

**Subject** DHS program waivers and modifications; Department of Health temporary emergency waiver authority

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**Date** March 14, 2022

## Overview

This bill allows the commissioner of human services to reinstate waivers and modifications to certain human services programs, requires the commissioner to establish a temporary staffing pool, and appropriates money for the temporary staffing pool. This bill also authorizes the commissioner of health to grant temporary individual or blanket waivers of certain state statutes and rules that apply to hospitals and nursing homes.

## Summary

| Section | Description  |
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| 1       | <p><b>Contingent appropriations.</b></p> <p>Amends Laws 2021, First Special Session ch. 7, art. 16, § 28. Exempts culturally specific or culturally responsive program and disability responsive program and substance use disorder demonstration project provider rate increases from being contingent upon federal approval.</p> <p>Provides an immediate effective date.</p>  |
| 2       | <p><b>Commissioner of health; temporary emergency authority.</b></p> <p>Grants the commissioner of health temporary emergency authority to waive certain requirements that apply to hospitals and nursing homes.</p> <p><b>Subd. 1. Temporary emergency authority granted.</b> Grants the commissioner of health temporary emergency authority to grant individual or blanket waivers of state statutes and rules.</p> <p><b>Subd. 2. Individual or blanket waivers permitted.</b> Allows the commissioner to grant temporary individual or blanket waivers of the following statutes and rules, provided the waiver does not adversely affect resident or patient care or service</p> |

| Section | Description |
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quality: statutes governing the hospital construction moratorium or bed capacity restrictions; the nursing home bed moratorium, licensed bed capacity with no expansion of medical assistance certification of beds, and notice timeline requirements for residents transferred or discharged as a response to COVID-19; and licensing fees for hospitals and nursing homes.

**Subd. 3. Notice.** No later than 48 hours after a waiver goes into effect, requires the commissioner to provide written notice of the waiver to the appropriate ombudsman, if any, and to the chairs and ranking minority members of the legislative committees with jurisdiction over the Department of Health. Requires a waiver to be posted on the Department of Health website within 48 hours after being granted, and to include a plain language description of the waiver.

**Subd. 4. Expiration of waivers.** Provides that a waiver granted by this section expires June 30, 2022, and states that this subdivision does not apply to nursing home transfer and discharge waivers if necessary federal approval is not obtained before June 30, 2022.

Provides an immediate effective date.

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| 3 | <b>Reinstatement and extension of COVID-19 program waivers and modifications.</b> |
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Allows the commissioner of human services to reinstate waivers and modifications to human services programs issued by the commissioner, including any amendments to the waivers and modifications. Allows the waivers and modifications to remain in effect until June 30, 2022, except certain waivers may remain in effect until June 30, 2023. Lists the waivers that may be reinstated.

Provides an immediate effective date, except the reinstatement of the waivers allowing qualified professionals to provide required in-person oversight of PCA workers via two-way interactive telecommunications and allowing program participants to give alternative signatures or expressed approval of documents related to long-term services and supports that typically require in-person signatures are effective retroactively from September 1, 2021.

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| 4 | <b>Child care assistance program payment during temporary closures for health concerns related to COVID-19.</b> |
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Paragraph (a) allows the commissioner of human services to pay child care assistance to a child care provider through June 26, 2022, under certain circumstances.

Paragraph (b) limits CCAP payments during closures related to COVID-19 to up to eight weeks total per child care provider. Requires child care providers to report any closure to the commissioner prior to submitting a request for payment under this section.

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Paragraph (c) prohibits child care providers from collecting fees charged to families receiving child care assistance for closed or absent days due to health concerns related to COVID-19 if the provider received a payment under this section.

Paragraph (d) considers child care assistance payments made to a provider for absent or closed days income for purposes of applying for a child care stabilization hardship grant.

Makes this section effective retroactively from November 1, 2021, except paragraph (d) is effective the day following final enactment.

**5 Temporary modifications of child care center staff; distribution requirements.**

Paragraph (a) allows the commissioner of human services to temporarily suspend certain child care center staff distribution requirements until June 30, 2022.

Paragraph (b) requires a licensed child care center to have at least one person qualified as a teacher on site at all times when a child is in care at the licensed child care center and requires a staff person who is at least 18 years of age with each group of children, except as allowed under Minnesota Rules.

Paragraph (c) requires a licensed child care center to have a staff person on site who is responsible for overseeing the operation of the daily activities of the program, ensuring the health and safety of the children, and supervising staff. Specifies the on-site staff person is not required to meet the qualifications of a director.

Provides an immediate effective date.

**6 Commissioner of human services; temporary staffing pool; appropriation.**

Paragraph (a) requires the commissioner to establish a temporary staffing pool for congregate settings experiencing staffing crises. Allows vendor contracts to include retention bonuses, sign-on bonuses, and payment for hours on call. Allows the commissioner to pay for necessary training, travel, and lodging expenses of the temporary staff. Lists requirements contracts for temporary staffing must meet.

Paragraph (b) allows temporary staff to be deployed to long-term care facilities and other congregate care residential facilities and programs experiencing an emergency staffing crisis on or after the effective date of this section. Requires temporary staff to be provided at no cost to the facility or program receiving the temporary staff.

Paragraph (c) specifies that members of the temporary staffing pool under this section are not state employees.

| Section | Description |
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Paragraph (d) requires the commissioner to coordinate the activities under this section with any other impacted state agencies, to appropriately prioritize locations to deploy contracted temporary staff.

Paragraph (e) requires the commissioner to give priority for deploying staff to facilities and programs with the most significant staffing crises and where, but for assistance, residents would be at significant risk of injury due to the need to transfer to another facility or a hospital for adequately staffed care.

Paragraph (f) allows a facility or program to seek onetime assistance per setting from the temporary staffing pool only after the facility or program has used all resources available to obtain temporary staff but is unable to meet its staffing needs. Allows a facility or program to apply for temporary staff for up to 21 days. Requires applicants to submit a proposed plan for ensuring resident safety at the end of that time period.

Paragraph (g) lists the facilities and programs eligible to obtain temporary staff from the temporary staffing pool.

Paragraph (h) allows the commissioner to: (1) maintain, extend, or renew contracts for temporary staffing entered into on or after September 1, 2020; (2) enter into new contracts with eligible entities and for the costs needed for temporary staff deployed in the temporary staffing pool; and (3) use up to 6.5 percent of this funding for administration of this program.

Paragraph (i) requires the commissioner to seek all allowable FEMA reimbursement for the costs of this activity.

Provides an immediate effective date.

**7 Appropriation; temporary staffing pool.**

Appropriates \$1,029,000 in fiscal year 2022 from the general fund to the commissioner of human services for the temporary staffing pool. Specifies this is a onetime appropriation and is available until June 30, 2022.



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