Makes technical and conforming changes. Makes this section effective April 23, 2018.
- 9** **Provider payments.** Amends § 119B.13, subd. 6. Paragraph (a) requires providers to bill only for services documented in attendance records. Requires payments under the child care fund to be made within 21 days of receiving a complete bill from the provider. Under current law, payments must be made within 30 days if bills are submitted within 10 days of the end of the service period.
- Paragraphs (d) to (i) expand the list of provider activities that may result in the county or commissioner refusing to issue an authorization, revoking an existing authorization, stopping payment, or refusing to pay a submitted bill. Specifies when a county or the commissioner must deny or revoke a provider's authorization and either pursue a fraud disqualification or refer the case to a law enforcement authority. Specifies the length of time the denial or revocation lasts. Makes technical and conforming changes.
- Makes paragraph (a) effective September 25, 2017. Makes paragraphs (d) to (i) effective April 23, 2018.
- 10** **Fair hearing allowed for applicants and recipients.** Amends § 119B.16, subd. 1.
- Paragraph (a) allows an applicant or recipient adversely affected by an action of a county agency or the commissioner to request and receive a fair hearing.
- Paragraph (b) requires a county agency to offer an informal conference to an applicant or recipient who is entitled to a fair hearing, and to advise an adversely affected applicant or recipient that a request for a conference is optional and does not delay or replace the right to a fair hearing.
- Paragraph (c) specifies that an applicant or recipient does not have a right to a fair hearing if a county agency or the commissioner takes action against a provider.
- Paragraph (d) requires a county agency or the commissioner to mail notice to a child care assistance program recipient receiving care from the provider if a provider's authorization is suspended, denied, or revoked.

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Makes this section effective April 23, 2018.

- 11 Fair hearing allowed for providers.** Amends § 119B.16, subd. 1a. Modifies fair hearings for providers by removing language limiting fair hearings only to providers who have been assigned responsibility for overpayments. Allows a provider to request a fair hearing if a county agency or the commissioner:

- denies or revokes a provider's authorization;
- assigns responsibility for an overpayment to a provider;
- establishes an overpayment for failure to comply with attendance record requirements;
- seeks monetary recovery or recoupment;
- initiates an administrative fraud disqualification hearing; or
- issues a payment and the provider disagrees with the amount of the payment.

Specifies the process for a provider to request a fair hearing and the information that must be included in the appeal request.

Makes this section effective April 23, 2018.

- 12 Joint fair hearings.** Amends § 119B.16, subd. 1b. Removes language requiring the family in whose case an overpayment was created to be made a party to a fair hearing requested by the provider, and also removes language requiring the provider to be made a party to a fair hearing requested by a family when the family claims that an overpayment assigned to the family should have been assigned to the provider. Makes this section effective April 23, 2018.

- 13 Notice to providers.** Amends § 119B.16, by adding subd. 1c. Requires a county agency or the commissioner to mail written notice to the provider against whom an adverse action is being taken. Lists the information that must be included in the notice. Makes this section effective April 23, 2018.

- 14 Consolidated contested case hearing.** Amends § 119B.16, by adding subd. 3. Limits a provider to appealing the denial or revocation of an authorization based on a licensing action to the same contested case proceeding in which the provider appeals the licensing action. Makes this section effective April 23, 2018.

- 15 Final department action.** Amends § 119B.16, by adding subd. 4. A county agency's or the commissioner's action is considered a final department action unless the commissioner receives a timely and proper request for an appeal. Makes this section effective April 23, 2018.

- 16 Administrative review.** Creates § 119B.161.

**Subd. 1. Temporary denial or revocation of authorization.** Specifies the circumstances under which a provider has rights under this section. A county agency's or the commissioner's action is considered a final department action unless the commissioner receives a timely and proper request for an appeal. Allows the commissioner to temporarily suspend a provider's authorization without prior notice

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and opportunity for hearing if the commissioner determines there is a credible allegation of fraud for which an investigation is pending under the child care assistance program or the suspension is necessary for public safety and the best interests of the child care assistance program. Specifies when the commissioner may determine that an allegation is credible.

