

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1991**

March 12, 2007

Authored by Loeffler and Thissen

The bill was read for the first time and referred to the Committee on Health and Human Services

A bill for an act

1.1 relating to human services; making technical changes; amending child care;
1.2 chemical and mental health; child welfare and public assistance; continuing care;
1.3 health care; amending Minnesota Statutes 2006, sections 119B.011, subdivision
1.4 17; 119B.09, subdivision 1; 119B.125, subdivision 2, by adding a subdivision;
1.5 119B.13, subdivisions 3a, 7; 144.225, subdivision 2b; 245.4874; 252.32,
1.6 subdivision 3; 253B.185, subdivision 2; 254A.03, subdivision 3; 254A.16,
1.7 subdivision 2; 254B.02, subdivisions 1, 5; 254B.03, subdivisions 1, 3; 254B.06,
1.8 subdivision 3; 256.01, subdivision 2; 256.045, subdivision 3b; 256.0451,
1.9 subdivisions 1, 3, 11, 19; 256.046, subdivision 1; 256.476, subdivisions 1, 2, 3,
1.10 4, 5, 10; 256.974; 256.9744, subdivision 1; 256B.0625, subdivisions 1a, 13c, 23;
1.11 256B.0911, subdivision 4c; 256B.0913, subdivisions 4, 5, 5a, 8, 9, 10, 11, 12, 13,
1.12 14; 256B.0919, subdivision 3; 256B.0943, subdivisions 6, 9, 11, 12; 256B.431,
1.13 subdivisions 1, 3f, 17e; 256D.03, subdivision 4; 256E.35, subdivisions 2, 7;
1.14 256J.21, subdivision 3; 256J.30, subdivision 9; 256J.32, subdivision 4; 256J.42,
1.15 subdivisions 5, 6; 256J.425, subdivision 6; 256J.45, subdivision 2; 256J.46,
1.16 subdivision 1; 256J.49, subdivision 13; 256J.50, subdivisions 1, 11; 256J.54,
1.17 subdivisions 2, 5; 256J.55, subdivision 1; 256J.561, subdivision 2; 256J.645;
1.18 256J.66, subdivision 1; 256J.67, subdivision 3; 256J.95, subdivision 11; 256L.03,
1.19 subdivision 5; 256L.04, subdivisions 1, 12; 259.67, subdivision 4; 260.012;
1.20 260B.157, subdivision 1; 626.556, subdivisions 2, 3, 10, 10c; Laws 2005, chapter
1.21 98, article 3, section 25; repealing Minnesota Statutes 2006, sections 252.21;
1.22 252.22; 252.23; 252.24; 252.25; 252.261; 252.275, subdivision 5; 254A.02,
1.23 subdivisions 7, 9, 12, 14, 15, 16; 254A.085; 254A.086; 254A.12; 254A.14;
1.24 254A.15; 254A.16, subdivision 5; 254A.175; 254A.18; 256B.0913, subdivisions
1.25 5b, 5c, 5d, 5e, 5f, 5g, 5h; 256J.561, subdivision 1; 256J.62, subdivision 9;
1.26 256J.65; Minnesota Rules, part 9503.0035, subpart 2.
1.27

1.28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.29 **ARTICLE 1**

1.30 **CHILD CARE**

1.31 Section 1. Minnesota Statutes 2006, section 119B.011, subdivision 17, is amended to
1.32 read:

2.1 Subd. 17. **MFIP.** "MFIP" means the Minnesota family investment program, the
 2.2 state's TANF program under Public Law 104-193, Title I, and includes the MFIP program
 2.3 under chapter 256J, ~~the work first program under chapter 256K~~, and tribal contracts under
 2.4 section 119B.02, subdivision 2, or 256.01, subdivision 2.

2.5 Sec. 2. Minnesota Statutes 2006, section 119B.09, subdivision 1, is amended to read:

2.6 Subdivision 1. **General eligibility requirements for all applicants for child**
 2.7 **care assistance.** (a) Child care services must be available to families who need child
 2.8 care to find or keep employment or to obtain the training or education necessary to find
 2.9 employment and who:

2.10 (1) have household income less than or equal to 250 percent of the federal poverty
 2.11 guidelines, adjusted for family size, and meet the requirements of section 119B.05;
 2.12 receive MFIP assistance; and are participating in employment and training services under
 2.13 chapter 256J ~~or 256K~~; or

2.14 (2) have household income less than or equal to 175 percent of the federal poverty
 2.15 guidelines, adjusted for family size, at program entry and less than 250 percent of the
 2.16 federal poverty guidelines, adjusted for family size, at program exit.

2.17 (b) Child care services must be made available as in-kind services.

2.18 (c) All applicants for child care assistance and families currently receiving child care
 2.19 assistance must be assisted and required to cooperate in establishment of paternity and
 2.20 enforcement of child support obligations for all children in the family as a condition
 2.21 of program eligibility. For purposes of this section, a family is considered to meet the
 2.22 requirement for cooperation when the family complies with the requirements of section
 2.23 256.741.

2.24 Sec. 3. Minnesota Statutes 2006, section 119B.125, is amended by adding a subdivision
 2.25 to read:

2.26 Subd. 1a. **Background study required.** This subdivision is limited to legal,
 2.27 nonlicensed family child care providers. Prior to authorization, and as part of each
 2.28 reauthorization required in subdivision 1, the county must perform a background study on
 2.29 every member of the provider's household who is age 13 and older. The background study
 2.30 must be conducted according to subdivision 2.

2.31 Sec. 4. Minnesota Statutes 2006, section 119B.125, subdivision 2, is amended to read:

2.32 Subd. 2. **Persons who cannot be authorized.** (a) ~~A person who~~ When any
 2.33 member of the legal, nonlicensed family child care provider's household meets any of the

3.1 conditions under paragraphs (b) to (n), the provider must not be authorized as a legal
3.2 nonlicensed family child care provider. To determine whether any of the listed conditions
3.3 exist, the county must request information about the provider and other household
3.4 members for whom a background study is required under subdivision 1a from the Bureau
3.5 of Criminal Apprehension, the juvenile courts, and social service agencies. When one
3.6 of the listed entities does not maintain information on a statewide basis, the county must
3.7 contact the entity in the county where the provider resides and any other county in which
3.8 the provider or any household member previously resided in the past year. For purposes of
3.9 this subdivision, a finding that a delinquency petition is proven in juvenile court must be
3.10 considered a conviction in state district court. If a county has determined that a provider
3.11 is able to be authorized in that county, and a family in another county later selects that
3.12 provider, the provider is able to be authorized in the second county without undergoing a
3.13 new background investigation unless one of the following conditions exists:

3.14 (1) two years have passed since the first authorization;

3.15 (2) another person age 13 or older has joined the provider's household since the
3.16 last authorization;

3.17 (3) a current household member has turned 13 since the last authorization; or

3.18 (4) there is reason to believe that a household member has a factor that prevents
3.19 authorization.

3.20 (b) The person has been convicted of one of the following offenses or has admitted to
3.21 committing or a preponderance of the evidence indicates that the person has committed an
3.22 act that meets the definition of one of the following offenses: sections 609.185 to 609.195,
3.23 murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn
3.24 child in the first, second, or third degree; 609.322, solicitation, inducement, promotion
3.25 of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual
3.26 conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to
3.27 engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a
3.28 child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial
3.29 representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense
3.30 of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime
3.31 against children; or an attempt or conspiracy to commit any of these offenses as defined in
3.32 Minnesota Statutes; or an offense in any other state or country where the elements are
3.33 substantially similar to any of the offenses listed in this paragraph.

3.34 (c) Less than 15 years have passed since the discharge of the sentence imposed for
3.35 the offense and the person has received a felony conviction for one of the following
3.36 offenses, or the person has admitted to committing or a preponderance of the evidence

4.1 indicates that the person has committed an act that meets the definition of a felony
4.2 conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in
4.3 the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide
4.4 or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or
4.5 fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily
4.6 harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult;
4.7 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or
4.8 facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials
4.9 and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false
4.10 imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or
4.11 second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third
4.12 degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27,
4.13 coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor
4.14 engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth
4.15 degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of
4.16 shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582,
4.17 burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63,
4.18 forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature
4.19 by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67,
4.20 unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71,
4.21 riot; 609.713, terrorist threats; 609.749, harassment, stalking; 260C.301, termination of
4.22 parental rights; 152.021 to 152.022 and 152.0262, controlled substance crime in the first
4.23 or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2,
4.24 clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause
4.25 (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of
4.26 indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in
4.27 Minnesota Statutes; or an offense in any other state or country where the elements are
4.28 substantially similar to any of the offenses listed in this paragraph.

4.29 (d) Less than ten years have passed since the discharge of the sentence imposed for
4.30 the offense and the person has received a gross misdemeanor conviction for one of the
4.31 following offenses or the person has admitted to committing or a preponderance of the
4.32 evidence indicates that the person has committed an act that meets the definition of a gross
4.33 misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree
4.34 assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of
4.35 an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat
4.36 offenses of interference with privacy; 617.23, repeat offenses of indecent exposure;

5.1 617.241, obscene materials and performances; 617.243, indecent literature, distribution;
 5.2 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66,
 5.3 dangerous weapons; 609.749, harassment, stalking; 609.224, subdivision 2, paragraph
 5.4 (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment
 5.5 of persons confined; 609.231, mistreatment of residents or patients; 609.2325, criminal
 5.6 abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult;
 5.7 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of
 5.8 a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult;
 5.9 609.265, abduction; 609.378, neglect or endangerment of a child; 609.377, malicious
 5.10 punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged
 5.11 in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first,
 5.12 second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275,
 5.13 attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in
 5.14 Minnesota Statutes; or an offense in any other state or country where the elements are
 5.15 substantially similar to any of the offenses listed in this paragraph.

5.16 (e) Less than seven years have passed since the discharge of the sentence imposed
 5.17 for the offense and the person has received a misdemeanor conviction for one of the
 5.18 following offenses or the person has admitted to committing or a preponderance of
 5.19 the evidence indicates that the person has committed an act that meets the definition
 5.20 of a misdemeanor conviction for one of the following offenses: sections 609.224, fifth
 5.21 degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection;
 5.22 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79,
 5.23 obscene or harassing telephone calls; 609.795, letter, telegram, or package opening,
 5.24 harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree;
 5.25 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous
 5.26 weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses
 5.27 as defined in Minnesota Statutes; or an offense in any other state or country where the
 5.28 elements are substantially similar to any of the offenses listed in this paragraph.

5.29 (f) The person has been identified by the child protection agency in the county where
 5.30 the provider resides or a county where the provider has resided or by the statewide child
 5.31 protection database as a person found by a preponderance of evidence under section
 5.32 626.556 to be responsible for physical or sexual abuse of a child within the last seven years.

5.33 (g) The person has been identified by the adult protection agency in the county
 5.34 where the provider resides or a county where the provider has resided or by the statewide
 5.35 adult protection database as the person responsible for abuse or neglect of a vulnerable
 5.36 adult within the last seven years.

6.1 (h) The person has refused to give written consent for disclosure of criminal history
6.2 records.

6.3 (i) The person has been denied a family child care license or has received a fine or a
6.4 sanction as a licensed child care provider that has not been reversed on appeal.

6.5 (j) The person has a family child care licensing disqualification that has not been
6.6 set aside.

6.7 (k) The person has admitted or a county has found that there is a preponderance of
6.8 evidence that fraudulent information was given to the county for child care assistance
6.9 application purposes or was used in submitting child care assistance bills for payment.

6.10 (l) The person has been convicted of the crime of theft by wrongfully obtaining
6.11 public assistance.

6.12 (m) The person has a household member age 13 or older who has access to children
6.13 during the hours that care is provided and who meets one of the conditions listed in
6.14 paragraphs (b) to (l).

6.15 (n) The person has a household member ages ten to 12 who has access to children
6.16 during the hours that care is provided; information or circumstances exist which provide
6.17 the county with articulable suspicion that further pertinent information may exist showing
6.18 the household member meets one of the conditions listed in paragraphs (b) to (l); and the
6.19 household member actually meets one of the conditions listed in paragraphs (b) to (l).

6.20 Sec. 5. Minnesota Statutes 2006, section 119B.13, subdivision 3a, is amended to read:

6.21 Subd. 3a. **Provider rate differential for accreditation.** A family child care
6.22 provider or child care center shall be paid a 15 percent differential above the maximum
6.23 rate established in subdivision 1, up to the actual provider rate, if the provider or center
6.24 holds a current early childhood development credential or is accredited. For a family
6.25 child care provider, early childhood development credential and accreditation includes
6.26 an individual who has earned a child development associate degree, a child development
6.27 associate credential, a diploma in child development from a Minnesota state technical
6.28 college, or a bachelor's degree in early childhood education from an accredited college
6.29 or university, or who is accredited by the National Association for Family Child Care
6.30 or the Competency Based Training and Assessment Program. For a child care center,
6.31 accreditation includes accreditation by the National Association for the Education of
6.32 Young Children, the Council on Accreditation, the National Early Childhood Program
6.33 Accreditation, the National ~~School-Age Care~~ AfterSchool Association, or the National
6.34 Head Start Association Program of Excellence. For Montessori programs, accreditation

7.1 includes the American Montessori Society, Association of Montessori International-USA,
7.2 or the National Center for Montessori Education.

7.3 Sec. 6. Minnesota Statutes 2006, section 119B.13, subdivision 7, is amended to read:

7.4 Subd. 7. **Absent days.** (a) Child care providers may not be reimbursed for more
7.5 than 25 full-day absent days per child, excluding holidays, in a fiscal year, or for more than
7.6 ten consecutive full-day absent days, unless the child has a documented medical condition
7.7 that causes more frequent absences. Documentation of medical conditions must be on
7.8 the forms and submitted according to the timelines established by the commissioner. If a
7.9 child attends for part of the time authorized to be in care in a day, but is absent for part of
7.10 the time authorized to be in care in that same day, the absent time will be reimbursed but
7.11 the time will not count toward the ten consecutive or 25 cumulative absent day limits.
7.12 If a child attends part of an authorized day, payment to the provider must be for the full
7.13 amount of care authorized for that day. Child care providers may only be reimbursed for
7.14 absent days if the provider has a written policy for child absences and charges all other
7.15 families in care for similar absences.

7.16 (b) Child care providers must be reimbursed for up to ten federal or state holidays
7.17 or designated holidays per year when the provider charges all families for these days
7.18 and the holiday or designated holiday falls on a day when the child is authorized to be
7.19 in attendance. Parents may substitute other cultural or religious holidays for the ten
7.20 recognized state and federal holidays. Holidays do not count toward the ten consecutive or
7.21 25 cumulative absent day limits.

7.22 (c) A family or child care provider may not be assessed an overpayment for an
7.23 absent day payment unless (1) there was an error in the amount of care authorized for the
7.24 family, (2) all of the allowed full-day absent payments for the child have been paid, or (3)
7.25 the family or provider did not timely report a change as required under law.

7.26 (d) The provider and family must receive notification of the number of absent days
7.27 used upon initial provider authorization for a family and when the family has used 15
7.28 cumulative absent days. Upon statewide implementation of the Minnesota Electronic
7.29 Child Care System, the provider and family must receive notification of the number of
7.30 absent days used upon initial provider authorization for a family and ongoing notification
7.31 of the number of absent days used as of the date of the notification.

7.32 Sec. 7. Minnesota Statutes 2006, section 144.225, subdivision 2b, is amended to read:

7.33 Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of
7.34 certain of this data as confidential under subdivision 2 or private under subdivision 2a,

8.1 the commissioner shall give the commissioner of human services access to birth record
 8.2 data and data contained in recognitions of parentage prepared according to section 257.75
 8.3 necessary to enable the commissioner of human services to identify a child who is subject
 8.4 to threatened injury, as defined in section 626.556, subdivision 2, paragraph (1), by a
 8.5 person responsible for the child's care, as defined in section 626.556, subdivision 2,
 8.6 paragraph ~~(b)~~, ~~clause (1)~~ (e). The commissioner shall be given access to all data included
 8.7 on official birth records.

8.8 ARTICLE 2

8.9 CHEMICAL AND MENTAL HEALTH

8.10 Section 1. Minnesota Statutes 2006, section 245.4874, is amended to read:

8.11 **245.4874 DUTIES OF COUNTY BOARD.**

8.12 (a) The county board must:

8.13 (1) develop a system of affordable and locally available children's mental health
 8.14 services according to sections 245.487 to 245.4887;

8.15 (2) establish a mechanism providing for interagency coordination as specified in
 8.16 section 245.4875, subdivision 6;

8.17 (3) consider the assessment of unmet needs in the county as reported by the local
 8.18 children's mental health advisory council under section 245.4875, subdivision 5, paragraph
 8.19 (b), clause (3). The county shall provide, upon request of the local children's mental health
 8.20 advisory council, readily available data to assist in the determination of unmet needs;

8.21 (4) assure that parents and providers in the county receive information about how to
 8.22 gain access to services provided according to sections 245.487 to 245.4887;

8.23 (5) coordinate the delivery of children's mental health services with services
 8.24 provided by social services, education, corrections, health, and vocational agencies to
 8.25 improve the availability of mental health services to children and the cost-effectiveness of
 8.26 their delivery;

8.27 (6) assure that mental health services delivered according to sections 245.487
 8.28 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic
 8.29 assessment and individual treatment plan;

8.30 (7) provide the community with information about predictors and symptoms of
 8.31 emotional disturbances and how to access children's mental health services according to
 8.32 sections 245.4877 and 245.4878;

8.33 (8) provide for case management services to each child with severe emotional
 8.34 disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881,
 8.35 subdivisions 1, 3, and 5;

9.1 (9) provide for screening of each child under section 245.4885 upon admission
9.2 to a residential treatment facility, acute care hospital inpatient treatment, or informal
9.3 admission to a regional treatment center;

9.4 (10) prudently administer grants and purchase-of-service contracts that the county
9.5 board determines are necessary to fulfill its responsibilities under sections 245.487 to
9.6 245.4887;

9.7 (11) assure that mental health professionals, mental health practitioners, and case
9.8 managers employed by or under contract to the county to provide mental health services
9.9 are qualified under section 245.4871;

9.10 (12) assure that children's mental health services are coordinated with adult mental
9.11 health services specified in sections 245.461 to 245.486 so that a continuum of mental
9.12 health services is available to serve persons with mental illness, regardless of the person's
9.13 age;

9.14 (13) assure that culturally informed mental health consultants are used as necessary
9.15 to assist the county board in assessing and providing appropriate treatment for children of
9.16 cultural or racial minority heritage; and

9.17 (14) consistent with section 245.486, arrange for or provide a children's mental
9.18 health screening to a child receiving child protective services or a child in out-of-home
9.19 placement, a child for whom parental rights have been terminated, a child found to be
9.20 delinquent, and a child found to have committed a juvenile petty offense for the third
9.21 or subsequent time, unless a screening or diagnostic assessment has been performed
9.22 within the previous 180 days, or the child is currently under the care of a mental health
9.23 professional. The court or county agency must notify a parent or guardian whose
9.24 parental rights have not been terminated of the potential mental health screening and the
9.25 option to prevent the screening by notifying the court or county agency in writing. The
9.26 screening shall be conducted with a screening instrument approved by the commissioner
9.27 of human services according to criteria that are updated and issued annually to ensure
9.28 that approved screening instruments are valid and useful for child welfare and juvenile
9.29 justice populations, and shall be conducted by a mental health practitioner as defined in
9.30 section 245.4871, subdivision 26, or a probation officer or local social services agency
9.31 staff person who is trained in the use of the screening instrument. Training in the use of the
9.32 instrument shall include training in the administration of the instrument, the interpretation
9.33 of its validity given the child's current circumstances, the state and federal data practices
9.34 laws and confidentiality standards, the parental consent requirement, and providing respect
9.35 for families and cultural values. If the screen indicates a need for assessment, the child's
9.36 family, or if the family lacks mental health insurance, the local social services agency,

10.1 in consultation with the child's family, shall have conducted a diagnostic assessment,
 10.2 including a functional assessment, as defined in section 245.4871. The administration of
 10.3 the screening shall safeguard the privacy of children receiving the screening and their
 10.4 families and shall comply with the Minnesota Government Data Practices Act, chapter
 10.5 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public
 10.6 Law 104-191. Screening results shall be considered private data and the commissioner
 10.7 shall not collect individual screening results.

10.8 (b) When the county board refers clients to providers of children's therapeutic
 10.9 services and supports under section 256B.0943, the county board must clearly identify
 10.10 the desired services components not covered under section 256B.0943 and identify the
 10.11 reimbursement source for those requested services, the method of payment, and the
 10.12 payment rate to the provider.

10.13 Sec. 2. Minnesota Statutes 2006, section 252.32, subdivision 3, is amended to read:

10.14 Subd. 3. **Amount of support grant; use.** Support grant amounts shall be
 10.15 determined by the county social service agency. Services and items purchased with a
 10.16 support grant must:

10.17 (1) be over and above the normal costs of caring for the dependent if the dependent
 10.18 did not have a disability;

10.19 (2) be directly attributable to the dependent's disabling condition; and

10.20 (3) enable the family to delay or prevent the out-of-home placement of the dependent.

10.21 The design and delivery of services and items purchased under this section must
 10.22 ~~suit the dependent's chronological age and~~ be provided in the least restrictive environment
 10.23 possible, consistent with the needs identified in the individual service plan.

10.24 Items and services purchased with support grants must be those for which there
 10.25 are no other public or private funds available to the family. Fees assessed to parents
 10.26 for health or human services that are funded by federal, state, or county dollars are not
 10.27 reimbursable through this program.

10.28 In approving or denying applications, the county shall consider the following factors:

10.29 (1) the extent and areas of the functional limitations of the disabled child;

10.30 (2) the degree of need in the home environment for additional support; and

10.31 (3) the potential effectiveness of the grant to maintain and support the person in
 10.32 the family environment.

10.33 The maximum monthly grant amount shall be \$250 per eligible dependent, or
 10.34 \$3,000 per eligible dependent per state fiscal year, within the limits of available funds.

11.1 The county social service agency may consider the dependent's supplemental security
11.2 income in determining the amount of the support grant.

11.3 Any adjustments to their monthly grant amount must be based on the needs of the
11.4 family and funding availability.

11.5 Sec. 3. Minnesota Statutes 2006, section 253B.185, subdivision 2, is amended to read:

11.6 Subd. 2. **Transfer to correctional facility.** (a) If a person has been committed
11.7 under this section and later is committed to the custody of the commissioner of corrections
11.8 for any reason, including but not limited to, being sentenced for a crime or revocation of
11.9 the person's supervised release or conditional release under section 244.05, ~~609.108,~~
11.10 ~~subdivision 6,~~ or 609.109, subdivision 7, the person shall be transferred to a facility
11.11 designated by the commissioner of corrections without regard to the procedures provided
11.12 in section 253B.18.

11.13 (b) If a person is committed under this section after a commitment to the
11.14 commissioner of corrections, the person shall first serve the sentence in a facility
11.15 designated by the commissioner of corrections. After the person has served the sentence,
11.16 the person shall be transferred to a treatment program designated by the commissioner
11.17 of human services.

11.18 Sec. 4. Minnesota Statutes 2006, section 254A.03, subdivision 3, is amended to read:

11.19 Subd. 3. **Rules for chemical dependency care.** The commissioner of human
11.20 services shall establish by rule criteria to be used in determining the appropriate level
11.21 of chemical dependency care, ~~whether outpatient, inpatient or short-term treatment~~
11.22 ~~programs,~~ for each recipient of public assistance seeking treatment for alcohol or other
11.23 drug dependency and abuse problems. ~~The criteria shall address, at least, the family~~
11.24 ~~relationship, past treatment history, medical or physical problems, arrest record, and~~
11.25 ~~employment situation.~~

11.26 Sec. 5. Minnesota Statutes 2006, section 254A.16, subdivision 2, is amended to read:

11.27 Subd. 2. **Program and service guidelines.** (a) The commissioner shall provide
11.28 program and service guidelines and technical assistance to the county boards in carrying
11.29 out services authorized under ~~sections~~ section 254A.08, ~~254A.12, 254A.14, and their~~
11.30 ~~responsibilities under chapter 256E.~~

11.31 (b) The commissioner shall recommend to the governor means of improving
11.32 the efficiency and effectiveness of comprehensive program services in the state and
11.33 maximizing the use of nongovernmental funds for providing comprehensive programs.

12.1 Sec. 6. Minnesota Statutes 2006, section 254B.02, subdivision 1, is amended to read:

12.2 Subdivision 1. **Chemical dependency treatment allocation.** The chemical
 12.3 dependency funds appropriated for allocation shall be placed in a special revenue account.
 12.4 The commissioner shall annually transfer funds from the chemical dependency fund to pay
 12.5 for operation of the drug and alcohol abuse normative evaluation system and to pay for all
 12.6 costs incurred by adding two positions for licensing of chemical dependency treatment
 12.7 and rehabilitation programs located in hospitals for which funds are not otherwise
 12.8 appropriated. ~~For each year of the biennium ending June 30, 1999, the commissioner shall~~
 12.9 ~~allocate funds to the American Indian chemical dependency tribal account for treatment~~
 12.10 ~~of American Indians by eligible vendors under section 254B.05, equal to the amount~~
 12.11 ~~allocated in fiscal year 1997. Six percent of the remaining money must be reserved for~~
 12.12 tribal allocation under section 254B.09, subdivisions 4 and 5. The commissioner shall
 12.13 annually divide the money available in the chemical dependency fund that is not held
 12.14 in reserve by counties from a previous allocation, or allocated to the American Indian
 12.15 chemical dependency tribal account. Six percent of the remaining money must be
 12.16 reserved for the nonreservation American Indian chemical dependency allocation for
 12.17 treatment of American Indians by eligible vendors under section 254B.05, subdivision
 12.18 1. The remainder of the money must be allocated among the counties according to the
 12.19 following formula, using state demographer data and other data sources determined by
 12.20 the commissioner:

12.21 (a) For purposes of this formula, American Indians and children under age 14 are
 12.22 subtracted from the population of each county to determine the restricted population.

12.23 (b) The amount of chemical dependency fund expenditures for entitled persons for
 12.24 services not covered by prepaid plans governed by section 256B.69 in the previous year is
 12.25 divided by the amount of chemical dependency fund expenditures for entitled persons for
 12.26 all services to determine the proportion of exempt service expenditures for each county.

12.27 (c) The prepaid plan months of eligibility is multiplied by the proportion of exempt
 12.28 service expenditures to determine the adjusted prepaid plan months of eligibility for
 12.29 each county.

12.30 (d) The adjusted prepaid plan months of eligibility is added to the number of
 12.31 restricted population fee for service months of eligibility for the Minnesota family
 12.32 investment program, general assistance, and medical assistance and divided by the county
 12.33 restricted population to determine county per capita months of covered service eligibility.

12.34 (e) The number of adjusted prepaid plan months of eligibility for the state is added
 12.35 to the number of fee for service months of eligibility for the Minnesota family investment
 12.36 program, general assistance, and medical assistance for the state restricted population and

13.1 divided by the state restricted population to determine state per capita months of covered
13.2 service eligibility.

13.3 (f) The county per capita months of covered service eligibility is divided by the
13.4 state per capita months of covered service eligibility to determine the county welfare
13.5 caseload factor.

