

Subject Department of Human Services Program Integrity

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Overview

This bill makes various changes to provisions related to data privacy, the False Claims Act, child care assistance program, child care assistance program fraud investigations, and MA sanctions; and creates criminal penalties for certain acts involving human services programs.

Summary

Section	Description
1	<p>Investigative data.</p> <p>Amends § 13.46, subd. 3. Allows welfare data that is collected as part of an enforcement investigation to be disclosed to other agents within the welfare system or to other government investigators, unless the disclosure would compromise an ongoing DHS investigation.</p>
2	<p>Liability for certain acts.</p> <p>Amends § 15C.02. Changes the penalty for fraud against the government under chapter 15C so that the civil penalty is tied to the federal False Claims Act, which applies a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, and which means the penalties are reviewed each year by January 15.</p>
3	<p>Data.</p> <p>Amends § 119B.02, subd. 6. Defines “child care assistance program payment data.” Classifies as private payment data that identifies an individual assistance recipient. Specifies that payment data is public if it relates to payments made to a child care center under certain circumstances. Provides an immediate effective date.</p>
4	<p>Date of eligibility for assistance.</p> <p>Amends § 119B.09, subd. 7. Limits retroactive payments to three months from the date of application for CCAP (the current limit is six months). Provides a July 1, 2019 effective date.</p>

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5	<p>Record-keeping requirement.</p> <p>Amends § 119B.125, subd. 6. Modifies record-keeping requirements CCAP providers must meet. Provides a July 1, 2019 effective date.</p>
6	<p>Provider payments.</p> <p>Amends § 119B.13, subd. 6. Requires providers to bill only for services that meet specified documentation requirements. Expands the list of conditions under which the commissioner or a county may refuse to issue a child care authorization to a provider, revoke an existing child care authorization, stop payment issued to a provider, or refuse to pay a bill submitted by a provider. Provides a July 1, 2019 effective date.</p>
7	<p>Absent days.</p> <p>Amends § 119B.13, subd. 7. Defines “absent day” and “holidays limit.” Requires providers to properly bill for absent days and holidays. Specifies that a provider’s failure to properly bill for these days results in an overpayment. Provides a July 1, 2019 effective date.</p>
8	<p>Limits on receiving public funds.</p> <p>Amends § 245.095.</p> <p>Subd. 1. Prohibition. For providers who are excluded from a program administered by the DHS, requires the commissioner to: (1) prohibit the excluded provider from receiving grant funds or registering in any other program administered by the commissioner, and (2) disenroll, revoke, or suspend a license, disqualify, or debar the excluded provider, vendor, or individual in any other program administered by the commissioner.</p> <p>Subd. 2. Definitions. Modifies the definitions of “excluded” and “provider.” Provides an immediate effective date.</p>
9	<p>Financial misconduct or misconduct.</p> <p>Amends § 245E.01, subd. 8. Modifies the definition of “financial misconduct” or “misconduct” under the statute governing CCAP fraud investigations to include the new crimes and criminal penalties created in section 21.</p>
10	<p>Provider definitions.</p> <p>Amends § 245E.02, by adding subd. 1a. Defines “provider.”</p>
11	<p>Administrative disqualifications.</p> <p>Amends § 245E.02, by adding subd. 5. Specifies the conditions under which the DHS must pursue an administrative disqualification under the statute governing CCAP fraud investigations. Specifies the process for pursuing an administrative disqualification, allows the provider to appeal an administrative disqualification, allows the human</p>

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12	<p>services judge to combine a fair hearing and an administrative disqualification hearing into a single hearing, and specifies disqualification timelines.</p> <p>Grounds for sanctions against vendors. Amends § 256B.064, subd. 1a. Expands the list of reasons for which the commissioner may impose sanctions against a vendor of medical care.</p>
13	<p>Sanctions available. Amends § 256B.064, subd. 1b. Requires the commissioner to suspend a vendor's participation in MA for a minimum of five years under certain circumstances.</p>
14	<p>Imposition of monetary recovery and sanctions. Amends sec. 256B.064, subd. 2. Allows DHS or a managed care organization to keep any payments being withheld when a provider is convicted of a crime related to MA. Grants the commissioner additional fining authority for providers who repeatedly violate MA program rules.</p>
15	<p>Vendor mandates on prohibited hiring. Amends § 256B.064, by adding subd. 3. Paragraph (a) requires the commissioner to maintain and publish a list of each excluded individual and entity that was convicted of a crime related to a MA health service, or suspended or terminated. Prohibits vendors that receive MA funding from employing an individual or entity on the exclusion list or entering into or maintaining a business relationship with an individual or entity that is on the exclusion list.</p> <p>Paragraph (b) specifies vendor requirements related to frequency of checking the exclusion list.</p> <p>Paragraph (c) specifies the vendor's requirement to check the exclusion list and terminate employees or business relationships with entities on the list applies to each employee and entity.</p> <p>Paragraph (d) lists sanctions that may be applied if a vendor employs or enters into or maintains a business relationship with an individual or entity on the exclusion list.</p>
16	<p>Notice. Amends § 256B.064, by adding subd. 4. Paragraph (a) allows DHS to serve notices by first class mail with an affidavit of service.</p> <p>Paragraph (b) requires DHS to give notice in writing to a recipient placed in the Minnesota restricted recipient program. Requires the notice to be sent by first class mail. Allows a recipient placed in the Minnesota restricted recipient program to contest the placement</p>