**Subd. 2. Notice.** Requires the county or the commissioner to mail a provider notice within five days of suspending, revoking, or denying a provider's authorization. Lists the information that must be included in the notice. Requires the county or commissioner to send notice of termination to an affected family under certain circumstances. Makes the termination sent to an affected family effective on the date the notice is created.

**Subd. 3. Duration.** Specifies the duration of a provider's denial, revocation, suspension, and payment suspension.

**Subd. 4. Good cause exception.** Allows the county or the commissioner to find that good cause exists not to deny, revoke, or suspend a provider's authorization under certain circumstances.

Makes this section effective April 23, 2018.

- 17 **Credible allegation of fraud.** Amends § 245E.01, by adding subd. 6a. Defines “credible allegation of fraud” in the chapter of statutes governing child care assistance program fraud investigations. Makes this section effective July 1, 2017.
- 18 **Investigating provider or recipient financial misconduct.** Amends § 245E.02, subd. 1. Adds agents and consultants to the list of persons who may be investigated for provider or recipient financial misconduct. Makes this section effective April 23, 2018.
- 19 **Determination of investigation.** Amends § 245E.02, subd. 3. Makes technical and conforming changes. Makes this section effective April 23, 2018.
- 20 **Referrals or administrative actions.** Amends § 245E.02, subd. 4. Modifies the list of actions the department of human services may take after making a determination. Makes technical changes. Makes this section effective April 23, 2018.
- 21 **Failure to provide access.** Amends § 245E.03, subd. 2. Clarifies the actions that may be taken if a provider fails to provide the department immediate access to records, who must grant access, and when access must be granted. Makes this section effective April 23, 2018.
- 22 **Continued or repeated failure to provide access.** Amends §245E.03, subd. 4. Modifies the action taken for continued or repeated failure to provide access and makes conforming changes. Specifies the duty to provide access continues after the provider's authorization is denied, revoked, or suspended. Makes this section effective April 23, 2018.
- 23 **Honest and truthful statements.** Amends § 245E.04. Makes technical changes. Makes this section effective April 23, 2018.
- 24 **Records required to be retained.** Amends § 245E.05, subd. 1. Adds contractor records identifying persons employed by the provider's child care business to the list of records that must be retained. Makes this section effective April 23, 2018.

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- 25** **Factors regarding imposition of administrative actions.** Amends § 245E.06, subd. 1. Changes terminology from “administrative sanctions” to “administrative actions.” Makes this section effective April 23, 2018.
- 26** **Written notice of department action; action effective date.** Amends § 245E.06, subd. 2. Removes language related to providing notice (this language has been moved, see §§ 13 and 16). Lists to whom notice must be sent when the department takes action against a provider. Makes technical and conforming changes. Removes language allowing the department to consider the economic hardship of a person in implementing a proposed sanction. Makes this section effective April 23, 2018.
- 27** **Appeal of department action.** Amends § 245E.06, subd. 3. Removes language specifying the information that must be included in an appeal, when an appeal must be received, and allowing the department to take adverse actions against a provider before the appeal hearing under certain circumstances (this language has been moved, see § 11). Specifies a provider’s rights related to an action taken under this chapter are established in sections 119B.16 and 119B.161. Makes this section effective April 23, 2018.
- 28** **Grounds for and methods of monetary recovery.** Amends § 245E.07, subd. 1. Allows the department to obtain monetary recovery from a provider who has been improperly paid by the child care assistance program, regardless of whether the error was on the part of the provider, the department, or the county. Makes this section effective April 23, 2018.
- 29** **Disqualification from program.** Amends § 256.98, subd. 8. Modifies the disqualification period for a child care provider who has been found to have wrongfully obtained child care assistance. Makes this section effective April 23, 2018.
- 30** **Repealer.** Repeals Minnesota Statutes, sections 119B.16, subd. 2 (informal conference); 245E.03, subd. 3 (notice of denial or termination); and 245E.06, subd. 4 and 5 (consolidated hearings with licensing sanction; effect of department’s administrative determination or sanction), and Minnesota Rules, part 3400.0185, subp. 5 (notice to providers of actions adverse to the provider), effective April 23, 2018.