13.6 (g) The median married couple income for the most recent three-year period
13.7 available for the state is divided by the median married couple income for the same period
13.8 for each county to determine the income factor for each county.

13.9 (h) The county restricted population is multiplied by the sum of the county welfare
13.10 caseload factor and the county income factor to determine the adjusted population.

13.11 (i) \$15,000 shall be allocated to each county.

13.12 (j) The remaining funds shall be allocated proportional to the county adjusted
13.13 population.

13.14 Sec. 7. Minnesota Statutes 2006, section 254B.02, subdivision 5, is amended to read:

13.15 Subd. 5. **Administrative adjustment.** The commissioner may make payments to
13.16 local agencies from money allocated under this section to support administrative activities
13.17 under sections 254B.03 and 254B.04. The administrative payment must not exceed
13.18 five percent of the first \$50,000, four percent of the next \$50,000, and three percent of
13.19 the remaining payments for services from the allocation. ~~Twenty-five percent of the~~
13.20 ~~administrative allowance shall be advanced at the beginning of each quarter, based on~~
13.21 ~~the payments for services made in the most recent quarter for which data is available.~~
13.22 ~~Adjustment of any overestimate or underestimate based on actual expenditures shall be~~
13.23 ~~made by the state agency by adjusting the administrative allowance for any succeeding~~
13.24 ~~quarter.~~

13.25 Sec. 8. Minnesota Statutes 2006, section 254B.03, subdivision 1, is amended to read:

13.26 Subdivision 1. **Local agency duties.** (a) Every local agency shall provide chemical
13.27 dependency services to persons residing within its jurisdiction who meet criteria
13.28 established by the commissioner for placement in a chemical dependency residential or
13.29 nonresidential treatment service. Chemical dependency money must be administered
13.30 by the local agencies according to law and rules adopted by the commissioner under
13.31 sections 14.001 to 14.69.

13.32 (b) In order to contain costs, the county board shall, with the approval of the
13.33 commissioner of human services, select eligible vendors of chemical dependency services
13.34 who can provide economical and appropriate treatment. Unless the local agency is a social

14.1 services department directly administered by a county or human services board, the local
 14.2 agency shall not be an eligible vendor under section 254B.05. The commissioner may
 14.3 approve proposals from county boards to provide services in an economical manner or to
 14.4 control utilization, with safeguards to ensure that necessary services are provided. If a
 14.5 county implements a demonstration or experimental medical services funding plan, the
 14.6 commissioner shall transfer the money as appropriate. If a county selects a vendor located
 14.7 in another state, the county shall ensure that the vendor is in compliance with the rules
 14.8 governing licensure of programs located in the state.

14.9 ~~(c) The calendar year 2002 rate for vendors may not increase more than three~~
 14.10 ~~percent above the rate approved in effect on January 1, 2001. The calendar year 2003~~
 14.11 ~~rate for vendors may not increase more than three percent above the rate in effect on~~
 14.12 ~~January 1, 2002. The calendar years 2004 and 2005 rates may not exceed the rate in~~
 14.13 ~~effect on January 1, 2003.~~

14.14 ~~(d)~~ (c) A culturally specific vendor that provides assessments under a variance under
 14.15 Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to
 14.16 persons not covered by the variance.

14.17 Sec. 9. Minnesota Statutes 2006, section 254B.03, subdivision 3, is amended to read:

14.18 Subd. 3. **Local agencies to pay state for county share.** ~~Local agencies shall submit~~
 14.19 ~~invoices to the state on forms supplied by the commissioner and according to procedures~~
 14.20 ~~established by the commissioner.~~ Local agencies shall pay the state for the county share
 14.21 of the invoiced services authorized by the local agency. ~~Payments shall be made at the~~
 14.22 ~~beginning of each month for services provided in the previous month. The commissioner~~
 14.23 ~~shall bill the county monthly for services, based on the most recent month for which~~
 14.24 ~~expenditure information is available. Adjustment of any overestimate or underestimate~~
 14.25 ~~based on actual expenditures shall be made by the state agency by adjusting the estimate~~
 14.26 ~~for any succeeding month.~~

14.27 Sec. 10. Minnesota Statutes 2006, section 254B.06, subdivision 3, is amended to read:

14.28 Subd. 3. **Payment; denial.** The commissioner shall pay eligible vendors for
 14.29 placements made by local agencies under section 254B.03, subdivision 1, and placements
 14.30 by tribal designated agencies according to section 254B.09. The commissioner may
 14.31 reduce or deny payment of the state share when services are not provided according to the
 14.32 placement criteria established by the commissioner. The commissioner may pay for all or
 14.33 a portion of improper county chemical dependency placements and bill the county for the
 14.34 entire payment made when the placement did not comply with criteria established by the

15.1 commissioner. The commissioner may make payments to vendors and charge the county
15.2 100 percent of the payments if documentation of a county approved placement is received
15.3 more than 30 working days, exclusive of weekends and holidays, after the date services
15.4 began; ~~or if the county approved invoice is received by the commissioner more than 120~~
15.5 ~~days after the last date of service provided.~~ The commissioner shall not pay vendors until
15.6 private insurance company claims have been settled.

15.7 Sec. 11. Minnesota Statutes 2006, section 256B.0943, subdivision 6, is amended to
15.8 read:

15.9 Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be
15.10 an eligible provider entity under this section, a provider entity must have a clinical
15.11 infrastructure that utilizes diagnostic assessment, an individualized treatment plan,
15.12 service delivery, and individual treatment plan review that are culturally competent,
15.13 child-centered, and family-driven to achieve maximum benefit for the client. The provider
15.14 entity must review and update the clinical policies and procedures every three years and
15.15 must distribute the policies and procedures to staff initially and upon each subsequent
15.16 update.

15.17 (b) The clinical infrastructure written policies and procedures must include policies
15.18 and procedures for:

15.19 (1) providing or obtaining a client's diagnostic assessment that identifies acute and
15.20 chronic clinical disorders, co-occurring medical conditions, sources of psychological and
15.21 environmental problems, and a functional assessment. The functional assessment must
15.22 clearly summarize the client's individual strengths and needs;

15.23 (2) developing an individual treatment plan that is:

15.24 (i) based on the information in the client's diagnostic assessment;

15.25 (ii) developed no later than the end of the first psychotherapy session after the
15.26 completion of the client's diagnostic assessment by the mental health professional who
15.27 provides the client's psychotherapy;

15.28 (iii) developed through a child-centered, family-driven planning process that
15.29 identifies service needs and individualized, planned, and culturally appropriate
15.30 interventions that contain specific treatment goals and objectives for the client and the
15.31 client's family or foster family;

15.32 (iv) reviewed at least once every 90 days and revised, if necessary; and

15.33 (v) signed by the client or, if appropriate, by the client's parent or other person
15.34 authorized by statute to consent to mental health services for the client;

16.1 (3) developing an individual behavior plan that documents services to be provided
16.2 by the mental health behavioral aide. The individual behavior plan must include:

- 16.3 (i) detailed instructions on the service to be provided;
16.4 (ii) time allocated to each service;
16.5 (iii) methods of documenting the child's behavior;
16.6 (iv) methods of monitoring the child's progress in reaching objectives; and
16.7 (v) goals to increase or decrease targeted behavior as identified in the individual
16.8 treatment plan;

16.9 (4) clinical supervision of the mental health practitioner and mental health behavioral
16.10 aide. A mental health professional must document the clinical supervision the professional
16.11 provides by cosigning individual treatment plans and making entries in the client's record
16.12 on supervisory activities. Clinical supervision does not include the authority to make or
16.13 terminate court-ordered placements of the child. A clinical supervisor must be available
16.14 for urgent consultation as required by the individual client's needs or the situation. Clinical
16.15 supervision may occur individually or in a small group to discuss treatment and review
16.16 progress toward goals. The focus of clinical supervision must be the client's treatment
16.17 needs and progress and the mental health practitioner's or behavioral aide's ability to
16.18 provide services;

16.19 (4a) CTSS certified provider entities providing day treatment programs must meet
16.20 the conditions in items (i) to (iii):

16.21 (i) the provider supervisor must be present and available on the premises more
16.22 than 50 percent of the time in a five-working-day period during which the supervisee is
16.23 providing a mental health service;

16.24 (ii) the diagnosis and the client's individual treatment plan or a change in the
16.25 diagnosis or individual treatment plan must be made by or reviewed, approved, and signed
16.26 by the provider supervisor; and

16.27 (iii) every 30 days, the supervisor must review and sign the record of the client's care
16.28 for all activities in the preceding 30-day period;

16.29 (4b) for all other services provided under CTSS, clinical supervision standards
16.30 provided in items (i) to (iii) must be used:

16.31 (i) medical assistance shall reimburse a mental health practitioner who maintains a
16.32 consulting relationship with a mental health professional who accepts full professional
16.33 responsibility and is present on site for at least one observation during the first 12 hours
16.34 in which the mental health practitioner provides the individual, family, or group skills
16.35 training to the child or the child's family;

17.1 (ii) thereafter, the mental health professional is required to be present on site for
17.2 observation as clinically appropriate when the mental health practitioner is providing
17.3 individual, family, or group skills training to the child or the child's family; and

17.4 (iii) the observation must be a minimum of one clinical unit. The on-site presence of
17.5 the mental health professional must be documented in the child's record and signed by the
17.6 mental health professional who accepts full professional responsibility;

17.7 (5) providing direction to a mental health behavioral aide. For entities that employ
17.8 mental health behavioral aides, the clinical supervisor must be employed by the provider
17.9 entity or other certified children's therapeutic supports and services provider entity to
17.10 ensure necessary and appropriate oversight for the client's treatment and continuity
17.11 of care. The mental health professional or mental health practitioner giving direction
17.12 must begin with the goals on the individualized treatment plan, and instruct the mental
17.13 health behavioral aide on how to construct therapeutic activities and interventions that
17.14 will lead to goal attainment. The professional or practitioner giving direction must also
17.15 instruct the mental health behavioral aide about the client's diagnosis, functional status,
17.16 and other characteristics that are likely to affect service delivery. Direction must also
17.17 include determining that the mental health behavioral aide has the skills to interact with
17.18 the client and the client's family in ways that convey personal and cultural respect and
17.19 that the aide actively solicits information relevant to treatment from the family. The aide
17.20 must be able to clearly explain the activities the aide is doing with the client and the
17.21 activities' relationship to treatment goals. Direction is more didactic than is supervision
17.22 and requires the professional or practitioner providing it to continuously evaluate the
17.23 mental health behavioral aide's ability to carry out the activities of the individualized
17.24 treatment plan and the individualized behavior plan. When providing direction, the
17.25 professional or practitioner must:

17.26 (i) review progress notes prepared by the mental health behavioral aide for accuracy
17.27 and consistency with diagnostic assessment, treatment plan, and behavior goals and the
17.28 professional or practitioner must approve and sign the progress notes;

17.29 (ii) identify changes in treatment strategies, revise the individual behavior plan,
17.30 and communicate treatment instructions and methodologies as appropriate to ensure
17.31 that treatment is implemented correctly;

17.32 (iii) demonstrate family-friendly behaviors that support healthy collaboration among
17.33 the child, the child's family, and providers as treatment is planned and implemented;

17.34 (iv) ensure that the mental health behavioral aide is able to effectively communicate
17.35 with the child, the child's family, and the provider; and

18.1 (v) record the results of any evaluation and corrective actions taken to modify the
18.2 work of the mental health behavioral aide;

18.3 (6) providing service delivery that implements the individual treatment plan and
18.4 meets the requirements under subdivision 9; and

18.5 (7) individual treatment plan review. The review must determine the extent to which
18.6 the services have met the goals and objectives in the previous treatment plan. The review
18.7 must assess the client's progress and ensure that services and treatment goals continue to
18.8 be necessary and appropriate to the client and the client's family or foster family. Revision
18.9 of the individual treatment plan does not require a new diagnostic assessment unless the
18.10 client's mental health status has changed markedly. The updated treatment plan must be
18.11 signed by the client, if appropriate, and by the client's parent or other person authorized by
18.12 statute to give consent to the mental health services for the child.

18.13 Sec. 12. Minnesota Statutes 2006, section 256B.0943, subdivision 9, is amended to
18.14 read:

18.15 Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a
18.16 certified provider entity must ensure that:

18.17 (1) each individual provider's caseload size permits the provider to deliver services
18.18 to both clients with severe, complex needs and clients with less intensive needs. The
18.19 provider's caseload size should reasonably enable the provider to play an active role in
18.20 service planning, monitoring, and delivering services to meet the client's and client's
18.21 family's needs, as specified in each client's individual treatment plan;

18.22 (2) site-based programs, including day treatment and preschool programs, provide
18.23 staffing and facilities to ensure the client's health, safety, and protection of rights, and that
18.24 the programs are able to implement each client's individual treatment plan;

18.25 (3) a day treatment program is provided to a group of clients by a multidisciplinary
18.26 team under the clinical supervision of a mental health professional. The day treatment
18.27 program must be provided in and by: (i) an outpatient hospital accredited by the Joint
18.28 Commission on Accreditation of Health Organizations and licensed under sections
18.29 144.50 to 144.55; (ii) a community mental health center under section 245.62; and (iii)
18.30 an entity that is under contract with the county board to operate a program that meets
18.31 the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2,
18.32 and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must
18.33 stabilize the client's mental health status while developing and improving the client's
18.34 independent living and socialization skills. The goal of the day treatment program must be
18.35 to reduce or relieve the effects of mental illness and provide training to enable the client

19.1 to live in the community. The program must be available at least one day a week for a
19.2 ~~minimum~~ three-hour time block. The three-hour time block must include at least one
19.3 hour, but no more than two hours, of individual or group psychotherapy. The remainder
19.4 of the three-hour time block may include recreation therapy, socialization therapy, or
19.5 independent living skills therapy, but only if the therapies are included in the client's
19.6 individual treatment plan. Day treatment programs are not part of inpatient or residential
19.7 treatment services; and

19.8 (4) a preschool program is a structured treatment program offered to a child who
19.9 is at least 33 months old, but who has not yet reached the first day of kindergarten, by a
19.10 preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts
19.11 9503.0005 to 9503.0175. The program must be available at least one day a week for a
19.12 minimum two-hour time block. The structured treatment program may include individual
19.13 or group psychotherapy and recreation therapy, socialization therapy, or independent
19.14 living skills therapy, if included in the client's individual treatment plan.

19.15 (b) A provider entity must deliver the service components of children's therapeutic
19.16 services and supports in compliance with the following requirements:

19.17 (1) individual, family, and group psychotherapy must be delivered as specified in
19.18 Minnesota Rules, part 9505.0323;

19.19 (2) individual, family, or group skills training must be provided by a mental health
19.20 professional or a mental health practitioner who has a consulting relationship with a
19.21 mental health professional who accepts full professional responsibility for the training;

19.22 (3) crisis assistance must be time-limited and designed to resolve or stabilize crisis
19.23 through arrangements for direct intervention and support services to the child and the
19.24 child's family. Crisis assistance must utilize resources designed to address abrupt or
19.25 substantial changes in the functioning of the child or the child's family as evidenced by
19.26 a sudden change in behavior with negative consequences for well being, a loss of usual
19.27 coping mechanisms, or the presentation of danger to self or others;

19.28 (4) medically necessary services that are provided by a mental health behavioral
19.29 aide must be designed to improve the functioning of the child and support the family in
19.30 activities of daily and community living. A mental health behavioral aide must document
19.31 the delivery of services in written progress notes. The mental health behavioral aide
19.32 must implement goals in the treatment plan for the child's emotional disturbance that
19.33 allow the child to acquire developmentally and therapeutically appropriate daily living
19.34 skills, social skills, and leisure and recreational skills through targeted activities. These
19.35 activities may include:

- 20.1 (i) assisting a child as needed with skills development in dressing, eating, and
20.2 toileting;
- 20.3 (ii) assisting, monitoring, and guiding the child to complete tasks, including
20.4 facilitating the child's participation in medical appointments;
- 20.5 (iii) observing the child and intervening to redirect the child's inappropriate behavior;
- 20.6 (iv) assisting the child in using age-appropriate self-management skills as related
20.7 to the child's emotional disorder or mental illness, including problem solving, decision
20.8 making, communication, conflict resolution, anger management, social skills, and
20.9 recreational skills;
- 20.10 (v) implementing deescalation techniques as recommended by the mental health
20.11 professional;
- 20.12 (vi) implementing any other mental health service that the mental health professional
20.13 has approved as being within the scope of the behavioral aide's duties; or
- 20.14 (vii) assisting the parents to develop and use parenting skills that help the child
20.15 achieve the goals outlined in the child's individual treatment plan or individual behavioral
20.16 plan. Parenting skills must be directed exclusively to the child's treatment; and
- 20.17 (5) direction of a mental health behavioral aide must include the following:
- 20.18 (i) a total of one hour of on-site observation by a mental health professional during
20.19 the first 12 hours of service provided to a child;
- 20.20 (ii) ongoing on-site observation by a mental health professional or mental health
20.21 practitioner for at least a total of one hour during every 40 hours of service provided
20.22 to a child; and
- 20.23 (iii) immediate accessibility of the mental health professional or mental health
20.24 practitioner to the mental health behavioral aide during service provision.

20.25 Sec. 13. Minnesota Statutes 2006, section 256B.0943, subdivision 11, is amended to
20.26 read:

20.27 Subd. 11. **Documentation and billing.** (a) A provider entity must document the
20.28 services it provides under this section. The provider entity must ensure that the entity's
20.29 documentation standards meet the requirements of federal and state laws. Services billed
20.30 under this section that are not documented according to this subdivision shall be subject to
20.31 monetary recovery by the commissioner. The provider entity may not bill for anything
20.32 other than direct service time.

20.33 (b) An individual mental health provider must promptly document the following
20.34 in a client's record after providing services to the client:

- 21.1 (1) each occurrence of the client's mental health service, including the date, type,
21.2 length, and scope of the service;
- 21.3 (2) the name of the person who gave the service;
- 21.4 (3) contact made with other persons interested in the client, including representatives
21.5 of the courts, corrections systems, or schools. The provider must document the name
21.6 and date of each contact;
- 21.7 (4) any contact made with the client's other mental health providers, case manager,
21.8 family members, primary caregiver, legal representative, or the reason the provider did
21.9 not contact the client's family members, primary caregiver, or legal representative, if
21.10 applicable; and
- 21.11 (5) required clinical supervision, as appropriate.

21.12 Sec. 14. Minnesota Statutes 2006, section 256B.0943, subdivision 12, is amended to
21.13 read:

21.14 Subd. 12. **Excluded services.** The following services are not eligible for medical
21.15 assistance payment as children's therapeutic services and supports:

21.16 (1) service components of children's therapeutic services and supports
21.17 simultaneously provided by more than one provider entity unless prior authorization is
21.18 obtained;

21.19 (2) children's therapeutic services and supports provided in violation of medical
21.20 assistance policy in Minnesota Rules, part 9505.0220;

21.21 (3) mental health behavioral aide services provided by a personal care assistant who
21.22 is not qualified as a mental health behavioral aide and employed by a certified children's
21.23 therapeutic services and supports provider entity;

21.24 (4) service components of CTSS that are the responsibility of a residential or
21.25 program license holder, including foster care providers under the terms of a service
21.26 agreement or administrative rules governing licensure; ~~and~~

21.27 (5) adjunctive activities that may be offered by a provider entity but are not
21.28 otherwise covered by medical assistance, including:

21.29 (i) a service that is primarily recreation oriented or that is provided in a setting that
21.30 is not medically supervised. This includes sports activities, exercise groups, activities
21.31 such as craft hours, leisure time, social hours, meal or snack time, trips to community
21.32 activities, and tours;

21.33 (ii) a social or educational service that does not have or cannot reasonably be
21.34 expected to have a therapeutic outcome related to the client's emotional disturbance;

- 22.1 (iii) consultation with other providers or service agency staff about the care or
 22.2 progress of a client;
- 22.3 (iv) prevention or education programs provided to the community; and
- 22.4 (v) treatment for clients with primary diagnoses of alcohol or other drug abuse; and
 22.5 (6) activities that are not direct service time.

22.6 **ARTICLE 3**

22.7 **CHILD WELFARE AND PUBLIC ASSISTANCE**

22.8 Section 1. Minnesota Statutes 2006, section 256.01, subdivision 2, is amended to read:

22.9 Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision
 22.10 2, the commissioner of human services shall carry out the specific duties in ~~paragraphs (a)~~
 22.11 ~~through (cc)~~ clauses (1) to (29):

22.12 ~~(a)~~ (1) administer and supervise all forms of public assistance provided for by
 22.13 state law and other welfare activities or services as are vested in the commissioner.

22.14 Administration and supervision of human services activities or services includes, but is
 22.15 not limited to, assuring timely and accurate distribution of benefits, completeness of
 22.16 service, and quality program management. In addition to administering and supervising
 22.17 human services activities vested by law in the department, the commissioner shall have
 22.18 the authority to:

22.19 ~~(1)~~ (i) require county agency participation in training and technical assistance
 22.20 programs to promote compliance with statutes, rules, federal laws, regulations, and
 22.21 policies governing human services;

22.22 ~~(2)~~ (ii) monitor, on an ongoing basis, the performance of county agencies in the
 22.23 operation and administration of human services, enforce compliance with statutes, rules,
 22.24 federal laws, regulations, and policies governing welfare services and promote excellence
 22.25 of administration and program operation;

22.26 ~~(3)~~ (iii) develop a quality control program or other monitoring program to review
 22.27 county performance and accuracy of benefit determinations;

22.28 ~~(4)~~ (iv) require county agencies to make an adjustment to the public assistance
 22.29 benefits issued to any individual consistent with federal law and regulation and state law
 22.30 and rule and to issue or recover benefits as appropriate;

22.31 ~~(5)~~ (v) delay or deny payment of all or part of the state and federal share of benefits
 22.32 and administrative reimbursement according to the procedures set forth in section 256.017;

22.33 ~~(6)~~ (vi) make contracts with and grants to public and private agencies and
 22.34 organizations, both profit and nonprofit, and individuals, using appropriated funds; and

23.1 ~~(7)~~ (vii) enter into contractual agreements with federally recognized Indian tribes
 23.2 with a reservation in Minnesota to the extent necessary for the tribe to operate a federally
 23.3 approved family assistance program or any other program under the supervision of the
 23.4 commissioner. The commissioner shall consult with the affected county or counties in
 23.5 the contractual agreement negotiations, if the county or counties wish to be included,
 23.6 in order to avoid the duplication of county and tribal assistance program services. The
 23.7 commissioner may establish necessary accounts for the purposes of receiving and
 23.8 disbursing funds as necessary for the operation of the programs;

23.9 ~~(b)~~ (2) inform county agencies, on a timely basis, of changes in statute, rule, federal
 23.10 law, regulation, and policy necessary to county agency administration of the programs;

23.11 ~~(c)~~ (3) administer and supervise all child welfare activities; promote the enforcement
 23.12 of laws protecting disabled, dependent, neglected and delinquent children, and children
 23.13 born to mothers who were not married to the children's fathers at the times of the
 23.14 conception nor at the births of the children; license and supervise child-caring and
 23.15 child-placing agencies and institutions; supervise the care of children in boarding and
 23.16 foster homes or in private institutions; and generally perform all functions relating to the
 23.17 field of child welfare now vested in the State Board of Control;

23.18 ~~(d)~~ (4) administer and supervise all noninstitutional service to disabled persons,
 23.19 including those who are visually impaired, hearing impaired, or physically impaired
 23.20 or otherwise disabled. The commissioner may provide and contract for the care and
 23.21 treatment of qualified indigent children in facilities other than those located and available
 23.22 at state hospitals when it is not feasible to provide the service in state hospitals;

23.23 ~~(e)~~ (5) assist and actively cooperate with other departments, agencies and
 23.24 institutions, local, state, and federal, by performing services in conformity with the
 23.25 purposes of Laws 1939, chapter 431;

23.26 ~~(f)~~ (6) act as the agent of and cooperate with the federal government in matters of
 23.27 mutual concern relative to and in conformity with the provisions of Laws 1939, chapter
 23.28 431, including the administration of any federal funds granted to the state to aid in the
 23.29 performance of any functions of the commissioner as specified in Laws 1939, chapter 431,
 23.30 and including the promulgation of rules making uniformly available medical care benefits
 23.31 to all recipients of public assistance, at such times as the federal government increases its
 23.32 participation in assistance expenditures for medical care to recipients of public assistance,
 23.33 the cost thereof to be borne in the same proportion as are grants of aid to said recipients;

23.34 ~~(g)~~ (7) establish and maintain any administrative units reasonably necessary for the
 23.35 performance of administrative functions common to all divisions of the department;

24.1 ~~(h)~~ (8) act as designated guardian of both the estate and the person of all the wards
 24.2 of the state of Minnesota, whether by operation of law or by an order of court, without any
 24.3 further act or proceeding whatever, except as to persons committed as developmentally
 24.4 disabled. For children under the guardianship of the commissioner whose interests
 24.5 would be best served by adoptive placement, the commissioner may contract with a
 24.6 licensed child-placing agency or a Minnesota tribal social services agency to provide
 24.7 adoption services. A contract with a licensed child-placing agency must be designed
 24.8 to supplement existing county efforts and may not replace existing county programs,
 24.9 unless the replacement is agreed to by the county board and the appropriate exclusive
 24.10 bargaining representative or the commissioner has evidence that child placements of the
 24.11 county continue to be substantially below that of other counties. Funds encumbered and
 24.12 obligated under an agreement for a specific child shall remain available until the terms of
 24.13 the agreement are fulfilled or the agreement is terminated;

24.14 ~~(i)~~ (9) act as coordinating referral and informational center on requests for service
 24.15 for newly arrived immigrants coming to Minnesota;

24.16 ~~(j)~~ (10) the specific enumeration of powers and duties as hereinabove set forth shall
 24.17 in no way be construed to be a limitation upon the general transfer of powers herein
 24.18 contained;

24.19 ~~(k)~~ (11) establish county, regional, or statewide schedules of maximum fees and
 24.20 charges which may be paid by county agencies for medical, dental, surgical, hospital,
 24.21 nursing and nursing home care and medicine and medical supplies under all programs
 24.22 of medical care provided by the state and for congregate living care under the income
 24.23 maintenance programs;

24.24 ~~(l)~~ (12) have the authority to conduct and administer experimental projects to
 24.25 test methods and procedures of administering assistance and services to recipients or
 24.26 potential recipients of public welfare. To carry out such experimental projects, it is
 24.27 further provided that the commissioner of human services is authorized to waive the
 24.28 enforcement of existing specific statutory program requirements, rules, and standards
 24.29 in one or more counties. The order establishing the waiver shall provide alternative
 24.30 methods and procedures of administration, shall not be in conflict with the basic purposes,
 24.31 coverage, or benefits provided by law, and in no event shall the duration of a project
 24.32 exceed four years. It is further provided that no order establishing an experimental project
 24.33 as authorized by the provisions of this section shall become effective until the following
 24.34 conditions have been met:

24.35 ~~(m)~~ (i) the secretary of health and human services of the United States has agreed, for
 24.36 the same project, to waive state plan requirements relative to statewide uniformity; and

25.1 ~~(2)~~ (ii) a comprehensive plan, including estimated project costs, shall be approved by
 25.2 the Legislative Advisory Commission and filed with the commissioner of administration;

25.3 ~~(m)~~ (13) according to federal requirements, establish procedures to be followed by
 25.4 local welfare boards in creating citizen advisory committees, including procedures for
 25.5 selection of committee members;