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	by submitting a written request for a hearing to DHS within 90 days of the notice being mailed.
17	Immunity; good faith reporters. Amends § 256B.064, by adding subd. 5. Grants civil and criminal immunity to persons who make a good faith report of fraud or abuse in public assistance programs and ensures the identity of the reporter remains confidential.
18	Minnesota Restricted Recipient Program; Personal Care Assistance (PCA) Services. Creates § 256B.0646. Paragraph (a) allows the commissioner to place a recipient of PCA or community first services and supports (CFSS) in the Minnesota restricted recipient program when the recipient's use of those programs results in abusive or fraudulent billing. Paragraph (b) requires a recipient to comply with additional conditions for the use of PCA services or CFSS if the commissioner determines it is necessary to prevent future misuse of PCA services or abusive or fraudulent billing. Lists the additional conditions that may apply. Paragraph (c) allows a recipient placed in the Minnesota restricted recipient program to appeal this placement. Provides an immediate effective date.
19	Recipient protection. Amends § 256B.0651, subd. 17. Allows the commissioner to notify recipients who receive care from a provider that the provider's payments may be withheld or that the provider's participation in MA may be suspended or terminated. Provides an immediate effective date.
20	Access to medical records. Amends § 256B.27, subd. 3. Removes a requirement that a vendor of medical care receive 24-hour notification from the commissioner before the commissioner gains access to records. Grants the commissioner immediate access to medical records when investigating a possible overpayment of MA funds. Specifies that denying the commissioner access is cause for the vendor's immediate suspension of payment or termination.
21	Criminal Penalties for Acts Involving Human Services Programs. Creates § 609.817. Subd. 1. Payments made relating to human services programs. Creates a felony offense for intentionally offering payment to a person to induce that person to (1) apply for or receive, or induce another person to apply for or receive, a

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	<p>human services benefit, service, or grant; or (2) apply for or use a particular vendor providing a service administered or funded by the DHS. A violation of this subdivision may be punished by up to 15 years in prison or a fine of up to \$15,000, or both.</p> <p>Subd. 2. Payments received relating to human services programs. Creates a felony offense for intentionally soliciting or receiving payment in return for (1) applying for or receiving a human services benefit, service, or grant; (2) applying for or using a particular vendor providing a service administered or funded by the DHS; or (3) receiving or agreeing to receive payments in excess of the fair and reasonable market value for services or supplies. A violation of this subdivision may be punished by up to 15 years in prison or a fine of up to \$15,000, or both.</p> <p>Subd. 3. Defense. Prohibits a person or company who receives or makes payments in excess of the fair and reasonable market value from claiming that the person did not have knowledge of the source of the payment.</p> <p>Subd. 4. Persons exempt. Establishes that an individual is exempt from prosecution under this section when: (1) the individual is an employee receiving payment for providing care or services; (2) payment received by the employee is for work performed by the employee paid via a standard payment method; and (3) the company making the payment complies with all laws relating to withholdings and reporting.</p> <p>Subd. 5. Additional sanctions. Provides that fraudulent claims made do not need to be paid, and payments received constitute the value of restitution owed. Clarifies that "service" includes any benefit, service, or grant administered or funded by the Department of Human Services, a county, or the United States Department of Health and Human Services. States that a person convicted under this section of law is subject to the prohibition on receiving public funds described in Minnesota Statutes, section 245.095.</p>

22 **Appropriation.**
Appropriates unspecified amounts in fiscal years 2020 and 2021 from the general fund to the commissioner of human services for human services program integrity activities.



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