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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 2180

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

1.1 A bill for an act
1.2 relating to human services; establishing a board of oversight of human services
1.3 appeals; amending Minnesota Statutes 2006, section 14.63; proposing coding
1.4 for new law in Minnesota Statutes, chapter 245A.

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

1.6 Section 1. Minnesota Statutes 2006, section 14.63, is amended to read:

1.7 **14.63 APPLICATION.**

1.8 Any person aggrieved by a final decision in a contested case is entitled to judicial
1.9 review of the decision under the provisions of sections 14.63 to 14.68, but nothing in
1.10 sections 14.63 to 14.68 shall be deemed to prevent resort to other means of review, redress,
1.11 relief, or trial de novo provided by law. A petition for a writ of certiorari by an aggrieved
1.12 person for judicial review under sections 14.63 to 14.68 must be filed with the Court of
1.13 Appeals and served on the agency not more than 30 days after the party receives the final
1.14 decision and order of the agency. If an aggrieved party requests review by the Board of
1.15 Oversight of Human Services Appeals of the commissioner's final order from a contested
1.16 case hearing under chapter 245, 245A, 245B, 245C, 252, 253B, 256, 256B, 256C, 256D,
1.17 256J, 256L, 257, or 626, a petition for writ of certiorari for judicial review under sections
1.18 14.63 to 14.68 must be filed with the Court of Appeals and served on the agency not more
1.19 than 30 days after the party receives the final decision from the board. Sections 572.08 to
1.20 572.30 govern judicial review of arbitration awards entered under section 14.57.

1.21 Sec. 2. **[245A.086] BOARD OF OVERSIGHT OF HUMAN SERVICES**
1.22 **APPEALS.**

2.1 Subdivision 1. **Purpose.** The Board of Oversight of Human Services Appeals is
 2.2 established to provide timely, accessible, multidisciplinary, and comprehensive reviews of
 2.3 challenges by aggrieved parties to the commissioner's final orders from fair hearings and
 2.4 contested case hearings under chapter 245, 245A, 245B, 245C, 252, 253B, 256, 256B,
 2.5 256C, 256D, 256J, 256L, 257, or 626. The board shall review matters recommended from
 2.6 the Offices of the Ombudsman for Mental Health and Developmental Disabilities, the
 2.7 Ombudsman for Older Minnesotans, the Ombudsman for Families, and the Ombudsman
 2.8 for State Managed Health Care Programs. The board shall review actions taken by the
 2.9 commissioner and county social service agencies in response to individuals' requests
 2.10 for hearings or an ombudsman's request for review on actions related to sanctions,
 2.11 disqualifications, service provisions, service reductions, service terminations, case
 2.12 management determinations, and failure to act or provide services. The board shall
 2.13 compile and assess data regarding appeals, monitor data for trends, and report to the
 2.14 legislative committees having jurisdiction over human services. The board shall advise
 2.15 the legislature, governor, state agencies, and the public on matters pertaining to public
 2.16 policy and the administration of human services programs, services, and facilities.

2.17 Subd. 2. **Membership.** (a) Members of the Board of Oversight of Human Services
 2.18 Appeals shall be appointed by the governor from a list of candidates nominated by
 2.19 legislative committees having jurisdiction over human services. Candidates shall be
 2.20 nominated who are consumers of social services, their legal guardians, or advocates, and
 2.21 from organizations, offices, or councils representing those that provide or use services
 2.22 within the human services system. Membership on the board shall include:

2.23 (1) four consumers, or their legal guardians;

2.24 (2) an employee of the Office of the Ombudsman for State Managed Health Care
 2.25 Programs;

2.26 (3) an employee of the Office of the Ombudsman for Mental Health and
 2.27 Developmental Disabilities;

2.28 (4) an employee of the Office of the Ombudsman for Older Minnesotans;

2.29 (5) an employee of the Office of the Ombudsman for Families;

2.30 (6) an advocate from the Arc of Minnesota;

2.31 (7) an advocate from the Parent Advocacy Coalition for Educational Rights
 2.32 (PACER);

2.33 (8) an advocate from an organization working with people with physical disabilities;

2.34 (9) a representative from vendors of services to people with disabilities;

2.35 (10) a recipient of Temporary Assistance for Needy Families;

2.36 (11) a representative from the Minnesota Foster Parent Association;

3.1 (12) a representative from the Minnesota Child Care Association; and

3.2 (13) a representative from the community at large.