25.6 ~~(n)~~ (14) allocate federal fiscal disallowances or sanctions which are based on quality
 25.7 control error rates for the aid to families with dependent children program formerly
 25.8 codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the
 25.9 following manner:

25.10 ~~(1)~~ (i) one-half of the total amount of the disallowance shall be borne by the county
 25.11 boards responsible for administering the programs. For the medical assistance and the
 25.12 AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be
 25.13 shared by each county board in the same proportion as that county's expenditures for the
 25.14 sanctioned program are to the total of all counties' expenditures for the AFDC program
 25.15 formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the
 25.16 food stamp program, sanctions shall be shared by each county board, with 50 percent of
 25.17 the sanction being distributed to each county in the same proportion as that county's
 25.18 administrative costs for food stamps are to the total of all food stamp administrative costs
 25.19 for all counties, and 50 percent of the sanctions being distributed to each county in the
 25.20 same proportion as that county's value of food stamp benefits issued are to the total of
 25.21 all benefits issued for all counties. Each county shall pay its share of the disallowance
 25.22 to the state of Minnesota. When a county fails to pay the amount due hereunder, the
 25.23 commissioner may deduct the amount from reimbursement otherwise due the county, or
 25.24 the attorney general, upon the request of the commissioner, may institute civil action
 25.25 to recover the amount due; and

25.26 ~~(2)~~ (ii) notwithstanding the provisions of ~~clause (1) item (i)~~, if the disallowance
 25.27 results from knowing noncompliance by one or more counties with a specific program
 25.28 instruction, and that knowing noncompliance is a matter of official county board record,
 25.29 the commissioner may require payment or recover from the county or counties, in the
 25.30 manner prescribed in ~~clause (1) item (i)~~, an amount equal to the portion of the total
 25.31 disallowance which resulted from the noncompliance, and may distribute the balance of
 25.32 the disallowance according to ~~clause (1) item (i)~~;

25.33 ~~(o)~~ (15) develop and implement special projects that maximize reimbursements and
 25.34 result in the recovery of money to the state. For the purpose of recovering state money,
 25.35 the commissioner may enter into contracts with third parties. Any recoveries that result
 25.36 from projects or contracts entered into under this ~~paragraph~~ clause shall be deposited in

26.1 the state treasury and credited to a special account until the balance in the account reaches
 26.2 \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be
 26.3 transferred and credited to the general fund. All money in the account is appropriated to
 26.4 the commissioner for the purposes of this ~~paragraph.~~ clause;

26.5 ~~(p)~~ (16) have the authority to make direct payments to facilities providing shelter
 26.6 to women and their children according to section 256D.05, subdivision 3. Upon
 26.7 the written request of a shelter facility that has been denied payments under section
 26.8 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make
 26.9 a determination within 30 days of the request for review regarding issuance of direct
 26.10 payments to the shelter facility. Failure to act within 30 days shall be considered a
 26.11 determination not to issue direct payments;

26.12 ~~(q)~~ (17) have the authority to establish and enforce the following county reporting
 26.13 requirements:

26.14 ~~(1)~~ (i) the commissioner shall establish fiscal and statistical reporting requirements
 26.15 necessary to account for the expenditure of funds allocated to counties for human
 26.16 services programs. When establishing financial and statistical reporting requirements, the
 26.17 commissioner shall evaluate all reports, in consultation with the counties, to determine if
 26.18 the reports can be simplified or the number of reports can be reduced;

26.19 ~~(2)~~ (ii) the county board shall submit monthly or quarterly reports to the department
 26.20 as required by the commissioner. Monthly reports are due no later than 15 working days
 26.21 after the end of the month. Quarterly reports are due no later than 30 calendar days after
 26.22 the end of the quarter, unless the commissioner determines that the deadline must be
 26.23 shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines
 26.24 or risking a loss of federal funding. Only reports that are complete, legible, and in the
 26.25 required format shall be accepted by the commissioner;

26.26 ~~(3)~~ (iii) if the required reports are not received by the deadlines established in ~~clause~~
 26.27 ~~(2)~~ item (ii), the commissioner may delay payments and withhold funds from the county
 26.28 board until the next reporting period. When the report is needed to account for the use of
 26.29 federal funds and the late report results in a reduction in federal funding, the commissioner
 26.30 shall withhold from the county boards with late reports an amount equal to the reduction
 26.31 in federal funding until full federal funding is received;

26.32 ~~(4)~~ (iv) a county board that submits reports that are late, illegible, incomplete, or not
 26.33 in the required format for two out of three consecutive reporting periods is considered
 26.34 noncompliant. When a county board is found to be noncompliant, the commissioner
 26.35 shall notify the county board of the reason the county board is considered noncompliant
 26.36 and request that the county board develop a corrective action plan stating how the

27.1 county board plans to correct the problem. The corrective action plan must be submitted
 27.2 to the commissioner within 45 days after the date the county board received notice
 27.3 of noncompliance;

27.4 ~~(5)~~ (v) the final deadline for fiscal reports or amendments to fiscal reports is one year
 27.5 after the date the report was originally due. If the commissioner does not receive a report
 27.6 by the final deadline, the county board forfeits the funding associated with the report for
 27.7 that reporting period and the county board must repay any funds associated with the
 27.8 report received for that reporting period;

27.9 ~~(6)~~ (vi) the commissioner may not delay payments, withhold funds, or require
 27.10 repayment under ~~clause (3) or (5)~~ item (iii) or (v) if the county demonstrates that the
 27.11 commissioner failed to provide appropriate forms, guidelines, and technical assistance to
 27.12 enable the county to comply with the requirements. If the county board disagrees with an
 27.13 action taken by the commissioner under ~~clause (3) or (5)~~ item (iii) or (v), the county board
 27.14 may appeal the action according to sections 14.57 to 14.69; and

27.15 ~~(7)~~ (vii) counties subject to withholding of funds under ~~clause (3)~~ item (iii) or
 27.16 forfeiture or repayment of funds under ~~clause (5)~~ item (v) shall not reduce or withhold
 27.17 benefits or services to clients to cover costs incurred due to actions taken by the
 27.18 commissioner under ~~clause (3) or (5)~~ item (iii) or (v);

27.19 ~~(8)~~ (18) allocate federal fiscal disallowances or sanctions for audit exceptions when
 27.20 federal fiscal disallowances or sanctions are based on a statewide random sample for
 27.21 the foster care program under title IV-E of the Social Security Act, United States Code,
 27.22 title 42, in direct proportion to each county's title IV-E foster care maintenance claim
 27.23 for that period;

27.24 ~~(9)~~ (19) be responsible for ensuring the detection, prevention, investigation, and
 27.25 resolution of fraudulent activities or behavior by applicants, recipients, and other
 27.26 participants in the human services programs administered by the department;

27.27 ~~(10)~~ (20) require county agencies to identify overpayments, establish claims, and
 27.28 utilize all available and cost-beneficial methodologies to collect and recover these
 27.29 overpayments in the human services programs administered by the department;

27.30 ~~(11)~~ (21) have the authority to administer a drug rebate program for drugs purchased
 27.31 pursuant to the prescription drug program established under section 256.955 after the
 27.32 beneficiary's satisfaction of any deductible established in the program. The commissioner
 27.33 shall require a rebate agreement from all manufacturers of covered drugs as defined in
 27.34 section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on
 27.35 or after July 1, 2002, must include rebates for individuals covered under the prescription
 27.36 drug program who are under 65 years of age. For each drug, the amount of the rebate shall

28.1 be equal to the rebate as defined for purposes of the federal rebate program in United
 28.2 States Code, title 42, section 1396r-8. The manufacturers must provide full payment
 28.3 within 30 days of receipt of the state invoice for the rebate within the terms and conditions
 28.4 used for the federal rebate program established pursuant to section 1927 of title XIX of
 28.5 the Social Security Act. The manufacturers must provide the commissioner with any
 28.6 information necessary to verify the rebate determined per drug. The rebate program shall
 28.7 utilize the terms and conditions used for the federal rebate program established pursuant
 28.8 to section 1927 of title XIX of the Social Security Act;

28.9 ~~(v)~~ (22) have the authority to administer the federal drug rebate program for drugs
 28.10 purchased under the medical assistance program as allowed by section 1927 of title XIX
 28.11 of the Social Security Act and according to the terms and conditions of section 1927.
 28.12 Rebates shall be collected for all drugs that have been dispensed or administered in an
 28.13 outpatient setting and that are from manufacturers who have signed a rebate agreement
 28.14 with the United States Department of Health and Human Services;

28.15 ~~(w)~~ (23) have the authority to administer a supplemental drug rebate program for
 28.16 drugs purchased under the medical assistance program. The commissioner may enter into
 28.17 supplemental rebate contracts with pharmaceutical manufacturers and may require prior
 28.18 authorization for drugs that are from manufacturers that have not signed a supplemental
 28.19 rebate contract. Prior authorization of drugs shall be subject to the provisions of section
 28.20 256B.0625, subdivision 13;

28.21 ~~(x)~~ (24) operate the department's communication systems account established
 28.22 in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to
 28.23 manage shared communication costs necessary for the operation of the programs the
 28.24 commissioner supervises. A communications account may also be established for each
 28.25 regional treatment center which operates communications systems. Each account must be
 28.26 used to manage shared communication costs necessary for the operations of the programs
 28.27 the commissioner supervises. The commissioner may distribute the costs of operating and
 28.28 maintaining communication systems to participants in a manner that reflects actual usage.
 28.29 Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and
 28.30 other costs as determined by the commissioner. Nonprofit organizations and state, county,
 28.31 and local government agencies involved in the operation of programs the commissioner
 28.32 supervises may participate in the use of the department's communications technology and
 28.33 share in the cost of operation. The commissioner may accept on behalf of the state any
 28.34 gift, bequest, devise or personal property of any kind, or money tendered to the state for
 28.35 any lawful purpose pertaining to the communication activities of the department. Any
 28.36 money received for this purpose must be deposited in the department's communication

29.1 systems accounts. Money collected by the commissioner for the use of communication
 29.2 systems must be deposited in the state communication systems account and is appropriated
 29.3 to the commissioner for purposes of this section;

29.4 ~~(y)~~ (25) receive any federal matching money that is made available through the
 29.5 medical assistance program for the consumer satisfaction survey. Any federal money
 29.6 received for the survey is appropriated to the commissioner for this purpose. The
 29.7 commissioner may expend the federal money received for the consumer satisfaction
 29.8 survey in either year of the biennium;

29.9 ~~(z)~~ (26) designate community information and referral call centers and incorporate
 29.10 cost reimbursement claims from the designated community information and referral
 29.11 call centers into the federal cost reimbursement claiming processes of the department
 29.12 according to federal law, rule, and regulations. Existing information and referral centers
 29.13 provided by Greater Twin Cities United Way or existing call centers for which Greater
 29.14 Twin Cities United Way has legal authority to represent, shall be included in these
 29.15 designations upon review by the commissioner and assurance that these services are
 29.16 accredited and in compliance with national standards. Any reimbursement is appropriated
 29.17 to the commissioner and all designated information and referral centers shall receive
 29.18 payments according to normal department schedules established by the commissioner
 29.19 upon final approval of allocation methodologies from the United States Department of
 29.20 Health and Human Services Division of Cost Allocation or other appropriate authorities;

29.21 ~~(aa)~~ (27) develop recommended standards for foster care homes that address the
 29.22 components of specialized therapeutic services to be provided by foster care homes with
 29.23 those services;

29.24 ~~(bb)~~ (28) authorize the method of payment to or from the department as part of the
 29.25 human services programs administered by the department. This authorization includes the
 29.26 receipt or disbursement of funds held by the department in a fiduciary capacity as part of
 29.27 the human services programs administered by the department; and

29.28 ~~(cc)~~ (29) have the authority to administer a drug rebate program for drugs purchased
 29.29 for persons eligible for general assistance medical care under section 256D.03, subdivision
 29.30 3. For manufacturers that agree to participate in the general assistance medical care rebate
 29.31 program, the commissioner shall enter into a rebate agreement for covered drugs as
 29.32 defined in section 256B.0625, subdivisions 13 and 13d. For each drug, the amount of the
 29.33 rebate shall be equal to the rebate as defined for purposes of the federal rebate program in
 29.34 United States Code, title 42, section 1396r-8. The manufacturers must provide payment
 29.35 within the terms and conditions used for the federal rebate program established under
 29.36 section 1927 of title XIX of the Social Security Act. The rebate program shall utilize

30.1 the terms and conditions used for the federal rebate program established under section
30.2 1927 of title XIX of the Social Security Act.

30.3 ~~Effective January 1, 2006, drug coverage under general assistance medical care shall~~
30.4 ~~be limited to those prescription drugs that:~~

30.5 ~~(1) are covered under the medical assistance program as described in section~~
30.6 ~~256B.0625, subdivisions 13 and 13d; and~~

30.7 ~~(2) are provided by manufacturers that have fully executed general assistance~~
30.8 ~~medical care rebate agreements with the commissioner and comply with such agreements.~~

30.9 ~~Prescription drug coverage under general assistance medical care shall conform to~~
30.10 ~~coverage under the medical assistance program according to section 256B.0625;~~
30.11 ~~subdivisions 13 to 13g.~~

30.12 The rebate revenues collected under the drug rebate program are deposited in the
30.13 general fund.

30.14 Sec. 2. Minnesota Statutes 2006, section 256.045, subdivision 3b, is amended to read:

30.15 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.**

30.16 (a) The state human services referee shall determine that maltreatment has occurred if a
30.17 preponderance of evidence exists to support the final disposition under sections 626.556
30.18 and 626.557. For purposes of hearings regarding disqualification, the state human services
30.19 referee shall affirm the proposed disqualification in an appeal under subdivision 3,
30.20 paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

30.21 (1) committed maltreatment under section 626.556 or 626.557, which is serious or
30.22 recurring;

30.23 (2) committed an act or acts meeting the definition of any of the crimes listed in
30.24 section 245C.15, subdivisions 1 to 4; or

30.25 (3) failed to make required reports under section 626.556 or 626.557, for incidents
30.26 in which the final disposition under section 626.556 or 626.557 was substantiated
30.27 maltreatment that was serious or recurring.

30.28 (b) If the disqualification is affirmed, the state human services referee shall
30.29 determine whether the individual poses a risk of harm in accordance with the requirements
30.30 of section 245C.16, and whether the disqualification should be set aside or not set aside.
30.31 In determining whether the disqualification should be set aside, the human services
30.32 referee shall consider all of the characteristics that cause the individual to be disqualified,
30.33 including those characteristics that were not subject to review under paragraph (a), in
30.34 order to determine whether the individual poses a risk of harm. A decision to set aside
30.35 a disqualification that is the subject of the hearing constitutes a determination that the

31.1 individual does not pose a risk of harm and that the individual may provide direct contact
 31.2 services in the individual program specified in the set aside. If a determination that the
 31.3 information relied upon to disqualify an individual was correct and is conclusive under
 31.4 section 245C.29, and the individual is subsequently disqualified under section 245C.14,
 31.5 the individual has a right to again request reconsideration on the risk of harm under section
 31.6 245C.21. Subsequent determinations regarding risk of harm are not subject to another
 31.7 hearing under this section.

31.8 (c) The state human services referee shall recommend an order to the commissioner
 31.9 of health, education, corrections, or human services, as applicable, who shall issue a final
 31.10 order. The commissioner shall affirm, reverse, or modify the final disposition. Any order
 31.11 of the commissioner issued in accordance with this subdivision is conclusive upon the
 31.12 parties unless appeal is taken in the manner provided in subdivision 7. In any licensing
 31.13 appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to
 31.14 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided
 31.15 under section 245C.29.

31.16 Sec. 3. Minnesota Statutes 2006, section 256.0451, subdivision 1, is amended to read:

31.17 Subdivision 1. **Scope.** The requirements in this section apply to all fair hearings
 31.18 and appeals under section 256.045, subdivision 3, paragraph (a), clauses (1), (2), (3),
 31.19 (5), (6), ~~and (7)~~, and (8). Except as provided in subdivisions 3 and 19, the requirements
 31.20 under this section apply to fair hearings and appeals under section 256.045, subdivision 3,
 31.21 paragraph (a), clauses (4), ~~(8)~~, ~~and (9)~~, and (10).

31.22 The term "person" is used in this section to mean an individual who, on behalf
 31.23 of themselves or their household, is appealing or disputing or challenging an action,
 31.24 a decision, or a failure to act, by an agency in the human services system. When a
 31.25 person involved in a proceeding under this section is represented by an attorney or by
 31.26 an authorized representative, the term "person" also refers to the person's attorney or
 31.27 authorized representative. Any notice sent to the person involved in the hearing must also
 31.28 be sent to the person's attorney or authorized representative.

31.29 The term "agency" includes the county human services agency, the state human
 31.30 services agency, and, where applicable, any entity involved under a contract, subcontract,
 31.31 grant, or subgrant with the state agency or with a county agency, that provides or operates
 31.32 programs or services in which appeals are governed by section 256.045.

31.33 Sec. 4. Minnesota Statutes 2006, section 256.0451, subdivision 3, is amended to read:

32.1 Subd. 3. **Agency appeal summary.** (a) Except in fair hearings and appeals under
32.2 section 256.045, subdivision 3, paragraph (a), clauses (4), ~~(8), and (9)~~, and (10), the
32.3 agency involved in an appeal must prepare a state agency appeal summary for each fair
32.4 hearing appeal. The state agency appeal summary shall be mailed or otherwise delivered
32.5 to the person who is involved in the appeal at least three working days before the date
32.6 of the hearing. The state agency appeal summary must also be mailed or otherwise
32.7 delivered to the department's Appeals Office at least three working days before the date of
32.8 the fair hearing appeal.

32.9 (b) In addition, the appeals referee shall confirm that the state agency appeal
32.10 summary is mailed or otherwise delivered to the person involved in the appeal as required
32.11 under paragraph (a). The person involved in the fair hearing should be provided, through
32.12 the state agency appeal summary or other reasonable methods, appropriate information
32.13 about the procedures for the fair hearing and an adequate opportunity to prepare. These
32.14 requirements apply equally to the state agency or an entity under contract when involved
32.15 in the appeal.

32.16 (c) The contents of the state agency appeal summary must be adequate to inform the
32.17 person involved in the appeal of the evidence on which the agency relies and the legal
32.18 basis for the agency's action or determination.

32.19 Sec. 5. Minnesota Statutes 2006, section 256.0451, subdivision 11, is amended to read:

32.20 Subd. 11. **Hearing facilities and equipment.** The appeals referee shall conduct
32.21 the hearing in the county where the person involved resides, unless an alternate location
32.22 is mutually agreed upon before the hearing, or unless the person has agreed to a hearing
32.23 by telephone. Hearings under section 256.045, subdivision 3, paragraph (a), clauses (4),
32.24 ~~(8), and (9)~~, and (10), must be conducted in the county where the determination was made,
32.25 unless an alternate location is mutually agreed upon before the hearing. The hearing room
32.26 shall be of sufficient size and layout to adequately accommodate both the number of
32.27 individuals participating in the hearing and any identified special needs of any individual
32.28 participating in the hearing. The appeals referee shall ensure that all communication and
32.29 recording equipment that is necessary to conduct the hearing and to create an adequate
32.30 record is present and functioning properly. If any necessary communication or recording
32.31 equipment fails or ceases to operate effectively, the appeals referee shall take any steps
32.32 necessary, including stopping or adjourning the hearing, until the necessary equipment is
32.33 present and functioning properly. All reasonable efforts shall be undertaken to prevent and
32.34 avoid any delay in the hearing process caused by defective communication or recording
32.35 equipment.

33.1 Sec. 6. Minnesota Statutes 2006, section 256.0451, subdivision 19, is amended to read:

33.2 Subd. 19. **Developing the record.** The appeals referee shall accept all evidence,
 33.3 except evidence privileged by law, that is commonly accepted by reasonable people in
 33.4 the conduct of their affairs as having probative value on the issues to be addressed at
 33.5 the hearing. Except in fair hearings and appeals under section 256.045, subdivision 3,
 33.6 paragraph (a), clauses (4), ~~(8), and (9), and (10)~~, in cases involving medical issues such
 33.7 as a diagnosis, a physician's report, or a review team's decision, the appeals referee
 33.8 shall consider whether it is necessary to have a medical assessment other than that of
 33.9 the individual making the original decision. When necessary, the appeals referee shall
 33.10 require an additional assessment be obtained at agency expense and made part of the
 33.11 hearing record. The appeals referee shall ensure for all cases that the record is sufficiently
 33.12 complete to make a fair and accurate decision.

33.13 Sec. 7. Minnesota Statutes 2006, section 256.046, subdivision 1, is amended to read:

33.14 Subdivision 1. **Hearing authority.** A local agency must initiate an administrative
 33.15 fraud disqualification hearing for individuals, including child care providers caring for
 33.16 children receiving child care assistance, accused of wrongfully obtaining assistance or
 33.17 intentional program violations, in lieu of a criminal action when it has not been pursued, in
 33.18 the aid to families with dependent children program formerly codified in sections 256.72
 33.19 to 256.87, MFIP, the diversionary work program, child care assistance programs, general
 33.20 assistance, family general assistance program formerly codified in section 256D.05,
 33.21 subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general
 33.22 assistance medical care, MinnesotaCare for adults without children, and upon federal
 33.23 approval, all categories of medical assistance and remaining categories of MinnesotaCare
 33.24 except for children through age 18. The Department of Human Services, in lieu of a local
 33.25 agency, may initiate an administrative fraud disqualification hearing when the state agency
 33.26 is directly responsible for administration of the health care program for which benefits
 33.27 were wrongfully obtained. The hearing is subject to the requirements of section 256.045
 33.28 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food
 33.29 stamp program ~~and title 45, section 235.112, as of September 30, 1995, for~~ the cash grant,
 33.30 medical care programs, and child care assistance under chapter 119B.

33.31 Sec. 8. Minnesota Statutes 2006, section 256E.35, subdivision 7, is amended to read:

33.32 Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary
 33.33 organization participating in a family assets for independence initiative must report
 33.34 quarterly to the commissioner of human services ~~and to the commissioner of education~~

34.1 identifying the participants with accounts, the number of accounts, the amount of savings
34.2 and matches for each participant's account, the uses of the account, and the number of
34.3 businesses, homes, and educational services paid for with money from the account, as
34.4 well as other information that may be required for the commissioner to administer the
34.5 program and meet federal TANF reporting requirements.

34.6 Sec. 9. Minnesota Statutes 2006, section 256J.21, subdivision 3, is amended to read:

34.7 Subd. 3. **Initial income test.** The county agency shall determine initial eligibility
34.8 by considering all earned and unearned income that is not excluded under subdivision 2.
34.9 To be eligible for MFIP, the assistance unit's countable income minus the disregards in
34.10 paragraphs (a) and (b) must be below the transitional standard of assistance according to
34.11 section 256J.24 for that size assistance unit.

34.12 (a) The initial eligibility determination must disregard the following items:

34.13 (1) the employment disregard is 18 percent of the gross earned income whether or
34.14 not the member is working full time or part time;

34.15 (2) dependent care costs must be deducted from gross earned income for the actual
34.16 amount paid for dependent care up to a maximum of \$200 per month for each child less
34.17 than two years of age, and \$175 per month for each child two years of age and older under
34.18 this chapter and chapter 119B;

34.19 (3) all payments made according to a court order for spousal support or the support
34.20 of children not living in the assistance unit's household shall be disregarded from the
34.21 income of the person with the legal obligation to pay support, provided that, if there has
34.22 been a change in the financial circumstances of the person with the legal obligation to pay
34.23 support since the support order was entered, the person with the legal obligation to pay
34.24 support has petitioned for a modification of the support order; and

34.25 (4) an allocation for the unmet need of an ineligible spouse or an ineligible child
34.26 under the age of 21 for whom the caregiver is financially responsible and who lives with
34.27 the caregiver according to section 256J.36.

34.28 (b) Notwithstanding paragraph (a), when determining initial eligibility for applicant
34.29 units when at least one member has received MFIP in this state within four months of
34.30 the most recent application for MFIP, apply the disregard as defined in section 256J.08,
34.31 subdivision 24, for all unit members.

34.32 After initial eligibility is established, the assistance payment calculation is based on
34.33 the monthly income test.

34.34 (c) Combat pay received by a member of the United States armed forces deployed to
34.35 a designated combat zone shall be excluded from household income for the duration of the

35.1 member's deployment if the additional pay is the result of deployment to or while serving
 35.2 in a combat zone, and it was not received immediately prior to serving in the combat zone.

35.3 Sec. 10. Minnesota Statutes 2006, section 256J.45, subdivision 2, is amended to read:

35.4 Subd. 2. **General information.** The MFIP orientation must consist of a presentation
 35.5 that informs caregivers of:

35.6 (1) the necessity to obtain immediate employment;

35.7 (2) the work incentives under MFIP, including the availability of the federal earned
 35.8 income tax credit and the Minnesota working family tax credit;

35.9 (3) the requirement to comply with the employment plan and other requirements
 35.10 of the employment and training services component of MFIP, including a description
 35.11 of the range of work and training activities that are allowable under MFIP to meet the
 35.12 individual needs of participants;

35.13 (4) the consequences for failing to comply with the employment plan and other
 35.14 program requirements, and that the county agency may not impose a sanction when failure
 35.15 to comply is due to the unavailability of child care or other circumstances where the
 35.16 participant has good cause under subdivision 3;

35.17 (5) the rights, responsibilities, and obligations of participants;

35.18 (6) the types and locations of child care services available through the county agency;

35.19 (7) the availability and the benefits of the early childhood health and developmental
 35.20 screening under sections 121A.16 to 121A.19; ~~123B.02, subdivision 16; and 123B.10;~~

35.21 (8) the caregiver's eligibility for transition year child care assistance under section
 35.22 119B.05;

35.23 (9) the availability of all health care programs, including transitional medical
 35.24 assistance;

35.25 (10) the caregiver's option to choose an employment and training provider and
 35.26 information about each provider, including but not limited to, services offered, program
 35.27 components, job placement rates, job placement wages, and job retention rates;

35.28 (11) the caregiver's option to request approval of an education and training plan
 35.29 according to section 256J.53;

35.30 (12) the work study programs available under the higher education system; and

35.31 (13) information about the 60-month time limit exemptions under the family violence
 35.32 waiver and referral information about shelters and programs for victims of family violence.

35.33 Sec. 11. Minnesota Statutes 2006, section 256J.49, subdivision 13, is amended to read:

36.1 Subd. 13. **Work activity.** "Work activity" means any activity in a participant's
 36.2 approved employment plan that leads to employment. For purposes of the MFIP program,
 36.3 this includes activities that meet the definition of work activity under the participation
 36.4 requirements of TANF. Work activity includes:

36.5 (1) unsubsidized employment, including work study and paid apprenticeships or
 36.6 internships;

36.7 (2) subsidized private sector or public sector employment, including grant diversion
 36.8 as specified in section 256J.69, on-the-job training as specified in section 256J.66,
 36.9 ~~the self-employment investment demonstration program (SEID) as specified in section~~
 36.10 ~~256J.65~~; paid work experience, and supported work when a wage subsidy is provided;

36.11 (3) unpaid work experience, including community service, volunteer work,
 36.12 the community work experience program as specified in section 256J.67, unpaid
 36.13 apprenticeships or internships, and supported work when a wage subsidy is not provided;

36.14 (4) job search including job readiness assistance, job clubs, job placement,
 36.15 job-related counseling, and job retention services;

36.16 (5) job readiness education, including English as a second language (ESL) or
 36.17 functional work literacy classes as limited by the provisions of section 256J.531,
 36.18 subdivision 2, general educational development (GED) course work, high school
 36.19 completion, and adult basic education as limited by the provisions of section 256J.531,
 36.20 subdivision 1;

36.21 (6) job skills training directly related to employment, including education and
 36.22 training that can reasonably be expected to lead to employment, as limited by the
 36.23 provisions of section 256J.53;

36.24 (7) providing child care services to a participant who is working in a community
 36.25 service program;

36.26 (8) activities included in the employment plan that is developed under section
 36.27 256J.521, subdivision 3; and

36.28 (9) preemployment activities including chemical and mental health assessments,
 36.29 treatment, and services; learning disabilities services; child protective services; family
 36.30 stabilization services; or other programs designed to enhance employability.

36.31 Sec. 12. Minnesota Statutes 2006, section 256J.50, subdivision 11, is amended to read:

36.32 Subd. 11. **Coordination.** The county agency and the county agency's employment
 36.33 and training providers must consult and coordinate with other providers of employment
 36.34 and training services to identify existing resources, in order to prevent duplication of
 36.35 services, to assure that other programs' services are available to enable participants

37.1 to achieve self-sufficiency, and to assure that costs for these other services for which
 37.2 participants are eligible are not incurred by MFIP. At a minimum, the county agency and
 37.3 its providers must coordinate with ~~Jobs Training and Partnership Act~~ 1998 Workforce
 37.4 Investment Act providers and with any other relevant employment, training, and education
 37.5 programs in the county.

37.6 Sec. 13. Minnesota Statutes 2006, section 256J.55, subdivision 1, is amended to read:

37.7 Subdivision 1. **Participation requirements.** (a) All caregivers must participate
 37.8 in employment services under sections 256J.515 to 256J.57 concurrent with receipt of
 37.9 MFIP assistance.

37.10 ~~(b) Until July 1, 2004, participants who meet the requirements of section 256J.56 are~~
 37.11 ~~exempt from participation requirements.~~

37.12 ~~(c)~~ (b) Participants under paragraph (a) must develop and comply with an
 37.13 employment plan under section 256J.521 or section 256J.54 in the case of a participant
 37.14 under the age of 20 who has not obtained a high school diploma or its equivalent.

37.15 ~~(d)~~ (c) With the exception of participants under the age of 20 who must meet
 37.16 the education requirements of section 256J.54, all participants must meet the hourly
 37.17 participation requirements of TANF or the hourly requirements listed in clauses (1) to
 37.18 (3), whichever is higher.

37.19 (1) In single-parent families with no children under six years of age, the job
 37.20 counselor and the caregiver must develop an employment plan that includes 30 to 35
 37.21 hours per week of work activities.

37.22 (2) In single-parent families with a child under six years of age, the job counselor
 37.23 and the caregiver must develop an employment plan that includes 20 to 35 hours per
 37.24 week of work activities.

37.25 (3) In two-parent families, the job counselor and the caregivers must develop
 37.26 employment plans which result in a combined total of at least 55 hours per week of work
 37.27 activities.

37.28 ~~(e)~~ (d) Failure to participate in employment services, including the requirement to
 37.29 develop and comply with an employment plan, including hourly requirements, without
 37.30 good cause under section 256J.57, shall result in the imposition of a sanction under section
 37.31 256J.46.

37.32 Sec. 14. Minnesota Statutes 2006, section 256J.645, is amended to read:

37.33 **256J.645 INDIAN TRIBE MFIP EMPLOYMENT SERVICES.**

38.1 Subdivision 1. **Authorization to enter into agreements.** Effective July 1, 1997, the
 38.2 commissioner may enter into agreements with federally recognized Indian tribes with a
 38.3 reservation in the state to provide MFIP and DWP employment services to members of the
 38.4 Indian tribe and to other caregivers who are a part of the tribal member's MFIP or DWP
 38.5 assistance unit. For purposes of this section, "Indian tribe" means a tribe, band, nation, or
 38.6 other federally recognized group or community of Indians. The commissioner may also
 38.7 enter into an agreement with a consortium of Indian tribes providing the governing body
 38.8 of each Indian tribe in the consortium complies with the provisions of this section.

38.9 Subd. 2. **Tribal requirements.** The Indian tribe must:

38.10 (1) agree to fulfill the responsibilities provided under the employment services
 38.11 component of MFIP and DWP regarding operation of MFIP and DWP employment
 38.12 services, as designated by the commissioner;

38.13 (2) operate its employment services program within a geographic service area not to
 38.14 exceed the counties within which a border of the reservation falls;

38.15 (3) operate its program in conformity with section 13.46 and any applicable federal
 38.16 regulations in the use of data about MFIP and DWP recipients;

38.17 (4) coordinate operation of its program with the county agency, Workforce
 38.18 Investment Act programs, and other support services or employment-related programs in
 38.19 the counties in which the tribal unit's program operates;

38.20 (5) provide financial and program participant activity record keeping and reporting
 38.21 in the manner and using the forms and procedures specified by the commissioner and
 38.22 permit inspection of its program and records by representatives of the state; and

38.23 (6) have the Indian tribe's employment service provider certified by the
 38.24 commissioner of employment and economic development, or approved by the county.

38.25 Subd. 3. **Funding.** If the commissioner and an Indian tribe are parties to an
 38.26 agreement under this subdivision, the agreement shall annually provide to the Indian tribe
 38.27 the funding allocated in section 256J.626.

38.28 Subd. 4. **County agency requirement.** Indian tribal members receiving MFIP or
 38.29 DWP benefits and residing in the service area of an Indian tribe operating employment
 38.30 services under an agreement with the commissioner must be referred by county agencies
 38.31 in the service area to the Indian tribe for employment services.

38.32 Sec. 15. Minnesota Statutes 2006, section 256J.66, subdivision 1, is amended to read:

38.33 Subdivision 1. **Establishing the on-the-job training program.** (a) County agencies
 38.34 may develop on-the-job training programs for MFIP caregivers who are participating in
 38.35 employment and training services. A county agency that chooses to provide on-the-job

39.1 training may make payments to employers for on-the-job training costs that, during the
 39.2 period of the training, must not exceed 50 percent of the wages paid by the employer to
 39.3 the participant. The payments are deemed to be in compensation for the extraordinary
 39.4 costs associated with training participants under this section and in compensation for the
 39.5 costs associated with the lower productivity of the participants during training.

39.6 (b) Provision of an on-the-job training program under the ~~Job Training Partnership~~
 39.7 1998 Workforce Investment Act, in and of itself, does not qualify as an on-the-job training
 39.8 program under this section.

39.9 (c) Participants in on-the-job training shall be compensated by the employer at the
 39.10 same rates, including periodic increases, as similarly situated employees or trainees and
 39.11 in accordance with applicable law, but in no event less than the federal or applicable
 39.12 state minimum wage, whichever is higher.

39.13 Sec. 16. Minnesota Statutes 2006, section 256J.67, subdivision 3, is amended to read:

39.14 Subd. 3. **Employment options.** (a) Work sites developed under this section are
 39.15 limited to projects that serve a useful public service such as: health, social service,
 39.16 environmental protection, education, urban and rural development and redevelopment,
 39.17 welfare, recreation, public facilities, public safety, community service, services to aged
 39.18 or disabled citizens, and child care. To the extent possible, the prior training, skills, and
 39.19 experience of a caregiver must be considered in making appropriate work experience
 39.20 assignments.

39.21 (b) Structured, supervised ~~volunteer~~ work with an agency or organization, which is
 39.22 monitored by the county service provider, may, with the approval of the county agency,
 39.23 be used as a work experience placement.

39.24 (c) As a condition of placing a caregiver in a program under this section, the county
 39.25 agency shall first provide the caregiver the opportunity:

39.26 (1) for placement in suitable subsidized or unsubsidized employment through
 39.27 participation in a job search; or

39.28 (2) for placement in suitable employment through participation in on-the-job
 39.29 training, if such employment is available.

39.30 Sec. 17. Minnesota Statutes 2006, section 259.67, subdivision 4, is amended to read:

39.31 Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC
 39.32 requirements as specified in federal law as of July 16, 1996, when determining the child's
 39.33 eligibility for adoption assistance under title IV-E of the Social Security Act. If the child

40.1 does not qualify, the placing agency shall certify a child as eligible for state funded
40.2 adoption assistance only if the following criteria are met:

40.3 (1) Due to the child's characteristics or circumstances it would be difficult to provide
40.4 the child an adoptive home without adoption assistance.

40.5 (2)(i) A placement agency has made reasonable efforts to place the child for adoption
40.6 without adoption assistance, but has been unsuccessful; or

40.7 (ii) the child's licensed foster parents desire to adopt the child and it is determined by
40.8 the placing agency that the adoption is in the best interest of the child.

40.9 (3)(i) The child has been a ward of the commissioner, a Minnesota-licensed
40.10 child-placing agency, or a tribal social service agency of Minnesota recognized by the
40.11 Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a
40.12 termination of parental rights or relinquishment, provided that the tribe has documented
40.13 the valid reason why the child cannot or should not be returned to the home of the child's
40.14 parent. The placing agency shall not certify a child who remains under the jurisdiction
40.15 of the sending agency pursuant to section 260.851, article 5, for state-funded adoption
40.16 assistance when Minnesota is the receiving state.

40.17 (b) For purposes of this subdivision, the characteristics or circumstances that may
40.18 be considered in determining whether a child is a child with special needs under United
40.19 States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of
40.20 paragraph (a), clause (1), are the following:

40.21 (1) The child is a member of a sibling group to be placed as one unit in which at
40.22 least one sibling is older than 15 months of age or is described in clause (2) or (3).

40.23 (2) The child has documented physical, mental, emotional, or behavioral disabilities.

40.24 (3) The child has a high risk of developing physical, mental, emotional, or behavioral
40.25 disabilities.

40.26 ~~(4) The child is adopted according to tribal law without a termination of parental~~
40.27 ~~rights or relinquishment, provided that the tribe has documented the valid reason why the~~
40.28 ~~child cannot or should not be returned to the home of the child's parent.~~

40.29 (c) When a child's eligibility for adoption assistance is based upon the high risk of
40.30 developing physical, mental, emotional, or behavioral disabilities, payments shall not be
40.31 made under the adoption assistance agreement unless and until the potential disability
40.32 manifests itself as documented by an appropriate health care professional.

40.33 Sec. 18. Minnesota Statutes 2006, section 260.012, is amended to read:

40.34 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
40.35 **REUNIFICATION; REASONABLE EFFORTS.**

41.1 (a) Once a child alleged to be in need of protection or services is under the court's
41.2 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
41.3 services, by the social services agency are made to prevent placement or to eliminate the
41.4 need for removal and to reunite the child with the child's family at the earliest possible
41.5 time, and ~~when a child cannot be reunified with the parent or guardian from whom the~~
41.6 ~~child was removed~~, the court must ensure that the responsible social services agency
41.7 makes reasonable efforts to finalize an alternative permanent plan for the child as provided
41.8 in paragraph (e). In determining reasonable efforts to be made with respect to a child and
41.9 in making those reasonable efforts, the child's best interests, health, and safety must be of
41.10 paramount concern. Reasonable efforts to prevent placement and for rehabilitation and
41.11 reunification are always required except upon a determination by the court that a petition
41.12 has been filed stating a prima facie case that:

41.13 (1) the parent has subjected a child to egregious harm as defined in section
41.14 260C.007, subdivision 14;

41.15 (2) the parental rights of the parent to another child have been terminated
41.16 involuntarily;

41.17 (3) the child is an abandoned infant under section 260C.301, subdivision 2,
41.18 paragraph (a), clause (2);

41.19 (4) the parent's custodial rights to another child have been involuntarily transferred
41.20 to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar
41.21 law of another jurisdiction; or

41.22 (5) the provision of services or further services for the purpose of reunification is
41.23 futile and therefore unreasonable under the circumstances.

41.24 (b) When the court makes one of the prima facie determinations under paragraph (a),
41.25 either permanency pleadings under section 260C.201, subdivision 11, or a termination
41.26 of parental rights petition under sections 260C.141 and 260C.301 must be filed. A
41.27 permanency hearing under section 260C.201, subdivision 11, must be held within 30
41.28 days of this determination.

41.29 (c) In the case of an Indian child, in proceedings under sections 260B.178 or
41.30 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions
41.31 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section
41.32 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child
41.33 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social
41.34 services agency must provide active efforts as required under United States Code, title
41.35 25, section 1911(d).

41.36 (d) "Reasonable efforts to prevent placement" means:

42.1 (1) the agency has made reasonable efforts to prevent the placement of the child in
42.2 foster care; or

42.3 (2) given the particular circumstances of the child and family at the time of the
42.4 child's removal, there are no services or efforts available which could allow the child to
42.5 safely remain in the home.

42.6 (e) "Reasonable efforts to finalize a permanent plan for the child" means due
42.7 diligence by the responsible social services agency to:

42.8 (1) reunify the child with the parent or guardian from whom the child was removed;

42.9 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
42.10 where appropriate, provide services necessary to enable the noncustodial parent to safely
42.11 provide the care, as required by section 260C.212, subdivision 4;

42.12 (3) conduct a relative search as required under section 260C.212, subdivision 5; and

42.13 (4) when the child cannot return to the parent or guardian from whom the child was
42.14 removed, to plan for and finalize a safe and legally permanent alternative home for the
42.15 child, preferably through adoption or transfer of permanent legal and physical custody of
42.16 the child.

42.17 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
42.18 social services agency to use culturally appropriate and available services to meet the
42.19 needs of the child and the child's family. Services may include those provided by the
42.20 responsible social services agency and other culturally appropriate services available in
42.21 the community. At each stage of the proceedings where the court is required to review
42.22 the appropriateness of the responsible social services agency's reasonable efforts as
42.23 described in paragraphs (a), (d), and (e), the social services agency has the burden of
42.24 demonstrating that:

42.25 (1) it has made reasonable efforts to prevent placement of the child in foster care;

42.26 (2) it has made reasonable efforts to eliminate the need for removal of the child from
42.27 the child's home and to reunify the child with the child's family at the earliest possible time;

42.28 (3) it has made reasonable efforts to finalize an alternative permanent home for the
42.29 child; or

42.30 (4) reasonable efforts to prevent placement and to reunify the child with the parent
42.31 or guardian are not required. The agency may meet this burden by stating facts in a sworn
42.32 petition filed under section 260C.141, by filing an affidavit summarizing the agency's
42.33 reasonable efforts or facts the agency believes demonstrate there is no need for reasonable
42.34 efforts to reunify the parent and child, or through testimony or a certified report required
42.35 under juvenile court rules.

43.1 (g) Once the court determines that reasonable efforts for reunification are not
43.2 required because the court has made one of the prima facie determinations under paragraph
43.3 (a), the court may only require reasonable efforts for reunification after a hearing according
43.4 to section 260C.163, where the court finds there is not clear and convincing evidence of
43.5 the facts upon which the court based its prima facie determination. In this case when there
43.6 is clear and convincing evidence that the child is in need of protection or services, the
43.7 court may find the child in need of protection or services and order any of the dispositions
43.8 available under section 260C.201, subdivision 1. Reunification of a surviving child with a
43.9 parent is not required if the parent has been convicted of:

43.10 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections
43.11 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the
43.12 parent;

43.13 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the
43.14 surviving child; or

43.15 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
43.16 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

43.17 (h) The juvenile court, in proceedings under sections 260B.178 or 260C.178,
43.18 260C.201, and 260C.301 shall make findings and conclusions as to the provision of
43.19 reasonable efforts. When determining whether reasonable efforts have been made, the
43.20 court shall consider whether services to the child and family were:

43.21 (1) relevant to the safety and protection of the child;

43.22 (2) adequate to meet the needs of the child and family;

43.23 (3) culturally appropriate;

43.24 (4) available and accessible;

43.25 (5) consistent and timely; and

43.26 (6) realistic under the circumstances.

43.27 In the alternative, the court may determine that provision of services or further
43.28 services for the purpose of rehabilitation is futile and therefore unreasonable under the
43.29 circumstances or that reasonable efforts are not required as provided in paragraph (a).

43.30 (i) This section does not prevent out-of-home placement for treatment of a child with
43.31 a mental disability when the child's diagnostic assessment or individual treatment plan
43.32 indicates that appropriate and necessary treatment cannot be effectively provided outside
43.33 of a residential or inpatient treatment program.

43.34 (j) If continuation of reasonable efforts to prevent placement or reunify the child
43.35 with the parent or guardian from whom the child was removed is determined by the court
43.36 to be inconsistent with the permanent plan for the child or upon the court making one of

44.1 the prima facie determinations under paragraph (a), reasonable efforts must be made to
44.2 place the child in a timely manner in a safe and permanent home and to complete whatever
44.3 steps are necessary to legally finalize the permanent placement of the child.

44.4 (k) Reasonable efforts to place a child for adoption or in another permanent
44.5 placement may be made concurrently with reasonable efforts to prevent placement or to
44.6 reunify the child with the parent or guardian from whom the child was removed. When
44.7 the responsible social services agency decides to concurrently make reasonable efforts for
44.8 both reunification and permanent placement away from the parent under paragraph (a), the
44.9 agency shall disclose its decision and both plans for concurrent reasonable efforts to all
44.10 parties and the court. When the agency discloses its decision to proceed on both plans for
44.11 reunification and permanent placement away from the parent, the court's review of the
44.12 agency's reasonable efforts shall include the agency's efforts under both plans.

44.13 Sec. 19. Minnesota Statutes 2006, section 260B.157, subdivision 1, is amended to read:

44.14 Subdivision 1. **Investigation.** Upon request of the court the local social services
44.15 agency or probation officer shall investigate the personal and family history and
44.16 environment of any minor coming within the jurisdiction of the court under section
44.17 260B.101 and shall report its findings to the court. The court may order any minor coming
44.18 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or
44.19 psychologist appointed by the court.

44.20 The court shall ~~have~~ order a chemical use assessment conducted when a child is
44.21 (1) found to be delinquent for violating a provision of chapter 152, or for committing a
44.22 felony-level violation of a provision of chapter 609 if the probation officer determines
44.23 that alcohol or drug use was a contributing factor in the commission of the offense, or
44.24 (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being
44.25 held in custody under a detention order. The assessor's qualifications and the assessment
44.26 criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under
44.27 chapter 254B are to be used to pay for the recommended treatment, the assessment and
44.28 placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to
44.29 9530.6655 and 9530.7000 to 9530.7030. The commissioner of human services shall
44.30 reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

44.31 The court shall ~~have~~ order a children's mental health screening conducted when
44.32 a child is found to be delinquent. The screening shall be conducted with a screening
44.33 instrument approved by the commissioner of human services and shall be conducted by a
44.34 mental health practitioner as defined in section 245.4871, subdivision 26, or a probation
44.35 officer who is trained in the use of the screening instrument. If the screening indicates

45.1 a need for assessment, the local social services agency, in consultation with the child's
 45.2 family, shall have a diagnostic assessment conducted, including a functional assessment,
 45.3 as defined in section 245.4871.

45.4 With the consent of the commissioner of corrections and agreement of the county to
 45.5 pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction
 45.6 in an institution maintained by the commissioner for the detention, diagnosis, custody and
 45.7 treatment of persons adjudicated to be delinquent, in order that the condition of the minor
 45.8 be given due consideration in the disposition of the case. Any funds received under the
 45.9 provisions of this subdivision shall not cancel until the end of the fiscal year immediately
 45.10 following the fiscal year in which the funds were received. The funds are available for
 45.11 use by the commissioner of corrections during that period and are hereby appropriated
 45.12 annually to the commissioner of corrections as reimbursement of the costs of providing
 45.13 these services to the juvenile courts.

45.14 Sec. 20. Minnesota Statutes 2006, section 626.556, subdivision 2, is amended to read:

45.15 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
 45.16 given them unless the specific content indicates otherwise:

45.17 (a) "Family assessment" means a comprehensive assessment of child safety, risk
 45.18 of subsequent child maltreatment, and family strengths and needs that is applied to a
 45.19 child maltreatment report that does not allege substantial child endangerment. Family
 45.20 assessment does not include a determination as to whether child maltreatment occurred
 45.21 but does determine the need for services to address the safety of family members and the
 45.22 risk of subsequent maltreatment.

45.23 (b) "Investigation" means fact gathering related to the current safety of a child
 45.24 and the risk of subsequent maltreatment that determines whether child maltreatment
 45.25 occurred and whether child protective services are needed. An investigation must be used
 45.26 when reports involve substantial child endangerment, and for reports of maltreatment in
 45.27 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
 45.28 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
 45.29 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
 45.30 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

45.31 (c) "Substantial child endangerment" means a person responsible for a child's care,
 45.32 and in the case of sexual abuse also includes a person who has a significant relationship to
 45.33 the child as defined in section 609.341, or a person in a position of authority as defined in
 45.34 section 609.341, who by act or omission commits or attempts to commit an act against a
 45.35 child under their care that constitutes any of the following:

- 46.1 (1) egregious harm as defined in section 260C.007, subdivision 14;
- 46.2 (2) sexual abuse as defined in paragraph (d);
- 46.3 (3) abandonment under section 260C.301, subdivision 2;
- 46.4 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
- 46.5 child's physical or mental health, including a growth delay, which may be referred to as
- 46.6 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- 46.7 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
- 46.8 609.195;
- 46.9 (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- 46.10 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
- 46.11 609.223;
- 46.12 (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- 46.13 (9) criminal sexual conduct under sections 609.342 to 609.3451;
- 46.14 (10) solicitation of children to engage in sexual conduct under section 609.352;
- 46.15 (11) malicious punishment or neglect or endangerment of a child under section
- 46.16 609.377 or 609.378;
- 46.17 (12) use of a minor in sexual performance under section 617.246; or
- 46.18 (13) parental behavior, status, or condition which mandates that the county attorney
- 46.19 file a termination of parental rights petition under section 260C.301, subdivision 3,
- 46.20 paragraph (a).
- 46.21 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
- 46.22 child's care, by a person who has a significant relationship to the child, as defined in
- 46.23 section 609.341, or by a person in a position of authority, as defined in section 609.341,
- 46.24 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
- 46.25 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
- 46.26 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
- 46.27 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
- 46.28 abuse also includes any act which involves a minor which constitutes a violation of
- 46.29 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
- 46.30 threatened sexual abuse.
- 46.31 (e) "Person responsible for the child's care" means (1) an individual functioning
- 46.32 within the family unit and having responsibilities for the care of the child such as a
- 46.33 parent, guardian, or other person having similar care responsibilities, or (2) an individual
- 46.34 functioning outside the family unit and having responsibilities for the care of the child
- 46.35 such as a teacher, school administrator, other school employees or agents, or other lawful
- 46.36 custodian of a child having either full-time or short-term care responsibilities including,

47.1 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
47.2 and coaching.

47.3 (f) "Neglect" means:

47.4 (1) failure by a person responsible for a child's care to supply a child with necessary
47.5 food, clothing, shelter, health, medical, or other care required for the child's physical or
47.6 mental health when reasonably able to do so;

47.7 (2) failure to protect a child from conditions or actions that seriously endanger the
47.8 child's physical or mental health when reasonably able to do so, including a growth delay,
47.9 which may be referred to as a failure to thrive, that has been diagnosed by a physician and
47.10 is due to parental neglect;

47.11 (3) failure to provide for necessary supervision or child care arrangements
47.12 appropriate for a child after considering factors as the child's age, mental ability, physical
47.13 condition, length of absence, or environment, when the child is unable to care for the
47.14 child's own basic needs or safety, or the basic needs or safety of another child in their care;

47.15 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
47.16 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
47.17 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

47.18 (5) nothing in this section shall be construed to mean that a child is neglected solely
47.19 because the child's parent, guardian, or other person responsible for the child's care in
47.20 good faith selects and depends upon spiritual means or prayer for treatment or care of
47.21 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,
47.22 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report
47.23 if a lack of medical care may cause serious danger to the child's health. This section does
47.24 not impose upon persons, not otherwise legally responsible for providing a child with
47.25 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

47.26 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,
47.27 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal
47.28 symptoms in the child at birth, results of a toxicology test performed on the mother at
47.29 delivery or the child at birth, or medical effects or developmental delays during the child's
47.30 first year of life that medically indicate prenatal exposure to a controlled substance;

47.31 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

47.32 (8) chronic and severe use of alcohol or a controlled substance by a parent or
47.33 person responsible for the care of the child that adversely affects the child's basic needs
47.34 and safety; or

47.35 (9) emotional harm from a pattern of behavior which contributes to impaired
47.36 emotional functioning of the child which may be demonstrated by a substantial and

48.1 observable effect in the child's behavior, emotional response, or cognition that is not
48.2 within the normal range for the child's age and stage of development, with due regard to
48.3 the child's culture.

48.4 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,
48.5 inflicted by a person responsible for the child's care on a child other than by accidental
48.6 means, or any physical or mental injury that cannot reasonably be explained by the child's
48.7 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
48.8 that have not been authorized under section 121A.67 or 245.825. Abuse does not include
48.9 reasonable and moderate physical discipline of a child administered by a parent or legal
48.10 guardian which does not result in an injury. Abuse does not include the use of reasonable
48.11 force by a teacher, principal, or school employee as allowed by section 121A.582. Actions
48.12 which are not reasonable and moderate include, but are not limited to, any of the following
48.13 that are done in anger or without regard to the safety of the child:

48.14 (1) throwing, kicking, burning, biting, or cutting a child;

48.15 (2) striking a child with a closed fist;

48.16 (3) shaking a child under age three;

48.17 (4) striking or other actions which result in any nonaccidental injury to a child
48.18 under 18 months of age;

48.19 (5) unreasonable interference with a child's breathing;

48.20 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

48.21 (7) striking a child under age one on the face or head;

48.22 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
48.23 substances which were not prescribed for the child by a practitioner, in order to control or
48.24 punish the child; or other substances that substantially affect the child's behavior, motor
48.25 coordination, or judgment or that results in sickness or internal injury, or subjects the
48.26 child to medical procedures that would be unnecessary if the child were not exposed
48.27 to the substances;

48.28 (9) unreasonable physical confinement or restraint not permitted under section
48.29 609.379, including but not limited to tying, caging, or chaining; or

48.30 (10) in a school facility or school zone, an act by a person responsible for the child's
48.31 care that is a violation under section 121A.58.

48.32 (h) "Report" means any report received by the local welfare agency, police
48.33 department, county sheriff, or agency responsible for assessing or investigating
48.34 maltreatment pursuant to this section.

48.35 (i) "Facility" means:

49.1 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
49.2 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
49.3 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

49.4 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
49.5 124D.10; or

49.6 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
49.7 subdivision 16, and 256B.0625, subdivision 19a.

49.8 (j) "Operator" means an operator or agency as defined in section 245A.02.

49.9 (k) "Commissioner" means the commissioner of human services.

49.10 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
49.11 not limited to employee assistance counseling and the provision of guardian ad litem and
49.12 parenting time expeditor services.

49.13 (m) "Mental injury" means an injury to the psychological capacity or emotional
49.14 stability of a child as evidenced by an observable or substantial impairment in the child's
49.15 ability to function within a normal range of performance and behavior with due regard to
49.16 the child's culture.