3.3 (b) Members of the board shall be appointed for three-year terms. Initial
3.4 appointments shall be staggered to provide for a schedule of rotation. The term of five
3.5 members shall end after one year, and the term of five members shall end after two years.
3.6 New members shall be appointed to fill the vacancies.

3.7 (c) Members of the board shall nominate a chairperson who shall serve a one-year
3.8 term. The chair is authorized to sign documents and reports submitted on behalf of the
3.9 board.

3.10 (d) The board shall meet at least twice each month.

3.11 (e) Members shall be provided a stipend for hearings, training, mileage, and time
3.12 spent in preparation for meetings and hearings.

3.13 Subd. 3. **Receipt of funds.** When any person, firm, corporation, or local, state, or
3.14 federal government offers the board funds by way of gift or grant to further the purpose
3.15 of the board in fulfilling its powers and duties, the board may accept the gift or grant by
3.16 majority vote subject to the terms of the offer.

3.17 Subd. 4. **Powers of board.** (a) The board shall receive monthly reports from the
3.18 commissioner of human services of all actions that have been referred to the Appeals and
3.19 Regulations Division of the Department of Human Services. Each report must be signed
3.20 and dated by the commissioner. Each report shall include:

3.21 (1) the number of actions taken under chapter 245, 245A, 245B, 245C, 252,
3.22 253B, 256, 256B, 256C, 256D, 256J, 256L, 257, or 626 that have resulted in adverse
3.23 actions, disqualifications, citations, maltreatment determinations, termination of services,
3.24 reduction of services, or denial of services;

3.25 (2) the name and address of each individual affected by an adverse action, the reason
3.26 for the adverse action, and whether that individual is seeking reconsideration;

3.27 (3) the name and address of each county or state employee involved in the decision
3.28 to take adverse action;

3.29 (4) the date of agency determination, date of request for appeal, scheduled date for
3.30 each individual's fair hearing or contested case hearing, whether services will continue
3.31 pending appeal, date of hearing determination, and if a reconsideration has been requested,
3.32 the date of the request, the date of the response to the request including the name and title
3.33 of the person responding, and the date of the commissioner's final order including the
3.34 name and title of the person signing the order;

3.35 (5) the name of the referee or administrative law judge presiding at the fair hearing
3.36 or the contested case hearing;

4.1 (6) the name of the individual or the organization representing the appellant at
4.2 each hearing;

4.3 (7) the referee or administrative law judge's recommended order for each hearing;
4.4 and

4.5 (8) the commissioner's final order.

4.6 (b) The board shall have the power to conduct hearings on appeal from individuals
4.7 who have been adversely affected by a final order of the commissioner of human services
4.8 or adversely affected by the final determination of a director of a county human services
4.9 agency.

4.10 (c) The board may call for an investigation of an employee or county agency and
4.11 may assess a fee for a county human services board to pay for this investigation.

4.12 (d) The board may call for an investigation of the Department of Human Services
4.13 or an employee of the department and may assess a fee to the department to pay for this
4.14 investigation.

4.15 (e) The board may recommend sanctions, including fines, restitution, and dismissal,
4.16 against a county or state employee who has willfully violated or misused Minnesota
4.17 Statutes or Minnesota Rules that resulted in adverse action being taken against any
4.18 individual. The written findings and recommendations shall be submitted to the county
4.19 board, the commissioner of human services, or the governor, as appropriate. Copies
4.20 shall be sent by certified mail to the employee and immediate supervisor. The board's
4.21 findings and recommendations shall be given deference in any administrative action
4.22 or civil proceeding conducted in response to the findings and recommendations. If the
4.23 board has recommended that restitution be made, it is the responsibility of the person to
4.24 whom restitution is to be made to collect the restitution. Actions to collect restitution
4.25 may include a civil proceeding in district court or the submission of a claim to the Joint
4.26 House/Senate Subcommittee on Claims.