49.17 (n) "Threatened injury" means a statement, overt act, condition, or status that
49.18 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
49.19 injury includes, but is not limited to, exposing a child to a person responsible for the
49.20 child's care, as defined in paragraph (e), clause (1), who has:

49.21 (1) subjected a child to, or failed to protect a child from, an overt act or condition
49.22 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
49.23 similar law of another jurisdiction;

49.24 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause
49.25 (4), or a similar law of another jurisdiction;

49.26 (3) committed an act that has resulted in an involuntary termination of parental rights
49.27 under section 260C.301, or a similar law of another jurisdiction; or

49.28 (4) committed an act that has resulted in the involuntary transfer of permanent legal
49.29 and physical custody of a child to a relative under section 260C.201, subdivision 11,
49.30 paragraph (d), clause (1), or a similar law of another jurisdiction.

49.31 (o) Persons who conduct assessments or investigations under this section shall take
49.32 into account accepted child-rearing practices of the culture in which a child participates
49.33 and accepted teacher discipline practices, which are not injurious to the child's health,
49.34 welfare, and safety.

49.35 Sec. 21. Minnesota Statutes 2006, section 626.556, subdivision 3, is amended to read:

50.1 Subd. 3. **Persons mandated to report.** (a) A person who knows or has reason
50.2 to believe a child is being neglected or physically or sexually abused, as defined in
50.3 subdivision 2, or has been neglected or physically or sexually abused within the preceding
50.4 three years, shall immediately report the information to the local welfare agency, agency
50.5 responsible for assessing or investigating the report, police department, or the county
50.6 sheriff if the person is:

50.7 (1) a professional or professional's delegate who is engaged in the practice of
50.8 the healing arts, social services, hospital administration, psychological or psychiatric
50.9 treatment, child care, education, correctional supervision, probation and correctional
50.10 services, or law enforcement; or

50.11 (2) employed as a member of the clergy and received the information while
50.12 engaged in ministerial duties, provided that a member of the clergy is not required by
50.13 this subdivision to report information that is otherwise privileged under section 595.02,
50.14 subdivision 1, paragraph (c).

50.15 The police department or the county sheriff, upon receiving a report, shall
50.16 immediately notify the local welfare agency or agency responsible for assessing or
50.17 investigating the report, orally and in writing. The local welfare agency, or agency
50.18 responsible for assessing or investigating the report, upon receiving a report, shall
50.19 immediately notify the local police department or the county sheriff orally and in writing.
50.20 The county sheriff and the head of every local welfare agency, agency responsible
50.21 for assessing or investigating reports, and police department shall each designate a
50.22 person within their agency, department, or office who is responsible for ensuring that
50.23 the notification duties of this paragraph and paragraph (b) are carried out. Nothing in
50.24 this subdivision shall be construed to require more than one report from any institution,
50.25 facility, school, or agency.

50.26 (b) Any person may voluntarily report to the local welfare agency, agency
50.27 responsible for assessing or investigating the report, police department, or the county
50.28 sheriff if the person knows, has reason to believe, or suspects a child is being or has been
50.29 neglected or subjected to physical or sexual abuse. The police department or the county
50.30 sheriff, upon receiving a report, shall immediately notify the local welfare agency or
50.31 agency responsible for assessing or investigating the report, orally and in writing. The
50.32 local welfare agency or agency responsible for assessing or investigating the report, upon
50.33 receiving a report, shall immediately notify the local police department or the county
50.34 sheriff orally and in writing.

50.35 (c) A person mandated to report physical or sexual child abuse or neglect occurring
50.36 within a licensed facility shall report the information to the agency responsible for

51.1 licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or
 51.2 chapter 245B; or a nonlicensed personal care provider organization as defined in sections
 51.3 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency
 51.4 receiving a report may request the local welfare agency to provide assistance pursuant
 51.5 to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work
 51.6 within a school facility, upon receiving a complaint of alleged maltreatment, shall provide
 51.7 information about the circumstances of the alleged maltreatment to the commissioner of
 51.8 education. Section 13.03, subdivision 4, applies to data received by the commissioner of
 51.9 education from a licensing entity.

51.10 (d) Any person mandated to report shall receive a summary of the disposition of
 51.11 any report made by that reporter, including whether the case has been opened for child
 51.12 protection or other services, or if a referral has been made to a community organization,
 51.13 unless release would be detrimental to the best interests of the child. Any person who is
 51.14 not mandated to report shall, upon request to the local welfare agency, receive a concise
 51.15 summary of the disposition of any report made by that reporter, unless release would be
 51.16 detrimental to the best interests of the child.

51.17 (e) For purposes of this ~~subdivision~~ section, "immediately" means as soon as
 51.18 possible but in no event longer than 24 hours.

51.19 Sec. 22. Minnesota Statutes 2006, section 626.556, subdivision 10, is amended to read:

51.20 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
 51.21 **receipt of a report.** (a) Upon receipt of a report, the local welfare agency shall determine
 51.22 whether to conduct a family assessment or an investigation as appropriate to prevent or
 51.23 provide a remedy for child maltreatment. The local welfare agency:

51.24 (1) shall conduct an investigation on reports involving substantial child
 51.25 endangerment;

51.26 (2) shall begin an immediate investigation if, at any time when it is using a family
 51.27 assessment response, it determines that there is reason to believe that substantial child
 51.28 endangerment or a serious threat to the child's safety exists;

51.29 (3) may conduct a family assessment for reports that do not allege substantial child
 51.30 endangerment. In determining that a family assessment is appropriate, the local welfare
 51.31 agency may consider issues of child safety, parental cooperation, and the need for an
 51.32 immediate response; and

51.33 (4) may conduct a family assessment on a report that was initially screened and
 51.34 assigned for an investigation. In determining that a complete investigation is not required,
 51.35 the local welfare agency must document the reason for terminating the investigation and

52.1 notify the local law enforcement agency if the local law enforcement agency is conducting
52.2 a joint investigation.

52.3 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or
52.4 individual functioning within the family unit as a person responsible for the child's care,
52.5 the local welfare agency shall immediately conduct a family assessment or investigation
52.6 as identified in clauses (1) to (4). In conducting a family assessment or investigation, the
52.7 local welfare agency shall gather information on the existence of substance abuse and
52.8 domestic violence and offer services for purposes of preventing future child maltreatment,
52.9 safeguarding and enhancing the welfare of the abused or neglected minor, and supporting
52.10 and preserving family life whenever possible. If the report alleges a violation of a
52.11 criminal statute involving sexual abuse, physical abuse, or neglect or endangerment,
52.12 under section 609.378, the local law enforcement agency and local welfare agency shall
52.13 coordinate the planning and execution of their respective investigation and assessment
52.14 efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency
52.15 shall prepare a separate report of the results of its investigation. In cases of alleged child
52.16 maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a
52.17 law enforcement investigation to make a determination of whether or not maltreatment
52.18 occurred. When necessary the local welfare agency shall seek authority to remove the
52.19 child from the custody of a parent, guardian, or adult with whom the child is living. In
52.20 performing any of these duties, the local welfare agency shall maintain appropriate records.

52.21 If the family assessment or investigation indicates there is a potential for abuse of
52.22 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
52.23 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota
52.24 Rules, part 9530.6615. The local welfare agency shall report the determination of the
52.25 chemical use assessment, and the recommendations and referrals for alcohol and other
52.26 drug treatment services to the state authority on alcohol and drug abuse.

52.27 (b) When a local agency receives a report or otherwise has information indicating
52.28 that a child who is a client, as defined in section 245.91, has been the subject of physical
52.29 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
52.30 245.91, it shall, in addition to its other duties under this section, immediately inform the
52.31 ombudsman established under sections 245.91 to 245.97. The commissioner of education
52.32 shall inform the ombudsman established under sections 245.91 to 245.97 of reports
52.33 regarding a child defined as a client in section 245.91 that maltreatment occurred at a
52.34 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

52.35 (c) Authority of the local welfare agency responsible for assessing or investigating
52.36 the child abuse or neglect report, the agency responsible for assessing or investigating

53.1 the report, and of the local law enforcement agency for investigating the alleged abuse or
53.2 neglect includes, but is not limited to, authority to interview, without parental consent,
53.3 the alleged victim and any other minors who currently reside with or who have resided
53.4 with the alleged offender. The interview may take place at school or at any facility or
53.5 other place where the alleged victim or other minors might be found or the child may be
53.6 transported to, and the interview conducted at, a place appropriate for the interview of a
53.7 child designated by the local welfare agency or law enforcement agency. The interview
53.8 may take place outside the presence of the alleged offender or parent, legal custodian,
53.9 guardian, or school official. For family assessments, it is the preferred practice to request
53.10 a parent or guardian's permission to interview the child prior to conducting the child
53.11 interview, unless doing so would compromise the safety assessment. Except as provided in
53.12 this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible
53.13 local welfare or law enforcement agency no later than the conclusion of the investigation
53.14 or assessment that this interview has occurred. Notwithstanding rule ~~49.02~~ 32 of the
53.15 Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on
53.16 an ex parte motion by the local welfare agency, order that, where reasonable cause exists,
53.17 the agency withhold notification of this interview from the parent, legal custodian, or
53.18 guardian. If the interview took place or is to take place on school property, the order shall
53.19 specify that school officials may not disclose to the parent, legal custodian, or guardian the
53.20 contents of the notification of intent to interview the child on school property, as provided
53.21 under this paragraph, and any other related information regarding the interview that may
53.22 be a part of the child's school record. A copy of the order shall be sent by the local welfare
53.23 or law enforcement agency to the appropriate school official.

53.24 (d) When the local welfare, local law enforcement agency, or the agency responsible
53.25 for assessing or investigating a report of maltreatment determines that an interview should
53.26 take place on school property, written notification of intent to interview the child on school
53.27 property must be received by school officials prior to the interview. The notification
53.28 shall include the name of the child to be interviewed, the purpose of the interview, and
53.29 a reference to the statutory authority to conduct an interview on school property. For
53.30 interviews conducted by the local welfare agency, the notification shall be signed by the
53.31 chair of the local social services agency or the chair's designee. The notification shall be
53.32 private data on individuals subject to the provisions of this paragraph. School officials
53.33 may not disclose to the parent, legal custodian, or guardian the contents of the notification
53.34 or any other related information regarding the interview until notified in writing by the
53.35 local welfare or law enforcement agency that the investigation or assessment has been
53.36 concluded, unless a school employee or agent is alleged to have maltreated the child.

54.1 Until that time, the local welfare or law enforcement agency or the agency responsible
54.2 for assessing or investigating a report of maltreatment shall be solely responsible for any
54.3 disclosures regarding the nature of the assessment or investigation.

54.4 Except where the alleged offender is believed to be a school official or employee,
54.5 the time and place, and manner of the interview on school premises shall be within the
54.6 discretion of school officials, but the local welfare or law enforcement agency shall have
54.7 the exclusive authority to determine who may attend the interview. The conditions as to
54.8 time, place, and manner of the interview set by the school officials shall be reasonable and
54.9 the interview shall be conducted not more than 24 hours after the receipt of the notification
54.10 unless another time is considered necessary by agreement between the school officials and
54.11 the local welfare or law enforcement agency. Where the school fails to comply with the
54.12 provisions of this paragraph, the juvenile court may order the school to comply. Every
54.13 effort must be made to reduce the disruption of the educational program of the child, other
54.14 students, or school staff when an interview is conducted on school premises.

54.15 (e) Where the alleged offender or a person responsible for the care of the alleged
54.16 victim or other minor prevents access to the victim or other minor by the local welfare
54.17 agency, the juvenile court may order the parents, legal custodian, or guardian to produce
54.18 the alleged victim or other minor for questioning by the local welfare agency or the local
54.19 law enforcement agency outside the presence of the alleged offender or any person
54.20 responsible for the child's care at reasonable places and times as specified by court order.

54.21 (f) Before making an order under paragraph (e), the court shall issue an order to
54.22 show cause, either upon its own motion or upon a verified petition, specifying the basis for
54.23 the requested interviews and fixing the time and place of the hearing. The order to show
54.24 cause shall be served personally and shall be heard in the same manner as provided in
54.25 other cases in the juvenile court. The court shall consider the need for appointment of a
54.26 guardian ad litem to protect the best interests of the child. If appointed, the guardian ad
54.27 litem shall be present at the hearing on the order to show cause.

54.28 (g) The commissioner of human services, the ombudsman for mental health and
54.29 developmental disabilities, the local welfare agencies responsible for investigating reports,
54.30 the commissioner of education, and the local law enforcement agencies have the right to
54.31 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
54.32 including medical records, as part of the investigation. Notwithstanding the provisions of
54.33 chapter 13, they also have the right to inform the facility under investigation that they are
54.34 conducting an investigation, to disclose to the facility the names of the individuals under
54.35 investigation for abusing or neglecting a child, and to provide the facility with a copy of
54.36 the report and the investigative findings.

55.1 (h) The local welfare agency responsible for conducting a family assessment shall
55.2 collect available and relevant information to determine child safety, risk of subsequent
55.3 child maltreatment, and family strengths and needs. The local welfare agency or the
55.4 agency responsible for investigating the report shall collect available and relevant
55.5 information to ascertain whether maltreatment occurred and whether protective services
55.6 are needed. Information collected includes, when relevant, information with regard to
55.7 the person reporting the alleged maltreatment, including the nature of the reporter's
55.8 relationship to the child and to the alleged offender, and the basis of the reporter's
55.9 knowledge for the report; the child allegedly being maltreated; the alleged offender; the
55.10 child's caretaker; and other collateral sources having relevant information related to the
55.11 alleged maltreatment. The local welfare agency or the agency responsible for assessing
55.12 or investigating the report may make a determination of no maltreatment early in an
55.13 assessment, and close the case and retain immunity, if the collected information shows no
55.14 basis for a full assessment or investigation.

55.15 Information relevant to the assessment or investigation must be asked for, and
55.16 may include:

55.17 (1) the child's sex and age, prior reports of maltreatment, information relating
55.18 to developmental functioning, credibility of the child's statement, and whether the
55.19 information provided under this clause is consistent with other information collected
55.20 during the course of the assessment or investigation;

55.21 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
55.22 criminal charges and convictions. The local welfare agency or the agency responsible for
55.23 assessing or investigating the report must provide the alleged offender with an opportunity
55.24 to make a statement. The alleged offender may submit supporting documentation relevant
55.25 to the assessment or investigation;

55.26 (3) collateral source information regarding the alleged maltreatment and care of the
55.27 child. Collateral information includes, when relevant: (i) a medical examination of the
55.28 child; (ii) prior medical records relating to the alleged maltreatment or the care of the
55.29 child maintained by any facility, clinic, or health care professional and an interview with
55.30 the treating professionals; and (iii) interviews with the child's caretakers, including the
55.31 child's parent, guardian, foster parent, child care provider, teachers, counselors, family
55.32 members, relatives, and other persons who may have knowledge regarding the alleged
55.33 maltreatment and the care of the child; and

55.34 (4) information on the existence of domestic abuse and violence in the home of
55.35 the child, and substance abuse.

56.1 Nothing in this paragraph precludes the local welfare agency, the local law
56.2 enforcement agency, or the agency responsible for assessing or investigating the report
56.3 from collecting other relevant information necessary to conduct the assessment or
56.4 investigation. Notwithstanding section 13.384 or 144.335, the local welfare agency has
56.5 access to medical data and records for purposes of clause (3). Notwithstanding the data's
56.6 classification in the possession of any other agency, data acquired by the local welfare
56.7 agency or the agency responsible for assessing or investigating the report during the course
56.8 of the assessment or investigation are private data on individuals and must be maintained
56.9 in accordance with subdivision 11. Data of the commissioner of education collected
56.10 or maintained during and for the purpose of an investigation of alleged maltreatment
56.11 in a school are governed by this section, notwithstanding the data's classification as
56.12 educational, licensing, or personnel data under chapter 13.

56.13 In conducting an assessment or investigation involving a school facility as defined
56.14 in subdivision 2, paragraph (i), the commissioner of education shall collect investigative
56.15 reports and data that are relevant to a report of maltreatment and are from local law
56.16 enforcement and the school facility.

56.17 (i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face
56.18 contact with the child reported to be maltreated and with the child's primary caregiver
56.19 sufficient to complete a safety assessment and ensure the immediate safety of the child.
56.20 The face-to-face contact with the child and primary caregiver shall occur immediately
56.21 if substantial child endangerment is alleged and within five calendar days for all other
56.22 reports. If the alleged offender was not already interviewed as the primary caregiver, the
56.23 local welfare agency shall also conduct a face-to-face interview with the alleged offender
56.24 in the early stages of the assessment or investigation. At the initial contact, the local child
56.25 welfare agency or the agency responsible for assessing or investigating the report must
56.26 inform the alleged offender of the complaints or allegations made against the individual in
56.27 a manner consistent with laws protecting the rights of the person who made the report.
56.28 The interview with the alleged offender may be postponed if it would jeopardize an active
56.29 law enforcement investigation.

56.30 (j) When conducting an investigation, the local welfare agency shall use a question
56.31 and answer interviewing format with questioning as nondirective as possible to elicit
56.32 spontaneous responses. For investigations only, the following interviewing methods and
56.33 procedures must be used whenever possible when collecting information:

56.34 (1) audio recordings of all interviews with witnesses and collateral sources; and

56.35 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with
56.36 the alleged victim and child witnesses.

57.1 (k) In conducting an assessment or investigation involving a school facility as
 57.2 defined in subdivision 2, paragraph (i), the commissioner of education shall collect
 57.3 available and relevant information and use the procedures in paragraphs (i), (k), and
 57.4 subdivision 3d, except that the requirement for face-to-face observation of the child
 57.5 and face-to-face interview of the alleged offender is to occur in the initial stages of the
 57.6 assessment or investigation provided that the commissioner may also base the assessment
 57.7 or investigation on investigative reports and data received from the school facility and
 57.8 local law enforcement, to the extent those investigations satisfy the requirements of
 57.9 paragraphs (i) and (k), and subdivision 3d.

57.10 Sec. 23. Minnesota Statutes 2006, section 626.556, subdivision 10c, is amended to
 57.11 read:

57.12 Subd. 10c. **Duties of local social service agency upon receipt of a report of**
 57.13 **medical neglect.** If the report alleges medical neglect as defined in section 260C.007,
 57.14 subdivision ~~4~~ 6, clause (5), the local welfare agency shall, in addition to its other duties
 57.15 under this section, immediately consult with designated hospital staff and with the parents
 57.16 of the infant to verify that appropriate nutrition, hydration, and medication are being
 57.17 provided; and shall immediately secure an independent medical review of the infant's
 57.18 medical charts and records and, if necessary, seek a court order for an independent medical
 57.19 examination of the infant. If the review or examination leads to a conclusion of medical
 57.20 neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings
 57.21 under section 260C.141 and by filing an expedited motion to prevent the withholding
 57.22 of medically indicated treatment.

57.23 Sec. 24. **REVISOR'S INSTRUCTION.**

57.24 The revisor of statutes shall correct all internal references in Minnesota Statutes that
 57.25 are necessary because of the renumbering of clauses (1) to (29) in section 1.

57.26 ARTICLE 4

57.27 CONTINUING CARE

57.28 Section 1. Minnesota Statutes 2006, section 256.476, subdivision 1, is amended to read:

57.29 Subdivision 1. **Purpose and goals.** The commissioner of human services shall
 57.30 establish a consumer support grant program for individuals with functional limitations and
 57.31 their families who wish to purchase and secure their own supports. ~~The commissioner and~~
 57.32 ~~local agencies shall jointly develop an implementation plan which must include a way to~~
 57.33 ~~resolve the issues related to county liability.~~ The program shall:

58.1 (1) make support grants available to individuals or families as an effective alternative
 58.2 to the ~~developmental disability~~ family support program, personal care attendant services,
 58.3 home health aide services, and private duty nursing services;

58.4 (2) provide consumers more control, flexibility, and responsibility over their services
 58.5 and supports;

58.6 (3) promote local program management and decision making; and

58.7 (4) encourage the use of informal and typical community supports.

58.8 Sec. 2. Minnesota Statutes 2006, section 256.476, subdivision 2, is amended to read:

58.9 Subd. 2. **Definitions.** For purposes of this section, the following terms have the
 58.10 meanings given them:

58.11 (a) "County board" means the county board of commissioners for the county of
 58.12 financial responsibility as defined in section 256G.02, subdivision 4, or its designated
 58.13 representative. When a human services board has been established under sections 402.01
 58.14 to 402.10, it shall be considered the county board for the purposes of this section.

58.15 (b) "Family" means the person's birth parents, adoptive parents or stepparents,
 58.16 siblings or stepsiblings, children or stepchildren, grandparents, grandchildren, niece,
 58.17 nephew, aunt, uncle, or spouse. For the purposes of this section, a family member is
 58.18 at least 18 years of age.

58.19 (c) "Functional limitations" means the long-term inability to perform an activity or
 58.20 task in one or more areas of major life activity, including self-care, understanding and use
 58.21 of language, learning, mobility, self-direction, and capacity for independent living. For the
 58.22 purpose of this section, the inability to perform an activity or task results from a mental,
 58.23 emotional, psychological, sensory, or physical disability, condition, or illness.

58.24 (d) "Informed choice" means a voluntary decision made by the person ~~or~~,
 58.25 the person's legal representative, or other authorized representative after becoming
 58.26 familiarized with the alternatives to:

58.27 (1) select a preferred alternative from a number of feasible alternatives;

58.28 (2) select an alternative which may be developed in the future; and

58.29 (3) refuse any or all alternatives.

58.30 (e) "Local agency" means the local agency authorized by the county board or,
 58.31 for counties not participating in the consumer grant program by July 1, 2002, the
 58.32 commissioner, to carry out the provisions of this section.

58.33 (f) "Person" or "persons" means a person or persons meeting the eligibility criteria in
 58.34 subdivision 3.

59.1 (g) "Authorized representative" means an individual designated by the person or
 59.2 their legal representative to act on their behalf. This individual may be a family member,
 59.3 guardian, representative payee, or other individual designated by the person or their legal
 59.4 representative, if any, to assist in purchasing and arranging for supports. For the purposes
 59.5 of this section, an authorized representative is at least 18 years of age.

59.6 (h) "Screening" means the screening of a person's service needs under sections
 59.7 256B.0911 and 256B.092.

59.8 (i) "Supports" means services, care, aids, environmental modifications, or assistance
 59.9 purchased by the person ~~or the person's family~~, the person's legal representative, or other
 59.10 authorized representative. Examples of supports include respite care, assistance with daily
 59.11 living, and assistive technology. For the purpose of this section, notwithstanding the
 59.12 provisions of section 144A.43, supports purchased under the consumer support program
 59.13 are not considered home care services.

59.14 (j) "Program of origination" means the program the individual transferred from
 59.15 when approved for the consumer support grant program.

59.16 Sec. 3. Minnesota Statutes 2006, section 256.476, subdivision 3, is amended to read:

59.17 Subd. 3. **Eligibility to apply for grants.** (a) A person is eligible to apply for a
 59.18 consumer support grant if the person meets all of the following criteria:

59.19 (1) the person is eligible for and has been approved to receive services under
 59.20 medical assistance as determined under sections 256B.055 and 256B.056 or the person
 59.21 has been approved to receive a grant under the ~~developmental disability~~ family support
 59.22 program under section 252.32;

59.23 (2) the person is able to direct and purchase the person's own care and supports, or
 59.24 the person has a family member, legal representative, or other authorized representative
 59.25 who can purchase and arrange supports on the person's behalf;

59.26 (3) the person has functional limitations, requires ongoing supports to live in the
 59.27 community, and is at risk of or would continue institutionalization without such supports;
 59.28 and

59.29 (4) the person will live in a home. For the purpose of this section, "home" means the
 59.30 person's own home or home of a person's family member. These homes are natural home
 59.31 settings and are not licensed by the Department of Health or Human Services.

59.32 (b) Persons may not concurrently receive a consumer support grant if they are:

59.33 (1) receiving personal care attendant and home health aide services, or private duty
 59.34 nursing under section 256B.0625; a ~~developmental disability~~ family support grant; or
 59.35 alternative care services under section 256B.0913; or

60.1 (2) residing in an institutional or congregate care setting.

60.2 (c) A person or person's family receiving a consumer support grant shall not be
60.3 charged a fee or premium by a local agency for participating in the program.

60.4 (d) Individuals receiving home and community-based waivers under United States
60.5 Code, title 42, section 1396h(c), are not eligible for the consumer support grant, except
60.6 for individuals receiving consumer support grants before July 1, 2003, as long as other
60.7 eligibility criteria are met.

60.8 (e) The commissioner shall establish a budgeted appropriation each fiscal year
60.9 for the consumer support grant program. The number of individuals participating in
60.10 the program will be adjusted so the total amount allocated to counties does not exceed
60.11 the amount of the budgeted appropriation. The budgeted appropriation will be adjusted
60.12 annually to accommodate changes in demand for the consumer support grants.

60.13 Sec. 4. Minnesota Statutes 2006, section 256.476, subdivision 4, is amended to read:

60.14 Subd. 4. **Support grants; criteria and limitations.** (a) A county board may
60.15 choose to participate in the consumer support grant program. If a county has not chosen
60.16 to participate by July 1, 2002, the commissioner shall contract with another county or
60.17 other entity to provide access to residents of the nonparticipating county who choose
60.18 the consumer support grant option. The commissioner shall notify the county board
60.19 in a county that has declined to participate of the commissioner's intent to enter into
60.20 a contract with another county or other entity at least 30 days in advance of entering
60.21 into the contract. The local agency shall establish written procedures and criteria to
60.22 determine the amount and use of support grants. These procedures must include, at least,
60.23 the availability of respite care, assistance with daily living, and adaptive aids. The local
60.24 agency may establish monthly or annual maximum amounts for grants and procedures
60.25 where exceptional resources may be required to meet the health and safety needs of the
60.26 person on a time-limited basis, however, the total amount awarded to each individual may
60.27 not exceed the limits established in subdivision 11.

60.28 (b) Support grants to a person ~~or a person's family~~, a person's legal representative,
60.29 or other authorized representative will be provided through a monthly subsidy payment
60.30 and be in the form of cash, voucher, or direct county payment to vendor. Support grant
60.31 amounts must be determined by the local agency. Each service and item purchased with a
60.32 support grant must meet all of the following criteria:

60.33 (1) it must be over and above the normal cost of caring for the person if the person
60.34 did not have functional limitations;

60.35 (2) it must be directly attributable to the person's functional limitations;

61.1 (3) it must enable the person ~~or the person's family~~, a person's legal representative,
61.2 or other authorized representative to delay or prevent out-of-home placement of the
61.3 person; and

61.4 (4) it must be consistent with the needs identified in the service agreement, when
61.5 applicable.

61.6 (c) Items and services purchased with support grants must be those for which there
61.7 are no other public or private funds available to the person ~~or the person's family~~, a person's
61.8 legal representative, or other authorized representative. Fees assessed to the person or the
61.9 person's family for health and human services are not reimbursable through the grant.

61.10 (d) In approving or denying applications, the local agency shall consider the
61.11 following factors:

61.12 (1) the extent and areas of the person's functional limitations;

61.13 (2) the degree of need in the home environment for additional support; and

61.14 (3) the potential effectiveness of the grant to maintain and support the person in the
61.15 family environment or the person's own home.

61.16 (e) At the time of application to the program or screening for other services,
61.17 the person ~~or the person's family~~, a person's legal representative, or other authorized
61.18 representative shall be provided sufficient information to ensure an informed choice
61.19 of alternatives by the person, the person's legal representative, or other authorized
61.20 representative, if any, ~~or the person's family~~. The application shall be made to the local
61.21 agency and shall specify the needs of the person and family, the form and amount of
61.22 grant requested, the items and services to be reimbursed, and evidence of eligibility for
61.23 medical assistance.

61.24 (f) Upon approval of an application by the local agency and agreement on a support
61.25 plan for the person or person's family, the local agency shall make grants to the person or
61.26 the person's family. The grant shall be in an amount for the direct costs of the services or
61.27 supports outlined in the service agreement.

61.28 (g) Reimbursable costs shall not include costs for resources already available, such as
61.29 special education classes, day training and habilitation, case management, other services to
61.30 which the person is entitled, medical costs covered by insurance or other health programs,
61.31 or other resources usually available at no cost to the person or the person's family.

61.32 (h) The state of Minnesota, the county boards participating in the consumer
61.33 support grant program, or the agencies acting on behalf of the county boards in the
61.34 implementation and administration of the consumer support grant program shall not be
61.35 liable for damages, injuries, or liabilities sustained through the purchase of support by
61.36 the individual, the individual's family, or the authorized representative under this section

62.1 with funds received through the consumer support grant program. Liabilities include but
 62.2 are not limited to: workers' compensation liability, the Federal Insurance Contributions
 62.3 Act (FICA), or the Federal Unemployment Tax Act (FUTA). For purposes of this section,
 62.4 participating county boards and agencies acting on behalf of county boards are exempt
 62.5 from the provisions of section 268.04.

62.6 Sec. 5. Minnesota Statutes 2006, section 256.476, subdivision 5, is amended to read:

62.7 Subd. 5. **Reimbursement, allocations, and reporting.** (a) For the purpose of
 62.8 transferring persons to the consumer support grant program from the ~~developmental~~
 62.9 ~~disability~~ family support program and personal care assistant services, home health
 62.10 aide services, or private duty nursing services, the amount of funds transferred by the
 62.11 commissioner between the ~~developmental disability~~ family support program account, the
 62.12 medical assistance account, or the consumer support grant account shall be based on each
 62.13 county's participation in transferring persons to the consumer support grant program
 62.14 from those programs and services.

62.15 (b) At the beginning of each fiscal year, county allocations for consumer support
 62.16 grants shall be based on:

62.17 (1) the number of persons to whom the county board expects to provide consumer
 62.18 supports grants;

62.19 (2) their eligibility for current program and services;

62.20 (3) the amount of nonfederal dollars allowed under subdivision 11; and

62.21 (4) projected dates when persons will start receiving grants. County allocations shall
 62.22 be adjusted periodically by the commissioner based on the actual transfer of persons or
 62.23 service openings, and the nonfederal dollars associated with those persons or service
 62.24 openings, to the consumer support grant program.

62.25 (c) The amount of funds transferred by the commissioner from the medical
 62.26 assistance account for an individual may be changed if it is determined by the county or its
 62.27 agent that the individual's need for support has changed.

62.28 (d) The authority to utilize funds transferred to the consumer support grant account
 62.29 for the purposes of implementing and administering the consumer support grant program
 62.30 will not be limited or constrained by the spending authority provided to the program
 62.31 of origination.

62.32 (e) The commissioner may use up to five percent of each county's allocation, as
 62.33 adjusted, for payments for administrative expenses, to be paid as a proportionate addition
 62.34 to reported direct service expenditures.

63.1 (f) The county allocation for each individual or individual's family cannot exceed
63.2 the amount allowed under subdivision 11.

63.3 (g) The commissioner may recover, suspend, or withhold payments if the county
63.4 board, local agency, or grantee does not comply with the requirements of this section.

63.5 (h) Grant funds unexpended by consumers shall return to the state once a year. The
63.6 annual return of unexpended grant funds shall occur in the quarter following the end of
63.7 the state fiscal year.

63.8 Sec. 6. Minnesota Statutes 2006, section 256.476, subdivision 10, is amended to read:

63.9 Subd. 10. **Consumer responsibilities.** Persons receiving grants under this section
63.10 shall:

63.11 (1) spend the grant money in a manner consistent with their agreement with the
63.12 local agency;

63.13 (2) notify the local agency of any necessary changes in the grant or the items on
63.14 which it is spent;

63.15 (3) notify the local agency of any decision made by the person, ~~the~~ a person's legal
63.16 representative, ~~or the person's family~~ or other authorized representative that would change
63.17 their eligibility for consumer support grants;

63.18 (4) arrange and pay for supports; and

63.19 (5) inform the local agency of areas where they have experienced difficulty securing
63.20 or maintaining supports.

63.21 Sec. 7. Minnesota Statutes 2006, section 256.974, is amended to read:

63.22 **256.974 OFFICE OF OMBUDSMAN FOR ~~OLDER MINNESOTANS~~**
63.23 **LONG-TERM CARE; LOCAL PROGRAMS.**

63.24 The ombudsman for ~~older Minnesotans~~ long-term care serves in the classified service
63.25 under section 256.01, subdivision 7, in an office within the Minnesota Board on Aging that
63.26 incorporates the long-term care ombudsman program required by the Older Americans
63.27 Act, ~~Public Law 100-75 as amended~~, United States Code, title 42, section 3027(a)(~~12~~)
63.28 (9) and 3058g (a), and established within the Minnesota Board on Aging. The Minnesota
63.29 Board on Aging may make grants to and designate local programs for the provision of
63.30 ombudsman services to clients in county or multicounty areas. The local program may not
63.31 be an agency engaged in the provision of nursing home care, hospital care, or home care
63.32 services either directly or by contract, or have the responsibility for planning, coordinating,
63.33 funding, or administering nursing home care, hospital care, or home care services.

64.1 Sec. 8. Minnesota Statutes 2006, section 256.9744, subdivision 1, is amended to read:

64.2 Subdivision 1. **Classification.** Except as provided in this section, data maintained
 64.3 by the office under sections 256.974 to 256.9744 are private data on individuals or
 64.4 nonpublic data as defined in section 13.02, subdivision 9 or 12, and must be maintained
 64.5 in accordance with the requirements of ~~Public Law 100-75~~ the Older Americans Act, as
 64.6 amended, United States Code, title 42, section ~~3027(a)(12)(D)~~ 3058g(d).

64.7 Sec. 9. Minnesota Statutes 2006, section 256B.0625, subdivision 23, is amended to
 64.8 read:

64.9 Subd. 23. **Day treatment services.** Medical assistance covers day treatment
 64.10 services as specified in sections 245.462, subdivision 8, and 245.4871, subdivision 10, that
 64.11 are provided under contract with the county board. Notwithstanding Minnesota Rules,
 64.12 part 9505.0323, subpart 15, the commissioner may set authorization thresholds for day
 64.13 treatment for adults according to section 256B.0625, subdivision 25. Notwithstanding
 64.14 Minnesota Rules, part 9505.0323, subpart 15, effective July 1, 2004, medical assistance
 64.15 covers day treatment services for children as specified under section 256B.0943.

64.16 Sec. 10. Minnesota Statutes 2006, section 256B.0911, subdivision 4c, is amended to
 64.17 read:

64.18 Subd. 4c. **Screening requirements.** (a) A person may be screened for nursing
 64.19 facility admission by telephone or in a face-to-face screening interview. Consultation team
 64.20 members shall identify each individual's needs using the following categories:

64.21 (1) the person needs no face-to-face screening interview to determine the need
 64.22 for nursing facility level of care based on information obtained from other health care
 64.23 professionals;

64.24 (2) the person needs an immediate face-to-face screening interview to determine the
 64.25 need for nursing facility level of care and complete activities required under subdivision
 64.26 4a; or

64.27 (3) the person may be exempt from screening requirements as outlined in subdivision
 64.28 4b, but will need transitional assistance after admission or in-person follow-along after
 64.29 a return home.

64.30 (b) Persons admitted on a nonemergency basis to a Medicaid-certified nursing
 64.31 facility must be screened prior to admission.

64.32 ~~(c) The long-term care consultation team shall recommend a case mix classification~~
 64.33 ~~for persons admitted to a certified nursing facility when sufficient information is received~~
 64.34 ~~to make that classification. The nursing facility is authorized to conduct all case mix~~

65.1 ~~assessments for persons who have been screened prior to admission for whom the county~~
 65.2 ~~did not recommend a case mix classification. The nursing facility is authorized to conduct~~
 65.3 ~~all case mix assessments for persons admitted to the facility prior to a preadmission~~
 65.4 ~~screening. The county retains the responsibility of distributing appropriate case mix~~
 65.5 ~~forms to the nursing facility.~~

65.6 ~~(d)~~ (c) The county screening or intake activity must include processes to identify
 65.7 persons who may require transition assistance as described in subdivision 3b.

65.8 Sec. 11. Minnesota Statutes 2006, section 256B.0913, subdivision 4, is amended to
 65.9 read:

65.10 Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.**

65.11 (a) Funding for services under the alternative care program is available to persons who
 65.12 meet the following criteria:

65.13 (1) the person has been determined by a community assessment under section
 65.14 256B.0911 to be a person who would require the level of care provided in a nursing
 65.15 facility, but for the provision of services under the alternative care program;

65.16 (2) the person is age 65 or older;

65.17 (3) the person would be eligible for medical assistance within 135 days of admission
 65.18 to a nursing facility;

65.19 (4) the person is not ineligible for the medical assistance program due to an asset
 65.20 transfer penalty;

65.21 (5) the person needs long-term care services that are not funded through other state
 65.22 or federal funding;

65.23 (6) the monthly cost of the alternative care services funded by the program for
 65.24 this person does not exceed 75 percent of the monthly limit described under section
 65.25 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client
 65.26 from payment for additional services, but in no case may the cost of additional services
 65.27 purchased under this section exceed the difference between the client's monthly service
 65.28 limit defined under section 256B.0915, subdivision 3, and the alternative care program
 65.29 monthly service limit defined in this paragraph. If ~~medical~~ care-related supplies and
 65.30 equipment or environmental modifications and adaptations are or will be purchased for
 65.31 an alternative care services recipient, the costs may be prorated on a monthly basis for
 65.32 up to 12 consecutive months beginning with the month of purchase. If the monthly cost
 65.33 of a recipient's other alternative care services exceeds the monthly limit established in
 65.34 this paragraph, the annual cost of the alternative care services shall be determined. In this

66.1 event, the annual cost of alternative care services shall not exceed 12 times the monthly
66.2 limit described in this paragraph; and

66.3 (7) the person is making timely payments of the assessed monthly fee.

66.4 A person is ineligible if payment of the fee is over 60 days past due, unless the person
66.5 agrees to:

66.6 (i) the appointment of a representative payee;

66.7 (ii) automatic payment from a financial account;

66.8 (iii) the establishment of greater family involvement in the financial management of
66.9 payments; or

66.10 (iv) another method acceptable to the ~~county~~ lead agency to ensure prompt fee
66.11 payments.

66.12 The ~~county shall~~ lead agency may extend the client's eligibility as necessary while
66.13 making arrangements to facilitate payment of past-due amounts and future premium
66.14 payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall
66.15 not be reinstated for a period of 30 days.

66.16 (b) Alternative care funding under this subdivision is not available for a person
66.17 who is a medical assistance recipient or who would be eligible for medical assistance
66.18 without a spenddown or waiver obligation. A person whose initial application for medical
66.19 assistance and the elderly waiver program is being processed may be served under the
66.20 alternative care program for a period up to 60 days. If the individual is found to be eligible
66.21 for medical assistance, medical assistance must be billed for services payable under the
66.22 federally approved elderly waiver plan and delivered from the date the individual was
66.23 found eligible for the federally approved elderly waiver plan. Notwithstanding this
66.24 provision, alternative care funds may not be used to pay for any service the cost of which:
66.25 (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation;
66.26 or (iii) is used to pay a medical assistance income spenddown for a person who is eligible
66.27 to participate in the federally approved elderly waiver program under the special income
66.28 standard provision.

66.29 (c) Alternative care funding is not available for a person who resides in a licensed
66.30 nursing home, certified boarding care home, hospital, or intermediate care facility, except
66.31 for case management services which are provided in support of the discharge planning
66.32 process for a nursing home resident or certified boarding care home resident to assist with
66.33 a relocation process to a community-based setting.

66.34 (d) Alternative care funding is not available for a person whose income is greater
66.35 than the maintenance needs allowance under section 256B.0915, subdivision 1d, but is
66.36 equal to or less than 120 percent of the federal poverty guideline effective July 1 in the

67.1 fiscal year for which alternative care eligibility is determined, who would be eligible for
 67.2 the elderly waiver with a waiver obligation.

67.3 Sec. 12. Minnesota Statutes 2006, section 256B.0913, subdivision 5, is amended to
 67.4 read:

67.5 Subd. 5. **Services covered under alternative care.** Alternative care funding may
 67.6 be used for payment of costs of:

- 67.7 (1) adult day care;
- 67.8 (2) home health aide;
- 67.9 (3) homemaker services;
- 67.10 (4) personal care;
- 67.11 (5) case management;
- 67.12 (6) respite care;
- 67.13 (7) care-related supplies and equipment;
- 67.14 (8) meals delivered to the home;
- 67.15 (9) nonmedical transportation;
- 67.16 (10) nursing services;
- 67.17 (11) chore services;
- 67.18 (12) companion services;
- 67.19 (13) nutrition services;
- 67.20 (14) training for direct informal caregivers;
- 67.21 (15) telehome care to provide services in their own homes in conjunction with
 67.22 in-home visits;
- 67.23 (16) ~~discretionary services, for which counties may make payment from their~~
 67.24 ~~alternative care program allocation or services not otherwise defined in this section~~
 67.25 ~~or section 256B.0625, following approval by the commissioner~~ consumer-directed
 67.26 community services under the alternative care programs which are available statewide and
 67.27 limited to the average monthly expenditures representative of all alternative care program
 67.28 participants for the same case mix resident class assigned in the most recent fiscal year for
 67.29 which complete expenditure data is available;
- 67.30 (17) environmental modifications and adaptations; and
- 67.31 (18) ~~direct cash payments for which counties may make payment from their~~
 67.32 ~~alternative care program allocation to clients for the purpose of purchasing services;~~
 67.33 ~~following approval by the commissioner, and subject to the provisions of subdivision 5h;~~
 67.34 ~~until approval and implementation of consumer-directed services through the federally~~
 67.35 ~~approved elderly waiver plan. Upon implementation, consumer-directed services under~~

68.1 ~~the alternative care program are available statewide and limited to the average monthly~~
 68.2 ~~expenditures representative of all alternative care program participants for the same case~~
 68.3 ~~mix resident class assigned in the most recent fiscal year for which complete expenditure~~
 68.4 ~~data is available~~ discretionary services, for which lead agencies may make payment from
 68.5 their alternative care program allocation for services not otherwise defined in this section
 68.6 or section 256B.0625, following approval by the commissioner.

68.7 Total annual payments for discretionary services ~~and direct cash payments, until~~
 68.8 ~~the federally approved consumer-directed service option is implemented statewide, for~~
 68.9 ~~all clients within a county may served by a lead agency must~~ not exceed 25 percent of
 68.10 that ~~county's~~ lead agency's annual alternative care program base allocation. ~~Thereafter,~~
 68.11 ~~discretionary services are limited to 25 percent of the county's annual alternative care~~
 68.12 ~~program base allocation.~~

68.13 Sec. 13. Minnesota Statutes 2006, section 256B.0913, subdivision 5a, is amended to
 68.14 read:

68.15 Subd. 5a. **Services; service definitions; service standards.** (a) Unless specified in
 68.16 statute, the services, service definitions, and standards for alternative care services shall
 68.17 be the same as the services, service definitions, and standards specified in the federally
 68.18 approved elderly waiver plan, except for transitional support services, assisted living
 68.19 services, adult foster care services, and residential care services.

68.20 (b) The ~~county~~ lead agency must ensure that the funds are not used to supplant
 68.21 services available through other public assistance or services programs. For a provider of
 68.22 supplies and equipment when the monthly cost of the supplies and equipment is less than
 68.23 \$250, persons or agencies must be employed by or under a contract with the ~~county~~ lead
 68.24 agency or the public health nursing agency of the local board of health in order to receive
 68.25 funding under the alternative care program. Supplies and equipment may be purchased
 68.26 from a vendor not certified to participate in the Medicaid program if the cost for the
 68.27 item is less than that of a Medicaid vendor.

68.28 (c) Personal care services must meet the service standards defined in the federally
 68.29 approved elderly waiver plan, except that a ~~county~~ lead agency may contract with a
 68.30 client's relative who meets the relative hardship waiver requirements or a relative who
 68.31 meets the criteria and is also the responsible party under an individual service plan that
 68.32 ensures the client's health and safety and supervision of the personal care services by a
 68.33 qualified professional as defined in section 256B.0625, subdivision 19c. Relative hardship
 68.34 is established by the ~~county~~ lead agency when the client's care causes a relative caregiver
 68.35 to do any of the following: resign from a paying job, reduce work hours resulting in lost

69.1 wages, obtain a leave of absence resulting in lost wages, incur substantial client-related
 69.2 expenses, provide services to address authorized, unstaffed direct care time, or meet
 69.3 special needs of the client unmet in the formal service plan.

69.4 Sec. 14. Minnesota Statutes 2006, section 256B.0913, subdivision 8, is amended to
 69.5 read:

69.6 Subd. 8. **Requirements for individual care plan.** (a) The case manager shall
 69.7 implement the plan of care for each alternative care client and ensure that a client's
 69.8 service needs and eligibility are reassessed at least every 12 months. The plan shall
 69.9 include any services prescribed by the individual's attending physician as necessary to
 69.10 allow the individual to remain in a community setting. In developing the individual's care
 69.11 plan, the case manager should include the use of volunteers from families and neighbors,
 69.12 religious organizations, social clubs, and civic and service organizations to support the
 69.13 formal home care services. The ~~county~~ lead agency shall be held harmless for damages or
 69.14 injuries sustained through the use of volunteers under this subdivision including workers'
 69.15 compensation liability. The ~~county of service~~ case manager shall provide documentation
 69.16 in each individual's plan of care and, if requested, to the commissioner that the most
 69.17 cost-effective alternatives available have been offered to the individual and that the
 69.18 individual was free to choose among available qualified providers, both public and private,
 69.19 including qualified case management or service coordination providers other than those
 69.20 employed by any county; however, the county or tribe maintains responsibility for prior
 69.21 authorizing services in accordance with statutory and administrative requirements. The
 69.22 case manager must give the individual a ten-day written notice of any denial, termination,
 69.23 or reduction of alternative care services.

69.24 (b) The county of service or tribe must provide access to and arrange for case
 69.25 management services, including assuring implementation of the plan. "County of service"
 69.26 has the meaning given it in Minnesota Rules, part 9505.0015, subpart 11. The county of
 69.27 service must notify the county of financial responsibility of the approved care plan and
 69.28 the amount of encumbered funds.

69.29 Sec. 15. Minnesota Statutes 2006, section 256B.0913, subdivision 9, is amended to
 69.30 read:

69.31 Subd. 9. **Contracting provisions for providers.** Alternative care funds paid to
 69.32 service providers are subject to audit by the commissioner for fiscal and utilization control.

69.33 The lead agency must select providers for contracts or agreements using the
 69.34 following criteria and other criteria established by the ~~county~~ lead agency:

- 70.1 (1) the need for the particular services offered by the provider;
- 70.2 (2) the population to be served, including the number of clients, the length of time
- 70.3 services will be provided, and the medical condition of clients;
- 70.4 (3) the geographic area to be served;
- 70.5 (4) quality assurance methods, including appropriate licensure, certification, or
- 70.6 standards, and supervision of employees when needed;
- 70.7 (5) rates for each service and unit of service exclusive of county lead agency
- 70.8 administrative costs;
- 70.9 (6) evaluation of services previously delivered by the provider; and
- 70.10 (7) contract or agreement conditions, including billing requirements, cancellation,
- 70.11 and indemnification.

70.12 The county lead agency must evaluate its own agency services under the criteria

70.13 established for other providers.

70.14 Sec. 16. Minnesota Statutes 2006, section 256B.0913, subdivision 10, is amended to

70.15 read:

70.16 Subd. 10. **Allocation formula.** (a) ~~The alternative care appropriation for fiscal~~

70.17 ~~years 1992 and beyond shall cover only alternative care eligible clients.~~ By July ~~1~~ 15 of

70.18 each year, the commissioner shall allocate to county agencies the state funds available for

70.19 alternative care for persons eligible under subdivision 2.

70.20 (b) The adjusted base for each county lead agency is the county's lead agency's

70.21 current fiscal year base allocation plus any targeted funds approved during the current

70.22 fiscal year. Calculations for paragraphs (c) and (d) are to be made as follows: for each

70.23 county lead agency, the determination of alternative care program expenditures shall be

70.24 based on payments for services rendered from April 1 through March 31 in the base year,

70.25 to the extent that claims have been submitted and paid by June 1 of that year.

70.26 (c) If the alternative care program expenditures as defined in paragraph (b) are 95

70.27 percent or more of the county's lead agency's adjusted base allocation, the allocation for

70.28 the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that

70.29 inflation is included in the state budget.

70.30 (d) If the alternative care program expenditures as defined in paragraph (b) are less

70.31 than 95 percent of the county's lead agency's adjusted base allocation, the allocation

70.32 for the next fiscal year is the adjusted base allocation less the amount of unspent funds

70.33 below the 95 percent level.

70.34 (e) If the annual legislative appropriation for the alternative care program is

70.35 inadequate to fund the combined county lead agency allocations for a biennium, the

71.1 commissioner shall distribute to each ~~county~~ lead agency the entire annual appropriation
 71.2 as that ~~county's~~ lead agency's percentage of the computed base as calculated in paragraphs
 71.3 (c) and (d).

71.4 (f) On agreement between the commissioner and the lead agency, the commissioner
 71.5 may have discretion to reallocate alternative care base allocations distributed to lead
 71.6 agencies in which the base amount exceeds program expenditures.

71.7 Sec. 17. Minnesota Statutes 2006, section 256B.0913, subdivision 11, is amended to
 71.8 read:

71.9 Subd. 11. **Targeted funding.** (a) The purpose of targeted funding is to make
 71.10 additional money available to ~~counties~~ lead agencies with the greatest need. Targeted
 71.11 funds are not intended to be distributed equitably among all ~~counties~~ lead agencies, but
 71.12 rather, allocated to those with long-term care strategies that meet state goals.

71.13 (b) The funds available for targeted funding shall be the total appropriation for each
 71.14 fiscal year minus ~~county~~ lead agency allocations determined under subdivision 10 as
 71.15 adjusted for any inflation increases provided in appropriations for the biennium.

71.16 (c) The commissioner shall allocate targeted funds to ~~counties~~ lead agencies that
 71.17 demonstrate to the satisfaction of the commissioner that they have developed feasible
 71.18 plans to increase alternative care spending. In making targeted funding allocations, the
 71.19 commissioner shall use the following priorities:

71.20 (1) ~~counties~~ lead agencies that received a lower allocation in fiscal year 1991 than in
 71.21 fiscal year 1990. Counties remain in this priority until they have been restored to their
 71.22 fiscal year 1990 level plus inflation;

71.23 (2) ~~counties~~ lead agencies that sustain a base allocation reduction for failure to spend
 71.24 95 percent of the allocation if they demonstrate that the base reduction should be restored;

71.25 (3) ~~counties~~ lead agencies that propose projects to divert community residents from
 71.26 nursing home placement or convert nursing home residents to community living; and

71.27 (4) ~~counties~~ lead agencies that can otherwise justify program growth by
 71.28 demonstrating the existence of waiting lists, demographically justified needs, or other
 71.29 unmet needs.

71.30 (d) ~~Counties~~ Lead agencies that would receive targeted funds according to
 71.31 paragraph (c) must demonstrate to the commissioner's satisfaction that the funds
 71.32 would be appropriately spent by showing how the funds would be used to further the
 71.33 state's alternative care goals as described in subdivision 1, and that the county has the
 71.34 administrative and service delivery capability to use them.

72.1 (e) The commissioner shall ~~request applications~~ make applications available for
 72.2 targeted funds by November 1 of each year. The ~~counties~~ lead agencies selected for
 72.3 targeted funds shall be notified of the amount of their additional funding. Targeted funds
 72.4 allocated to a ~~county~~ lead agency in one year shall be treated as part of the ~~county's~~ lead
 72.5 agency's base allocation for that year in determining allocations for subsequent years. No
 72.6 reallocations between ~~counties~~ lead agencies shall be made.

72.7 Sec. 18. Minnesota Statutes 2006, section 256B.0913, subdivision 12, is amended to
 72.8 read:

72.9 Subd. 12. **Client fees.** (a) A fee is required for all alternative care eligible clients
 72.10 to help pay for the cost of participating in the program. The amount of the fee for the
 72.11 alternative care client shall be determined as follows:

72.12 (1) when the alternative care client's income less recurring and predictable medical
 72.13 expenses is less than 100 percent of the federal poverty guideline effective on July 1 of
 72.14 the state fiscal year in which the fee is being computed, and total assets are less than
 72.15 \$10,000, the fee is zero;

72.16 (2) when the alternative care client's income less recurring and predictable medical
 72.17 expenses is equal to or greater than 100 percent but less than 150 percent of the federal
 72.18 poverty guideline effective on July 1 of the state fiscal year in which the fee is being
 72.19 computed, and total assets are less than \$10,000, the fee is five percent of the cost of
 72.20 alternative care services;

72.21 (3) when the alternative care client's income less recurring and predictable medical
 72.22 expenses is equal to or greater than 150 percent but less than 200 percent of the federal
 72.23 poverty guidelines effective on July 1 of the state fiscal year in which the fee is being
 72.24 computed and assets are less than \$10,000, the fee is 15 percent of the cost of alternative
 72.25 care services;

72.26 (4) when the alternative care client's income less recurring and predictable medical
 72.27 expenses is equal to or greater than 200 percent of the federal poverty guidelines effective
 72.28 on July 1 of the state fiscal year in which the fee is being computed and assets are less than
 72.29 \$10,000, the fee is 30 percent of the cost of alternative care services; and

72.30 (5) when the alternative care client's assets are equal to or greater than \$10,000, the
 72.31 fee is 30 percent of the cost of alternative care services.

72.32 For married persons, total assets are defined as the total marital assets less the
 72.33 estimated community spouse asset allowance, under section 256B.059, if applicable. For
 72.34 married persons, total income is defined as the client's income less the monthly spousal
 72.35 allotment, under section 256B.058.

73.1 All alternative care services shall be included in the estimated costs for the purpose
73.2 of determining the fee.

73.3 Fees are due and payable each month alternative care services are received unless the
73.4 actual cost of the services is less than the fee, in which case the fee is the lesser amount.

73.5 (b) The fee shall be waived by the commissioner when:

73.6 (1) a person ~~who is residing in a nursing facility is receiving case management only;~~

73.7 (2) a married couple is requesting an asset assessment under the spousal
73.8 impoverishment provisions;

73.9 (3) a person is found eligible for alternative care, but is not yet receiving alternative
73.10 care services including case management services; or

73.11 (4) a person has chosen to participate in a consumer-directed service plan for which
73.12 the cost is no greater than the total cost of the person's alternative care service plan less
73.13 the monthly fee amount that would otherwise be assessed.