4.27 Subd. 5. **Hearings.** (a) The board shall have the power to take appeals from
4.28 individuals who have been adversely affected within the past ten years by:

4.29 (1) a final order of the commissioner of human services;

4.30 (2) a final determination of a director of a county human services agency; or

4.31 (3) by the commissioner's or director's refusal to enter into the appeals or conciliation
4.32 process. The request for appeal may come from the aggrieved person, the person's legal
4.33 guardian, an advocacy organization representing the person, the Office of the Ombudsman
4.34 for Mental Health and Developmental Disabilities, the Office of the Ombudsman for Older
4.35 Minnesotans, the Office of the Ombudsman for Families, or the Office of the Ombudsman
4.36 for State Managed Health Care Programs.

5.1 (b) An aggrieved party shall access the board's appeals process by submitting a
5.2 written request for review and a sworn affidavit of the facts. If the board determines it has
5.3 authority to hear the appeal it shall, within 30 days, issue the petitioner and the opposing
5.4 party an invitation to proceed providing notice of the date, time, and place of the hearing.

5.5 (1) within 20 days of the receipt of the invitation to proceed, the petitioner shall
5.6 supply the board with two copies of the documents the petitioner submitted to the referee
5.7 or administrative law judge in the prior proceedings, one copy of the recommended order
5.8 from the referee or administrative law judge, and any other written relevant documentation
5.9 to support the petitioner's claim.

5.10 (2) the petitioner shall send copies of the information required in clause (1) to the
5.11 commissioner or county social services director by certified mail or deliver by personal
5.12 service no later than ten days prior to the date of the hearing.

5.13 (c) The commissioner or county social services director shall send the board and
5.14 the petitioner a summary of the agency's position along with documentation used to
5.15 support the commissioner's final order or final determination within 20 days of receipt of
5.16 the invitation to proceed.

5.17 (d) Members of the board shall review the documentation submitted by both parties
5.18 prior to the hearing.

5.19 (e) Personal appearance is required of the parties.

5.20 (f) The board will hear testimony. It will not accept written documentation beyond
5.21 the submission deadline.

5.22 (g) Within seven days of the hearing, the board shall submit its written findings,
5.23 conclusions, and recommendations to the petitioner, the commissioner, the county
5.24 social services director, the petitioner's elected state representative or senator, and
5.25 to the legislative committees having jurisdiction over human services. The board's
5.26 recommendation may uphold, modify, or reverse the commissioner's final order of the
5.27 director's final determination under the following conditions:

5.28 (1) if the commissioner's final order or director's final determination is upheld, the
5.29 petitioner may file for judicial review according to statutory procedures for appeal;

5.30 (2) if the commissioner's final order or the director's final determination is modified,
5.31 the commissioner or director cannot appeal the decision; the petitioner may file for judicial
5.32 review according to statutory procedures for appeal; or

5.33 (3) if the commissioner's final order or the director's final determination is reversed,
5.34 the decision cannot be appealed.

5.35 Subd. 6. **Duties of board.** (a) The board shall submit a report to the house and
5.36 senate committees having jurisdiction over human services policy no later than January

6.1 30 and July 30 each year. Each report shall include a summary of the board's findings
6.2 from the commissioner's reports under subdivision 4, paragraph (a), and the results of the
6.3 hearings conducted during the preceding six months.

6.4 (b) The report required under paragraph (a) shall also include the number of
6.5 hearings held during the preceding six months; the number of commissioner's orders
6.6 upheld, modified, or reversed; a brief summary of the reasons for each decision; a list
6.7 of recommendations made under subdivision 4, paragraphs (c) to (e); trends in actions
6.8 being appealed; compliance with statutes; recommendations for legislative action; and
6.9 recommendations on needed oversight for the commissioner or any county human
6.10 services agency.

6.11 Subd. 7. **Training; education.** (a) Members of the board shall complete at least four
6.12 hours of training each quarter. Training, at no cost, may be provided by the Department
6.13 of Human Services, legislative members, the Office of the Attorney General, or by other
6.14 professionals or peers with knowledge and experience in human services.

6.15 (b) Employees of county human services agencies and the Department of Human
6.16 Services shall participate in training regarding the purpose, accessibility, duties, and
6.17 authority of the board.

6.18 (c) Training programs and information brochures shall be provided to vendors of
6.19 human services programs regarding the establishment, purpose, accessibility, duties,
6.20 and authority of the board.