73.14 (c) ~~The county agency must record in the state's receivable system the client's~~
73.15 ~~assessed fee amount or the reason the fee has been waived. The commissioner will bill~~
73.16 and collect the fee from the client. Money collected must be deposited in the general fund
73.17 and is appropriated to the commissioner for the alternative care program. The client must
73.18 supply the county lead agency with the client's Social Security number at the time of
73.19 application. The county lead agency shall supply the commissioner with the client's Social
73.20 Security number and other information the commissioner requires to collect the fee from
73.21 the client. The commissioner shall collect unpaid fees using the Revenue Recapture Act in
73.22 chapter 270A and other methods available to the commissioner. The commissioner may
73.23 require ~~counties~~ lead agencies to inform clients of the collection procedures that may be
73.24 used by the state if a fee is not paid. This paragraph does not apply to alternative care
73.25 pilot projects authorized in Laws 1993, First Special Session chapter 1, article 5, section
73.26 133, if a county operating under the pilot project reports the following dollar amounts
73.27 to the commissioner quarterly:

73.28 (1) total fees billed to clients;

73.29 (2) total collections of fees billed; and

73.30 (3) balance of fees owed by clients.

73.31 If a county lead agency does not adhere to these reporting requirements, the commissioner
73.32 may terminate the billing, collecting, and remitting portions of the pilot project and require
73.33 the county lead agency involved to operate under the procedures set forth in this paragraph.

73.34 Sec. 19. Minnesota Statutes 2006, section 256B.0913, subdivision 13, is amended to
73.35 read:

74.1 Subd. 13. **County Lead agency biennial plan.** The county lead agency biennial
 74.2 plan for long-term care consultation services under section 256B.0911, the alternative
 74.3 care program under this section, and waivers for the elderly under section 256B.0915,
 74.4 shall be submitted by the lead agency as the home and community-based services quality
 74.5 assurance plan on a form provided by the commissioner.

74.6 Sec. 20. Minnesota Statutes 2006, section 256B.0913, subdivision 14, is amended to
 74.7 read:

74.8 Subd. 14. **Provider requirements, payment, and rate adjustments.** (a) Unless
 74.9 otherwise specified in statute, providers must be enrolled as Minnesota health care
 74.10 program providers and abide by the requirements for provider participation according to
 74.11 Minnesota Rules, part 9505.0195.

74.12 (b) Payment for provided alternative care services as approved by the client's
 74.13 case manager shall occur through the invoice processing procedures of the department's
 74.14 Medicaid Management Information System (MMIS). To receive payment, the county lead
 74.15 agency or vendor must submit invoices within 12 months following the date of service.
 74.16 The county lead agency and its vendors under contract shall not be reimbursed for services
 74.17 which exceed the county allocation.

74.18 (c) The county lead agency shall negotiate individual rates with vendors and may
 74.19 authorize service payment for actual costs up to the county's current approved rate.
 74.20 Notwithstanding any other rule or statutory provision to the contrary, the commissioner
 74.21 shall not be authorized to increase rates by an annual inflation factor, unless so authorized
 74.22 by the legislature. To improve access to community services and eliminate payment
 74.23 disparities between the alternative care program and the elderly waiver program, the
 74.24 commissioner shall establish statewide maximum service rate limits and eliminate
 74.25 county-specific service rate limits.

74.26 (1) Effective July 1, 2001, for service rate limits, except those in subdivision 5,
 74.27 paragraphs (d) and (i), the rate limit for each service shall be the greater of the alternative
 74.28 care statewide maximum rate or the elderly waiver statewide maximum rate.

74.29 (2) ~~Counties~~ Lead agencies may negotiate individual service rates with vendors for
 74.30 actual costs up to the statewide maximum service rate limit.

74.31 Sec. 21. Minnesota Statutes 2006, section 256B.0919, subdivision 3, is amended to
 74.32 read:

74.33 Subd. 3. **County certification of persons providing adult foster care to related**
 74.34 **persons.** A person exempt from licensure under section 245A.03, subdivision 2, who

75.1 provides adult foster care to a related individual age 65 and older, and who meets the
 75.2 requirements in Minnesota Rules, parts 9555.5105 to 9555.6265, may be certified by the
 75.3 county to provide adult foster care. A person certified by the county to provide adult foster
 75.4 care may be reimbursed for services provided and eligible for funding under ~~sections~~
 75.5 ~~256B.0913 and~~ section 256B.0915, if the relative would suffer a financial hardship as
 75.6 a result of providing care. For purposes of this subdivision, financial hardship refers
 75.7 to a situation in which a relative incurs a substantial reduction in income as a result of
 75.8 resigning from a full-time job or taking a leave of absence without pay from a full-time
 75.9 job to care for the client.

75.10 Sec. 22. Minnesota Statutes 2006, section 256B.431, subdivision 1, is amended to read:

75.11 Subdivision 1. **In general.** The commissioner shall determine prospective
 75.12 payment rates for resident care costs. For rates established on or after July 1, 1985, the
 75.13 commissioner shall develop procedures for determining operating cost payment rates that
 75.14 take into account the mix of resident needs, geographic location, and other factors as
 75.15 determined by the commissioner. The commissioner shall consider whether the fact that a
 75.16 facility is attached to a hospital or has an average length of stay of 180 days or less should
 75.17 be taken into account in determining rates. The commissioner shall consider the use of the
 75.18 standard metropolitan statistical areas when developing groups by geographic location.
 75.19 The commissioner shall provide notice to each nursing facility on or before ~~May 1~~ August
 75.20 15 of the rates effective for the following rate year except that if legislation is pending on
 75.21 ~~May 1~~ August 15 that may affect rates for nursing facilities, the commissioner shall set the
 75.22 rates after the legislation is enacted and provide notice to each facility as soon as possible.

75.23 Compensation for top management personnel shall continue to be categorized as a
 75.24 general and administrative cost and is subject to any limits imposed on that cost category.

75.25 Sec. 23. Minnesota Statutes 2006, section 256B.431, subdivision 3f, is amended to
 75.26 read:

75.27 Subd. 3f. **Property costs after July 1, 1988.** (a) **Investment per bed limit.** For the
 75.28 rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be \$32,571
 75.29 per licensed bed in multiple bedrooms and \$48,857 per licensed bed in a single bedroom.
 75.30 For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a
 75.31 single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060,
 75.32 subpart 4, item A, subitem (1). Beginning January 1, 1990, the replacement-cost-new per
 75.33 bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060,
 75.34 subpart 4, item A, subitem (1). Beginning January 1, 1991, the replacement-cost-new per

76.1 bed limits will be adjusted annually as specified in Minnesota Rules, part 9549.0060,
 76.2 subpart 4, item A, subitem (1), except that the index utilized will be the Bureau of ~~the~~
 76.3 ~~Census: Composite fixed-weighted price index as published in the C30 Report, Value~~
 76.4 ~~of New Construction Put in Place~~ Economic Analysis: Price Indexes for Private Fixed
 76.5 Investments in Structures; Special Care.

76.6 (b) **Rental factor.** For the rate year beginning July 1, 1988, the commissioner shall
 76.7 increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8,
 76.8 item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing
 76.9 nursing facilities for soft costs and entrepreneurial profits not included in the cost valuation
 76.10 services used by the state's contracted appraisers. For rate years beginning on or after July
 76.11 1, 1989, the rental factor is the amount determined under this paragraph for the rate year
 76.12 beginning July 1, 1988.

76.13 (c) **Occupancy factor.** For rate years beginning on or after July 1, 1988, in order
 76.14 to determine property-related payment rates under Minnesota Rules, part 9549.0060,
 76.15 for all nursing facilities except those whose average length of stay in a skilled level of
 76.16 care within a nursing facility is 180 days or less, the commissioner shall use 95 percent
 76.17 of capacity days. For a nursing facility whose average length of stay in a skilled level of
 76.18 care within a nursing facility is 180 days or less, the commissioner shall use the greater of
 76.19 resident days or 80 percent of capacity days but in no event shall the divisor exceed 95
 76.20 percent of capacity days.

76.21 (d) **Equipment allowance.** For rate years beginning on July 1, 1988, and July 1,
 76.22 1989, the commissioner shall add ten cents per resident per day to each nursing facility's
 76.23 property-related payment rate. The ten-cent property-related payment rate increase is not
 76.24 cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the
 76.25 commissioner shall increase each nursing facility's equipment allowance as established
 76.26 in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For
 76.27 rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be
 76.28 adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E.
 76.29 For the rate period beginning October 1, 1992, the equipment allowance for each nursing
 76.30 facility shall be increased by 28 percent. For rate years beginning after June 30, 1993, the
 76.31 allowance must be adjusted annually for inflation.

76.32 (e) **Post chapter 199 related-organization debts and interest expense.** For rate
 76.33 years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item
 76.34 E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983,
 76.35 provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010
 76.36 to 9510.0480, the debt is subject to repayment through annual principal payments, and

77.1 the nursing facility demonstrates to the commissioner's satisfaction that the interest rate
 77.2 on the debt was less than market interest rates for similar arm's-length transactions at
 77.3 the time the debt was incurred. If the debt was incurred due to a sale between family
 77.4 members, the nursing facility must also demonstrate that the seller no longer participates
 77.5 in the management or operation of the nursing facility. Debts meeting the conditions of
 77.6 this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010
 77.7 to 9549.0080.

77.8 **(f) Building capital allowance for nursing facilities with operating leases.** For
 77.9 rate years beginning on or after July 1, 1990, a nursing facility with operating lease costs
 77.10 incurred for the nursing facility's buildings shall receive its building capital allowance
 77.11 computed in accordance with Minnesota Rules, part 9549.0060, subpart 8. If an operating
 77.12 lease provides that the lessee's rent is adjusted to recognize improvements made by the
 77.13 lessor and related debt, the costs for capital improvements and related debt shall be allowed
 77.14 in the computation of the lessee's building capital allowance, provided that reimbursement
 77.15 for these costs under an operating lease shall not exceed the rate otherwise paid.

77.16 Sec. 24. Minnesota Statutes 2006, section 256B.431, subdivision 17e, is amended to
 77.17 read:

77.18 Subd. 17e. **Replacement-costs-new per bed limit effective July 1, 2001.**
 77.19 Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem (2),
 77.20 for a total replacement, as defined in ~~paragraph (f)~~ subdivision 17d, authorized under
 77.21 section 144A.071 or 144A.073 after July 1, 1999, or any building project that is a
 77.22 relocation, renovation, upgrading, or conversion completed on or after July 1, 2001, the
 77.23 replacement-costs-new per bed limit shall be \$74,280 per licensed bed in multiple-bed
 77.24 rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating
 77.25 the resident beds, and \$111,420 per licensed bed in single rooms. Minnesota Rules, part
 77.26 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts must be
 77.27 adjusted annually as specified in subdivision 3f, paragraph (a), beginning January 1, 2000.

77.28 **ARTICLE 5**
 77.29 **HEALTH CARE**

77.30 Section 1. Minnesota Statutes 2006, section 256B.0625, subdivision 1a, is amended to
 77.31 read:

77.32 Subd. 1a. **Services provided in a hospital emergency room.** Medical assistance
 77.33 ~~does not cover visits to a hospital emergency room that are not for emergency and~~
 77.34 ~~emergency poststabilization care or urgent care, and does not pay for any services~~

78.1 ~~provided in a hospital emergency room that are not for emergency and emergency~~
 78.2 ~~poststabilization care or urgent care~~ covers the facility component of a nonemergency
 78.3 visit to the hospital emergency room at the payment level of the appropriate outpatient
 78.4 clinic facility component.

78.5 Sec. 2. Minnesota Statutes 2006, section 256B.0625, subdivision 13c, is amended to
 78.6 read:

78.7 Subd. 13c. **Formulary committee.** The commissioner, after receiving
 78.8 recommendations from professional medical associations and professional pharmacy
 78.9 associations, and consumer groups shall designate a Formulary Committee to carry
 78.10 out duties as described in subdivisions 13 to 13g. The Formulary Committee shall be
 78.11 comprised of four licensed physicians actively engaged in the practice of medicine in
 78.12 Minnesota one of whom must be actively engaged in the treatment of persons with mental
 78.13 illness; at least three licensed pharmacists actively engaged in the practice of pharmacy
 78.14 in Minnesota; and one consumer representative; the remainder to be made up of health
 78.15 care professionals who are licensed in their field and have recognized knowledge in the
 78.16 clinically appropriate prescribing, dispensing, and monitoring of covered outpatient drugs.
 78.17 Members of the Formulary Committee shall not be employed by the Department of
 78.18 Human Services, but the committee shall be staffed by an employee of the department
 78.19 who shall serve as an ex officio, nonvoting member of the ~~board~~ committee. The
 78.20 department's medical director shall also serve as an ex officio, nonvoting member for the
 78.21 committee. Committee members shall serve three-year terms and may be reappointed
 78.22 by the commissioner. The Formulary Committee shall meet at least quarterly. The
 78.23 commissioner may require more frequent Formulary Committee meetings as needed. An
 78.24 honorarium of \$100 per meeting and reimbursement for mileage shall be paid to each
 78.25 committee member in attendance.

78.26 Sec. 3. Minnesota Statutes 2006, section 256D.03, subdivision 4, is amended to read:

78.27 Subd. 4. **General assistance medical care; services.** (a)(i) For a person who is
 78.28 eligible under subdivision 3, paragraph (a), clause (2), item (i), general assistance medical
 78.29 care covers, except as provided in paragraph (c):

- 78.30 (1) inpatient hospital services;
- 78.31 (2) outpatient hospital services;
- 78.32 (3) services provided by Medicare certified rehabilitation agencies;
- 78.33 (4) prescription drugs and other products recommended through the process
 78.34 established in section 256B.0625, subdivision 13;

- 79.1 (5) equipment necessary to administer insulin and diagnostic supplies and equipment
79.2 for diabetics to monitor blood sugar level;
- 79.3 (6) eyeglasses and eye examinations provided by a physician or optometrist;
- 79.4 (7) hearing aids;
- 79.5 (8) prosthetic devices;
- 79.6 (9) laboratory and X-ray services;
- 79.7 (10) physician's services;
- 79.8 (11) medical transportation except special transportation;
- 79.9 (12) chiropractic services as covered under the medical assistance program;
- 79.10 (13) podiatric services;
- 79.11 (14) dental services as covered under the medical assistance program;
- 79.12 (15) outpatient services provided by a mental health center or clinic that is under
79.13 contract with the county board and is established under section 245.62;
- 79.14 (16) day treatment services for mental illness provided under contract with the
79.15 county board;
- 79.16 (17) prescribed medications for persons who have been diagnosed as mentally ill as
79.17 necessary to prevent more restrictive institutionalization;
- 79.18 (18) psychological services, medical supplies and equipment, and Medicare
79.19 premiums, coinsurance and deductible payments;
- 79.20 (19) medical equipment not specifically listed in this paragraph when the use of
79.21 the equipment will prevent the need for costlier services that are reimbursable under
79.22 this subdivision;
- 79.23 (20) services performed by a certified pediatric nurse practitioner, a certified family
79.24 nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological
79.25 nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse
79.26 practitioner in independent practice, if (1) the service is otherwise covered under this
79.27 chapter as a physician service, (2) the service provided on an inpatient basis is not included
79.28 as part of the cost for inpatient services included in the operating payment rate, and (3) the
79.29 service is within the scope of practice of the nurse practitioner's license as a registered
79.30 nurse, as defined in section 148.171;
- 79.31 (21) services of a certified public health nurse or a registered nurse practicing in
79.32 a public health nursing clinic that is a department of, or that operates under the direct
79.33 authority of, a unit of government, if the service is within the scope of practice of the
79.34 public health nurse's license as a registered nurse, as defined in section 148.171;
- 79.35 (22) telemedicine consultations, to the extent they are covered under section
79.36 256B.0625, subdivision 3b; and

80.1 (23) mental health telemedicine and psychiatric consultation as covered under
80.2 section 256B.0625, subdivisions 46 and 48.

80.3 (ii) Effective October 1, 2003, for a person who is eligible under subdivision 3,
80.4 paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited
80.5 to inpatient hospital services, including physician services provided during the inpatient
80.6 hospital stay. A \$1,000 deductible is required for each inpatient hospitalization.

80.7 (b) Effective August 1, 2005, sex reassignment surgery is not covered under this
80.8 subdivision.

80.9 (c) In order to contain costs, the commissioner of human services shall select
80.10 vendors of medical care who can provide the most economical care consistent with high
80.11 medical standards and shall where possible contract with organizations on a prepaid
80.12 capitation basis to provide these services. The commissioner shall consider proposals by
80.13 counties and vendors for prepaid health plans, competitive bidding programs, block grants,
80.14 or other vendor payment mechanisms designed to provide services in an economical
80.15 manner or to control utilization, with safeguards to ensure that necessary services are
80.16 provided. Before implementing prepaid programs in counties with a county operated or
80.17 affiliated public teaching hospital or a hospital or clinic operated by the University of
80.18 Minnesota, the commissioner shall consider the risks the prepaid program creates for the
80.19 hospital and allow the county or hospital the opportunity to participate in the program in a
80.20 manner that reflects the risk of adverse selection and the nature of the patients served by
80.21 the hospital, provided the terms of participation in the program are competitive with the
80.22 terms of other participants considering the nature of the population served. Payment for
80.23 services provided pursuant to this subdivision shall be as provided to medical assistance
80.24 vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For
80.25 payments made during fiscal year 1990 and later years, the commissioner shall consult
80.26 with an independent actuary in establishing prepayment rates, but shall retain final control
80.27 over the rate methodology.

80.28 (d) Effective January 1, 2008, drug coverage under general assistance medical care
80.29 is limited to prescription drugs that:

80.30 (i) are covered under the medical assistance program as described in section
80.31 256B.0625, subdivisions 13 and 13d; and

80.32 (ii) are provided by manufacturers that have fully executed general assistance
80.33 medical care rebate agreements with the commissioner and comply with the agreements.
80.34 Prescription drug coverage under general assistance medical care must conform to
80.35 coverage under the medical assistance program according to section 256B.0625,
80.36 subdivisions 13 to 13g.

81.1 ~~(d)~~ (e) Recipients eligible under subdivision 3, paragraph (a), shall pay the following
81.2 co-payments for services provided on or after October 1, 2003:

81.3 (1) \$25 for eyeglasses;

81.4 (2) \$25 for nonemergency visits to a hospital-based emergency room;

81.5 (3) \$3 per brand-name drug prescription and \$1 per generic drug prescription,
81.6 subject to a \$12 per month maximum for prescription drug co-payments. No co-payments
81.7 shall apply to antipsychotic drugs when used for the treatment of mental illness; and

81.8 (4) 50 percent coinsurance on restorative dental services.

81.9 ~~(e)~~ (f) Co-payments shall be limited to one per day per provider for nonpreventive
81.10 visits, eyeglasses, and nonemergency visits to a hospital-based emergency room.

81.11 Recipients of general assistance medical care are responsible for all co-payments in this
81.12 subdivision. The general assistance medical care reimbursement to the provider shall be
81.13 reduced by the amount of the co-payment, except that reimbursement for prescription
81.14 drugs shall not be reduced once a recipient has reached the \$12 per month maximum for
81.15 prescription drug co-payments. The provider collects the co-payment from the recipient.
81.16 Providers may not deny services to recipients who are unable to pay the co-payment,
81.17 except as provided in paragraph (f).

81.18 ~~(f)~~ (g) If it is the routine business practice of a provider to refuse service to an
81.19 individual with uncollected debt, the provider may include uncollected co-payments
81.20 under this section. A provider must give advance notice to a recipient with uncollected
81.21 debt before services can be denied.

81.22 ~~(g)~~ (h) Any county may, from its own resources, provide medical payments for
81.23 which state payments are not made.

81.24 ~~(h)~~ (i) Chemical dependency services that are reimbursed under chapter 254B must
81.25 not be reimbursed under general assistance medical care.

81.26 ~~(i)~~ (j) The maximum payment for new vendors enrolled in the general assistance
81.27 medical care program after the base year shall be determined from the average usual and
81.28 customary charge of the same vendor type enrolled in the base year.

81.29 ~~(j)~~ (k) The conditions of payment for services under this subdivision are the same
81.30 as the conditions specified in rules adopted under chapter 256B governing the medical
81.31 assistance program, unless otherwise provided by statute or rule.

81.32 ~~(k)~~ (l) Inpatient and outpatient payments shall be reduced by five percent, effective
81.33 July 1, 2003. This reduction is in addition to the five percent reduction effective July 1,
81.34 2003, and incorporated by reference in paragraph (i).

81.35 ~~(l)~~ (m) Payments for all other health services except inpatient, outpatient, and
81.36 pharmacy services shall be reduced by five percent, effective July 1, 2003.

82.1 ~~(m)~~ (n) Payments to managed care plans shall be reduced by five percent for services
82.2 provided on or after October 1, 2003.

82.3 ~~(n)~~ (o) A hospital receiving a reduced payment as a result of this section may apply
82.4 the unpaid balance toward satisfaction of the hospital's bad debts.

82.5 ~~(o)~~ (p) Fee-for-service payments for nonpreventive visits shall be reduced by \$3
82.6 for services provided on or after January 1, 2006. For purposes of this subdivision, a
82.7 visit means an episode of service which is required because of a recipient's symptoms,
82.8 diagnosis, or established illness, and which is delivered in an ambulatory setting by
82.9 a physician or physician ancillary, chiropractor, podiatrist, advance practice nurse,
82.10 audiologist, optician, or optometrist.

82.11 ~~(p)~~ (q) Payments to managed care plans shall not be increased as a result of the
82.12 removal of the \$3 nonpreventive visit co-payment effective January 1, 2006.

82.13 Sec. 4. Minnesota Statutes 2006, section 256E.35, subdivision 2, is amended to read:

82.14 Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

82.15 (b) "Family asset account" means a savings account opened by a household
82.16 participating in the Minnesota family assets for independence initiative.

82.17 (c) "Fiduciary organization" means:

82.18 (1) a community action agency that has obtained recognition under section ~~268.53~~
82.19 256E.31;

82.20 (2) a federal community development credit union serving the seven-county
82.21 metropolitan area; or

82.22 (3) a women-oriented economic development agency serving the seven-county
82.23 metropolitan area.

82.24 (d) "Financial institution" means a bank, bank and trust, savings bank, savings
82.25 association, or credit union, the deposits of which are insured by the Federal Deposit
82.26 Insurance Corporation or the National Credit Union Administration.

82.27 (e) "Permissible use" means:

82.28 (1) postsecondary educational expenses at an accredited public postsecondary
82.29 institution including books, supplies, and equipment required for courses of instruction;

82.30 (2) acquisition costs of acquiring, constructing, or reconstructing a residence,
82.31 including any usual or reasonable settlement, financing, or other closing costs;

82.32 (3) business capitalization expenses for expenditures on capital, plant, equipment,
82.33 working capital, and inventory expenses of a legitimate business pursuant to a business
82.34 plan approved by the fiduciary organization; and

83.1 (4) acquisition costs of a principal residence within the meaning of section 1034 of
 83.2 the Internal Revenue Code of 1986 which do not exceed 100 percent of the average area
 83.3 purchase price applicable to the residence determined according to section 143(e)(2) and
 83.4 (3) of the Internal Revenue Code of 1986.

83.5 (f) "Household" means all individuals who share use of a dwelling unit as primary
 83.6 quarters for living and eating separate from other individuals.

83.7 Sec. 5. Minnesota Statutes 2006, section 256L.03, subdivision 5, is amended to read:

83.8 Subd. 5. **Co-payments and coinsurance.** (a) Except as provided in paragraphs (b)
 83.9 and (c), the MinnesotaCare benefit plan shall include the following co-payments and
 83.10 coinsurance requirements for all enrollees:

83.11 (1) ten percent of the paid charges for inpatient hospital services for adult enrollees,
 83.12 subject to an annual inpatient out-of-pocket maximum of \$1,000 per individual and
 83.13 \$3,000 per family;

83.14 (2) \$3 per prescription for adult enrollees;

83.15 (3) \$25 for eyeglasses for adult enrollees;

83.16 (4) \$3 per nonpreventive visit. For purposes of this subdivision, a "visit" means an
 83.17 episode of service which is required because of a recipient's symptoms, diagnosis, or
 83.18 established illness, and which is delivered in an ambulatory setting by a physician or
 83.19 physician ancillary, chiropractor, podiatrist, nurse midwife, advanced practice nurse,
 83.20 audiologist, optician, or optometrist; and

83.21 (5) \$6 for nonemergency visits to a hospital-based emergency room.

83.22 (b) Paragraph (a), clause (1), does not apply to parents and relative caretakers of
 83.23 children under the age of 21 in households with family income equal to or less than 175
 83.24 percent of the federal poverty guidelines. Paragraph (a), clause (1), does not apply to
 83.25 parents and relative caretakers of children under the age of 21 in households with family
 83.26 income greater than 175 percent of the federal poverty guidelines for inpatient hospital
 83.27 admissions occurring on or after January 1, 2001.

83.28 (c) Paragraph (a), ~~clauses (1) to (4), do~~ does not apply to pregnant women and
 83.29 children under the age of 21.

83.30 (d) Adult enrollees with family gross income that exceeds 175 percent of the
 83.31 federal poverty guidelines and who are not pregnant shall be financially responsible for
 83.32 the coinsurance amount, if applicable, and amounts which exceed the \$10,000 inpatient
 83.33 hospital benefit limit.

83.34 (e) When a MinnesotaCare enrollee becomes a member of a prepaid health plan,
 83.35 or changes from one prepaid health plan to another during a calendar year, any charges

84.1 submitted towards the \$10,000 annual inpatient benefit limit, and any out-of-pocket
 84.2 expenses incurred by the enrollee for inpatient services, that were submitted or incurred
 84.3 prior to enrollment, or prior to the change in health plans, shall be disregarded.

84.4 Sec. 6. Minnesota Statutes 2006, section 256L.04, subdivision 1, is amended to read:

84.5 Subdivision 1. **Families with children.** (a) Families with children with family
 84.6 income equal to or less than 275 percent of the federal poverty guidelines for the
 84.7 applicable family size shall be eligible for MinnesotaCare according to this section. All
 84.8 other provisions of sections 256L.01 to 256L.18, including the insurance-related barriers
 84.9 to enrollment under section 256L.07, shall apply unless otherwise specified.

84.10 (b) Parents who enroll in the MinnesotaCare program must also enroll their children,
 84.11 if the children are eligible. Children may be enrolled separately without enrollment by
 84.12 parents. However, if one parent in the household enrolls, both parents must enroll, unless
 84.13 other insurance is available. If one child from a family is enrolled, all children must
 84.14 be enrolled, unless other insurance is available. If one spouse in a household enrolls,
 84.15 the other spouse in the household must also enroll, unless other insurance is available.
 84.16 Families cannot choose to enroll only certain uninsured members.

84.17 (c) Beginning October 1, 2003, the dependent sibling definition no longer applies
 84.18 to the MinnesotaCare program. These persons are no longer counted in the parental
 84.19 household and may apply as a separate household.

84.20 (d) Beginning July 1, 2003, or upon federal approval, whichever is later, parents
 84.21 are not eligible for MinnesotaCare if their gross income exceeds ~~\$50,000~~ \$25,000 for the
 84.22 six-month period of eligibility.

84.23 Sec. 7. Minnesota Statutes 2006, section 256L.04, subdivision 12, is amended to read:

84.24 Subd. 12. **Persons in detention.** Beginning January 1, 1999, an applicant residing
 84.25 in a correctional or detention facility is not eligible for MinnesotaCare. An enrollee
 84.26 residing in a correctional or detention facility is not eligible at renewal of eligibility under
 84.27 section 256L.05, subdivision ~~3b~~ 3a.

84.28 ARTICLE 6

84.29 MISCELLANEOUS

84.30 Section 1. Minnesota Statutes 2006, section 256J.30, subdivision 9, is amended to read:

84.31 Subd. 9. **Changes that must be reported.** A caregiver must report the changes or
 84.32 anticipated changes specified in clauses (1) to (16) within ten days of the date they occur,
 84.33 at the time of the periodic recertification of eligibility under section 256J.32, subdivision

85.1 6, or within eight calendar days of a reporting period as in subdivision 5 or 6, whichever
 85.2 occurs first. A caregiver must report other changes at the time of the periodic recertification
 85.3 of eligibility under section 256J.32, subdivision 6, or at the end of a reporting period under
 85.4 subdivision 5 or 6, as applicable. A caregiver must make these reports in writing to the
 85.5 county agency. When a county agency could have reduced or terminated assistance for
 85.6 one or more payment months if a delay in reporting a change specified under clauses (1)
 85.7 to (15) had not occurred, the county agency must determine whether a timely notice
 85.8 under section 256J.31, subdivision 4, could have been issued on the day that the change
 85.9 occurred. When a timely notice could have been issued, each month's overpayment
 85.10 subsequent to that notice must be considered a client error overpayment under section
 85.11 256J.38. Calculation of overpayments for late reporting under clause (16) is specified in
 85.12 section 256J.09, subdivision 9. Changes in circumstances which must be reported within
 85.13 ten days must also be reported on the MFIP household report form for the reporting period
 85.14 in which those changes occurred. Within ten days, a caregiver must report:

- 85.15 (1) a change in initial employment;
- 85.16 (2) a change in initial receipt of unearned income;
- 85.17 (3) a recurring change in unearned income;
- 85.18 (4) a nonrecurring change of unearned income that exceeds \$30;
- 85.19 (5) the receipt of a lump sum;
- 85.20 (6) an increase in assets that may cause the assistance unit to exceed asset limits;
- 85.21 (7) a change in the physical or mental status of an incapacitated member of the
 85.22 assistance unit if the physical or mental status is the basis of exemption from an MFIP
 85.23 ~~employment services program under section 256J.56, or as the basis~~ for reducing the
 85.24 hourly participation requirements under section 256J.55, subdivision 1, or the type of
 85.25 activities included in an employment plan under section 256J.521, subdivision 2;
- 85.26 (8) a change in employment status;
- 85.27 (9) information affecting an exception under section 256J.24, subdivision 9;
- 85.28 (10) the marriage or divorce of an assistance unit member;
- 85.29 (11) the death of a parent, minor child, or financially responsible person;
- 85.30 (12) a change in address or living quarters of the assistance unit;
- 85.31 (13) the sale, purchase, or other transfer of property;
- 85.32 (14) a change in school attendance of a caregiver under age 20 or an employed child;
- 85.33 (15) filing a lawsuit, a workers' compensation claim, or a monetary claim against a
 85.34 third party; and

86.1 (16) a change in household composition, including births, returns to and departures
 86.2 from the home of assistance unit members and financially responsible persons, or a change
 86.3 in the custody of a minor child.

86.4 Sec. 2. Minnesota Statutes 2006, section 256J.32, subdivision 4, is amended to read:

86.5 Subd. 4. **Factors to be verified.** The county agency shall verify the following
 86.6 at application:

86.7 (1) identity of adults;

86.8 (2) presence of the minor child in the home, if questionable;

86.9 (3) relationship of a minor child to caregivers in the assistance unit;

86.10 (4) age, if necessary to determine MFIP eligibility;

86.11 (5) immigration status;

86.12 (6) Social Security number according to the requirements of section 256J.30,
 86.13 subdivision 12;

86.14 (7) income;

86.15 (8) self-employment expenses used as a deduction;

86.16 (9) source and purpose of deposits and withdrawals from business accounts;

86.17 (10) spousal support and child support payments made to persons outside the
 86.18 household;

86.19 (11) real property;

86.20 (12) vehicles;

86.21 (13) checking and savings accounts;

86.22 (14) savings certificates, savings bonds, stocks, and individual retirement accounts;

86.23 (15) pregnancy, if related to eligibility;

86.24 (16) inconsistent information, if related to eligibility;

86.25 (17) burial accounts;

86.26 (18) school attendance, if related to eligibility;

86.27 (19) residence;

86.28 (20) a claim of family violence if used as a basis to qualify for the family violence
 86.29 waiver;

86.30 (21) disability if used ~~as the basis for an exemption from employment and training~~
 86.31 ~~services requirements under section 256J.56 or as the basis for reducing the hourly~~
 86.32 participation requirements under section 256J.55, subdivision 1, or the type of activity
 86.33 included in an employment plan under section 256J.521, subdivision 2; and

86.34 (22) information needed to establish an exception under section 256J.24, subdivision
 86.35 9.

87.1 Sec. 3. Minnesota Statutes 2006, section 256J.42, subdivision 5, is amended to read:

87.2 Subd. 5. **Exemption for certain families.** (a) Any cash assistance received by an
87.3 assistance unit does not count toward the 60-month limit on assistance during a month in
87.4 which the caregiver is age 60 or older, ~~including months during which the caregiver was~~
87.5 ~~exempt under section 256J.56, paragraph (a), clause (1).~~

87.6 (b) From July 1, 1997, until the date MFIP is operative in the caregiver's county of
87.7 financial responsibility, any cash assistance received by a caregiver who is complying with
87.8 Minnesota Statutes 1996, section 256.73, subdivision 5a, and Minnesota Statutes 1998,
87.9 section 256.736, if applicable, does not count toward the 60-month limit on assistance.
87.10 Thereafter, any cash assistance received by a minor caregiver who is complying with
87.11 the requirements of sections 256J.14 and 256J.54, if applicable, does not count towards
87.12 the 60-month limit on assistance.

87.13 (c) Any diversionary assistance or emergency assistance received prior to July 1,
87.14 2003, does not count toward the 60-month limit.

87.15 (d) Any cash assistance received by an 18- or 19-year-old caregiver who is
87.16 complying with an employment plan that includes an education option under section
87.17 256J.54 does not count toward the 60-month limit.

87.18 (e) Payments provided to meet short-term emergency needs under section 256J.626
87.19 and diversionary work program benefits provided under section 256J.95 do not count
87.20 toward the 60-month time limit.

87.21 Sec. 4. Minnesota Statutes 2006, section 256J.42, subdivision 6, is amended to read:

87.22 Subd. 6. **Case review.** (a) Within 180 days, but not less than 60 days, before the end
87.23 of the participant's 60th month on assistance, the county agency or job counselor must
87.24 review the participant's case to determine if the employment plan is still appropriate ~~or if~~
87.25 ~~the participant is exempt under section 256J.56 from the employment and training services~~
87.26 ~~component~~, and attempt to meet with the participant face-to-face.

87.27 (b) During the face-to-face meeting, a county agency or the job counselor must:

87.28 (1) inform the participant how many months of counted assistance the participant
87.29 has accrued and when the participant is expected to reach the 60th month;

87.30 (2) explain the hardship extension criteria under section 256J.425 and what the
87.31 participant should do if the participant thinks a hardship extension applies;

87.32 (3) identify other resources that may be available to the participant to meet the
87.33 needs of the family; and

87.34 (4) inform the participant of the right to appeal the case closure under section
87.35 256J.40.

88.1 (c) If a face-to-face meeting is not possible, the county agency must send the
88.2 participant a notice of adverse action as provided in section 256J.31, subdivisions 4 and 5.

88.3 (d) Before a participant's case is closed under this section, the county must ensure
88.4 that:

88.5 (1) the case has been reviewed by the job counselor's supervisor or the review team
88.6 designated by the county to determine if the criteria for a hardship extension, if requested,
88.7 were applied appropriately; and

88.8 (2) the county agency or the job counselor attempted to meet with the participant
88.9 face-to-face.

88.10 Sec. 5. Minnesota Statutes 2006, section 256J.425, subdivision 6, is amended to read:

88.11 Subd. 6. **Sanctions for extended cases.** (a) If one or both participants in an
88.12 assistance unit receiving assistance under subdivision 3 or 4 are not in compliance with
88.13 the employment and training service requirements in sections 256J.521 to 256J.57,
88.14 the sanctions under this subdivision apply. For a first occurrence of noncompliance,
88.15 an assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph
88.16 (c), clause (1). For a second or third occurrence of noncompliance, the assistance unit
88.17 must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (2). For a
88.18 fourth occurrence of noncompliance, the assistance unit is disqualified from MFIP. If a
88.19 participant is determined to be out of compliance, the participant may claim a good cause
88.20 exception under section 256J.57, ~~however, the participant may not claim an exemption~~
88.21 ~~under section 256J.56.~~

88.22 (b) If both participants in a two-parent assistance unit are out of compliance at the
88.23 same time, it is considered one occurrence of noncompliance.

88.24 (c) When a parent in an extended two-parent assistance unit who has not used 60
88.25 months of assistance is out of compliance with the employment and training service
88.26 requirements in sections 256J.521 to 256J.57, sanctions must be applied as specified in
88.27 clauses (1) and (2).

88.28 (1) If the assistance unit is receiving assistance under subdivision 3 or 4, the
88.29 assistance unit is subject to the sanction policy in this subdivision.

88.30 (2) If the assistance unit is receiving assistance under subdivision 2, the assistance
88.31 unit is subject to the sanction policy in section 256J.46.

88.32 (d) If a two-parent assistance unit is extended under subdivision 3 or 4, and a
88.33 parent who has not reached the 60-month time limit is out of compliance with the
88.34 employment and training services requirements in sections 256J.521 to 256J.57 when the
88.35 case is extended, the sanction in the 61st month is considered the first sanction for the

89.1 purposes of applying the sanctions in this subdivision, except that the sanction amount
89.2 shall be 30 percent.

89.3 Sec. 6. Minnesota Statutes 2006, section 256J.46, subdivision 1, is amended to read:

89.4 Subdivision 1. **Participants not complying with program requirements.** (a)

89.5 A participant who fails without good cause under section 256J.57 to comply with the
89.6 requirements of this chapter, and who is not subject to a sanction under subdivision 2,
89.7 shall be subject to a sanction as provided in this subdivision. Prior to the imposition of
89.8 a sanction, a county agency shall provide a notice of intent to sanction under section
89.9 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided
89.10 in section 256J.31.

89.11 (b) A sanction under this subdivision becomes effective the month following the
89.12 month in which a required notice is given. A sanction must not be imposed when a
89.13 participant comes into compliance with the requirements for orientation under section
89.14 256J.45 prior to the effective date of the sanction. A sanction must not be imposed
89.15 when a participant comes into compliance with the requirements for employment and
89.16 training services under sections 256J.515 to 256J.57 ten days prior to the effective date
89.17 of the sanction. For purposes of this subdivision, each month that a participant fails to
89.18 comply with a requirement of this chapter shall be considered a separate occurrence of
89.19 noncompliance. If both participants in a two-parent assistance unit are out of compliance
89.20 at the same time, it is considered one occurrence of noncompliance.

89.21 (c) Sanctions for noncompliance shall be imposed as follows:

89.22 (1) For the first occurrence of noncompliance by a participant in an assistance unit,
89.23 the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need
89.24 for an assistance unit of the same size with the residual grant paid to the participant. The
89.25 reduction in the grant amount must be in effect for a minimum of one month and shall be
89.26 removed in the month following the month that the participant returns to compliance.

89.27 (2) For a second, third, fourth, fifth, or sixth occurrence of noncompliance by a
89.28 participant in an assistance unit, the assistance unit's shelter costs shall be vendor paid
89.29 up to the amount of the cash portion of the MFIP grant for which the assistance unit is
89.30 eligible. At county option, the assistance unit's utilities may also be vendor paid up to
89.31 the amount of the cash portion of the MFIP grant remaining after vendor payment of the
89.32 assistance unit's shelter costs. The residual amount of the grant after vendor payment, if
89.33 any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an
89.34 assistance unit of the same size before the residual grant is paid to the assistance unit. The
89.35 reduction in the grant amount must be in effect for a minimum of one month and shall be

90.1 removed in the month following the month that the participant in a one-parent assistance
 90.2 unit returns to compliance. In a two-parent assistance unit, the grant reduction must
 90.3 be in effect for a minimum of one month and shall be removed in the month following
 90.4 the month both participants return to compliance. The vendor payment of shelter costs
 90.5 and, if applicable, utilities shall be removed six months after the month in which the
 90.6 participant or participants return to compliance. If an assistance unit is sanctioned under
 90.7 this clause, the participant's case file must be reviewed to determine if the employment
 90.8 plan is still appropriate.

90.9 (d) For a seventh occurrence of noncompliance by a participant in an assistance
 90.10 unit, or when the participants in a two-parent assistance unit have a total of seven
 90.11 occurrences of noncompliance, the county agency shall close the MFIP assistance unit's
 90.12 financial assistance case, both the cash and food portions, and redetermine the family's
 90.13 continued eligibility for food support payments. The MFIP case must remain closed for a
 90.14 minimum of one full month. Before the case is closed, the county agency must review
 90.15 the participant's case to determine if the employment plan is still appropriate and attempt
 90.16 to meet with the participant face-to-face. The participant may bring an advocate to the
 90.17 face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must
 90.18 send the participant a written notice that includes the information required under clause (1).

90.19 (1) During the face-to-face meeting, the county agency must:

90.20 (i) determine whether the continued noncompliance can be explained and mitigated
 90.21 by providing a needed preemployment activity, as defined in section 256J.49, subdivision
 90.22 13, clause (9);

90.23 (ii) determine whether the participant qualifies for a good cause exception under
 90.24 section 256J.57, or if the sanction is for noncooperation with child support requirements,
 90.25 determine if the participant qualifies for a good cause exemption under section 256.741,
 90.26 subdivision 10;

90.27 (iii) determine whether ~~the participant qualifies for an exemption under section~~
 90.28 ~~256J.56~~ or the work activities in the employment plan are appropriate based on the criteria
 90.29 in section 256J.521, subdivision 2 or 3;

90.30 (iv) determine whether the participant qualifies for the family violence waiver;

90.31 (v) inform the participant of the participant's sanction status and explain the
 90.32 consequences of continuing noncompliance;

90.33 (vi) identify other resources that may be available to the participant to meet the
 90.34 needs of the family; and

90.35 (vii) inform the participant of the right to appeal under section 256J.40.

91.1 (2) If the lack of an identified activity or service can explain the noncompliance, the
91.2 county must work with the participant to provide the identified activity.

91.3 (3) The grant must be restored to the full amount for which the assistance unit is
91.4 eligible retroactively to the first day of the month in which the participant was found to
91.5 lack preemployment activities or to qualify for ~~an exemption under section 256J.56~~, a
91.6 family violence waiver, or for a good cause exemption under section 256.741, subdivision
91.7 10, or 256J.57.

91.8 (e) For the purpose of applying sanctions under this section, only occurrences of
91.9 noncompliance that occur after July 1, 2003, shall be considered. If the participant is in
91.10 30 percent sanction in the month this section takes effect, that month counts as the first
91.11 occurrence for purposes of applying the sanctions under this section, but the sanction
91.12 shall remain at 30 percent for that month.

91.13 (f) An assistance unit whose case is closed under paragraph (d) or (g), may
91.14 reapply for MFIP and shall be eligible if the participant complies with MFIP program
91.15 requirements and demonstrates compliance for up to one month. No assistance shall be
91.16 paid during this period.

91.17 (g) An assistance unit whose case has been closed for noncompliance, that reapplies
91.18 under paragraph (f), is subject to sanction under paragraph (c), clause (2), for a first
91.19 occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result
91.20 in case closure under paragraph (d).

91.21 Sec. 7. Minnesota Statutes 2006, section 256J.50, subdivision 1, is amended to read:

91.22 Subdivision 1. **Employment and training services component of MFIP.** (a) Each
91.23 county must develop and provide an employment and training services component which
91.24 is designed to put participants on the most direct path to unsubsidized employment.
91.25 Participation in these services is mandatory for all MFIP caregivers, ~~unless the caregiver~~
91.26 ~~is exempt under section 256J.56.~~

91.27 (b) A county must provide employment and training services under sections
91.28 256J.515 to 256J.74 within 30 days after the caregiver is determined eligible for MFIP, or
91.29 within ten days when the caregiver participated in the diversionary work program under
91.30 section 256J.95 within the past 12 months.

91.31 Sec. 8. Minnesota Statutes 2006, section 256J.54, subdivision 2, is amended to read:

91.32 Subd. 2. **Responsibility for assessment and employment plan.** For caregivers
91.33 who are under age 18 without a high school diploma or its equivalent, the assessment
91.34 under subdivision 1 and the employment plan under subdivision 3 must be completed

92.1 by the social services agency under section 257.33. For caregivers who are age 18 or
 92.2 19 without a high school diploma or its equivalent who choose to have an employment
 92.3 plan with an education option under subdivision 3, the assessment under subdivision 1
 92.4 and the employment plan under subdivision 3 must be completed by the job counselor
 92.5 or, at county option, by the social services agency under section 257.33. Upon reaching
 92.6 age 18 or 19 a caregiver who received social services under section 257.33 and is without
 92.7 a high school diploma or its equivalent has the option to choose whether to continue
 92.8 receiving services under the caregiver's plan from the social services agency or to utilize
 92.9 an MFIP employment and training service provider. The social services agency or the job
 92.10 counselor shall consult with ~~representatives of educational agencies that are required to~~
 92.11 ~~assist in developing educational plans under section 124D.331.~~ the participant's school in
 92.12 developing the educational plan.

92.13 Sec. 9. Minnesota Statutes 2006, section 256J.54, subdivision 5, is amended to read:

92.14 Subd. 5. **School attendance required.** (a) ~~Notwithstanding the provisions of~~
 92.15 ~~section 256J.56,~~ Minor parents, or 18- or 19-year-old parents without a high school
 92.16 diploma or its equivalent, who ~~chooses~~ choose an employment plan with an education
 92.17 option must attend school unless:

92.18 (1) transportation services needed to enable the caregiver to attend school are not
 92.19 available;

92.20 (2) appropriate child care services needed to enable the caregiver to attend school
 92.21 are not available;

92.22 (3) the caregiver is ill or incapacitated seriously enough to prevent attendance at
 92.23 school; or

92.24 (4) the caregiver is needed in the home because of the illness or incapacity of
 92.25 another member of the household. This includes a caregiver of a child who is younger
 92.26 than six weeks of age.

92.27 (b) The caregiver must be enrolled in a secondary school and meeting the school's
 92.28 attendance requirements. The county, social service agency, or job counselor must verify
 92.29 at least once per quarter that the caregiver is meeting the school's attendance requirements.
 92.30 An enrolled caregiver is considered to be meeting the attendance requirements when the
 92.31 school is not in regular session, including during holiday and summer breaks.

92.32 Sec. 10. Minnesota Statutes 2006, section 256J.55, subdivision 1, is amended to read:

93.1 Subdivision 1. **Participation requirements.** (a) All caregivers must participate
 93.2 in employment services under sections 256J.515 to 256J.57 concurrent with receipt of
 93.3 MFIP assistance.

93.4 ~~(b) Until July 1, 2004, participants who meet the requirements of section 256J.56 are~~
 93.5 ~~exempt from participation requirements.~~

93.6 ~~(c)~~ (b) Participants under paragraph (a) must develop and comply with an
 93.7 employment plan under section 256J.521 or section 256J.54 in the case of a participant
 93.8 under the age of 20 who has not obtained a high school diploma or its equivalent.

93.9 ~~(d)~~ (c) With the exception of participants under the age of 20 who must meet
 93.10 the education requirements of section 256J.54, all participants must meet the hourly
 93.11 participation requirements of TANF or the hourly requirements listed in clauses (1) to
 93.12 (3), whichever is higher.

93.13 (1) In single-parent families with no children under six years of age, the job
 93.14 counselor and the caregiver must develop an employment plan that includes 30 to 35
 93.15 hours per week of work activities.

93.16 (2) In single-parent families with a child under six years of age, the job counselor
 93.17 and the caregiver must develop an employment plan that includes 20 to 35 hours per
 93.18 week of work activities.

93.19 (3) In two-parent families, the job counselor and the caregivers must develop
 93.20 employment plans which result in a combined total of at least 55 hours per week of work
 93.21 activities.

93.22 ~~(e)~~ (d) Failure to participate in employment services, including the requirement to
 93.23 develop and comply with an employment plan, including hourly requirements, without
 93.24 good cause under section 256J.57, shall result in the imposition of a sanction under section
 93.25 256J.46.

93.26 Sec. 11. Minnesota Statutes 2006, section 256J.561, subdivision 2, is amended to read:

93.27 Subd. 2. **Participation requirements.** (a) All MFIP caregivers whose applications
 93.28 were received July 1, 2004, or after, are immediately subject to the requirements of this
 93.29 subdivision. All MFIP caregivers, except caregivers who meet the criteria in subdivision 3,
 93.30 must participate in employment services. Except as specified in paragraphs (b) to (d), the
 93.31 employment plan must meet the requirements of section 256J.521, subdivision 2, contain
 93.32 allowable work activities, as defined in section 256J.49, subdivision 13, and, include at a
 93.33 minimum, the number of participation hours required under section 256J.55, subdivision 1.

93.34 (b) Minor caregivers and caregivers who are less than age 20 who have not
 93.35 completed high school or obtained a GED are required to comply with section 256J.54.

94.1 (c) A participant who has a family violence waiver shall develop and comply with
94.2 an employment plan under section 256J.521, subdivision 3.

94.3 (d) As specified in section 256J.521, subdivision 2, paragraph (c), a participant who
94.4 meets any one of the following criteria may work with the job counselor to develop an
94.5 employment plan that contains less than the number of participation hours under section
94.6 256J.55, subdivision 1. Employment plans for participants covered under this paragraph
94.7 must be tailored to recognize the special circumstances of caregivers and families
94.8 including limitations due to illness or disability and caregiving needs:

94.9 (1) a participant who is age 60 or older;

94.10 (2) a participant who has been diagnosed by a qualified professional as suffering
94.11 from an illness or incapacity that is expected to last for 30 days or more, including a
94.12 pregnant participant who is determined to be unable to obtain or retain employment due
94.13 to the pregnancy; or

94.14 (3) a participant who is determined by a qualified professional as being needed in
94.15 the home to care for an ill or incapacitated family member, including caregivers with a
94.16 child or an adult in the household who meets the disability or medical criteria for home
94.17 care services under section 256B.0651, subdivision 1, paragraph (c), or a home and
94.18 community-based waiver services program under chapter 256B, or meets the criteria for
94.19 severe emotional disturbance under section 245.4871, subdivision 6, or for serious and
94.20 persistent mental illness under section 245.462, subdivision 20, paragraph (c).

94.21 (e) For participants covered under paragraphs (c) and (d), the county shall review
94.22 the participant's employment services status every three months to determine whether
94.23 conditions have changed. When it is determined that the participant's status is no longer
94.24 covered under paragraph (c) or (d), the county shall notify the participant that a new or
94.25 revised employment plan is needed. The participant and job counselor shall meet within
94.26 ten days of the determination to revise the employment plan.

94.27 Sec. 12. Minnesota Statutes 2006, section 256J.95, subdivision 11, is amended to read:

94.28 Subd. 11. **Universal participation required.** (a) All DWP caregivers, except
94.29 caregivers who meet the criteria in paragraph (d), are required to participate in DWP
94.30 employment services. Except as specified in paragraphs (b) and (c), employment plans
94.31 under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

94.32 (b) A caregiver who is a member of a two-parent family that is required to participate
94.33 in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed
94.34 to develop an employment plan under section 256J.521, subdivision 2, paragraph (c), that
94.35 may contain alternate activities and reduced hours.

95.1 (c) A participant who is a victim of family violence shall be allowed to develop an
 95.2 employment plan under section 256J.521, subdivision 3. A claim of family violence must
 95.3 be documented by the applicant or participant by providing a sworn statement which is
 95.4 supported by collateral documentation in section 256J.545, paragraph (b).

95.5 (d) One parent in a two-parent family unit that has a natural born child under 12
 95.6 weeks of age is not required to have an employment plan until the child reaches 12 weeks
 95.7 of age unless the family unit has already used the exclusion under section 256J.561,
 95.8 subdivision 3, or the previously allowed child under age one exemption ~~under section~~
 95.9 ~~256J.56, paragraph (a), clause (5).~~

95.10 (e) The provision in paragraph (d) ends the first full month after the child reaches
 95.11 12 weeks of age. This provision is allowable only once in a caregiver's lifetime. In a
 95.12 two-parent household, only one parent shall be allowed to use this category.

95.13 (f) The participant and job counselor must meet within ten working days after
 95.14 the child reaches 12 weeks of age to revise the participant's employment plan. The
 95.15 employment plan for a family unit that has a child under 12 weeks of age that has already
 95.16 used the exclusion in section 256J.561 or the previously allowed child under age one
 95.17 exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize
 95.18 the caregiving needs of the parent.

95.19 Sec. 13. Laws 2005, chapter 98, article 3, section 25, is amended to read:

95.20 Sec. 25. **REPEALER.**

95.21 Minnesota Statutes 2004, sections 245.713, ~~subdivisions 2 and~~ subdivision 4;
 95.22 245.716; and 626.5551, subdivision 4, are repealed.

95.23 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 2005.

95.24 Sec. 14. **REVISOR'S INSTRUCTION.**

95.25 The revisor of statutes shall change the terms in column A to the terms in column B
 95.26 wherever they appear in Minnesota Statutes,

	<u>Column A</u>	<u>Column B</u>
95.28	<u>"Office of Ombudsman</u>	<u>"Office of Ombudsman</u>
95.29	<u>for Older Minnesotans"</u>	<u>for Long-Term Care"</u>
95.30	<u>and "Office of the</u>	
95.31	<u>Ombudsman for Older</u>	
95.32	<u>Minnesotans"</u>	
95.33	<u>"ombudsman for older</u>	<u>"ombudsman for</u>
95.34	<u>Minnesotans"</u>	<u>long-term care"</u>

95.35 Sec. 15. **MINNESOTA RULES.**

96.1 The Department of Administration shall publish adopted rules in the State Register
96.2 making the terminology changes specified in section 14 in Minnesota Rules. Upon
96.3 publication in the State Register, the terminology changes for Minnesota Rules are
96.4 adopted without further administrative action.

96.5 Sec. 16. **REPEALER.**

96.6 (a) Minnesota Statutes 2006, sections 252.21; 252.22; 252.23; 252.24; 252.25;
96.7 252.261; 252.275, subdivision 5; 254A.02, subdivisions 7, 9, 12, 14, 15, and 16;
96.8 254A.085; 254A.086; 254A.12; 254A.14; 254A.15; 254A.16, subdivision 5; 254A.175;
96.9 254A.18; 256B.0913, subdivisions 5b, 5c, 5d, 5e, 5f, 5g, and 5h; 256J.561, subdivision 1;
96.10 256J.62, subdivision 9; and 256J.65, are repealed.

96.11 (b) Minnesota Rules, part 9503.0035, subpart 2, is repealed.