

1.1 A bill for an act
1.2 relating to human services; modifying child care program integrity provisions;
1.3 amending Minnesota Statutes 2016, sections 119B.011, by adding subdivisions;
1.4 119B.02, subdivision 5; 119B.09, subdivision 9a; 119B.125, subdivisions 4, 6;
1.5 119B.13, subdivisions 1, 6; 119B.16, subdivisions 1, 1a, 1b, by adding subdivisions;
1.6 245E.01, by adding a subdivision; 245E.02, subdivisions 1, 3, 4; 245E.03,
1.7 subdivisions 2, 4; 245E.04; 245E.05, subdivision 1; 245E.06, subdivisions 1, 2,
1.8 3; 245E.07, subdivision 1; 256.98, subdivision 8; proposing coding for new law
1.9 in Minnesota Statutes, chapter 119B; repealing Minnesota Statutes 2016, sections
1.10 119B.16, subdivision 2; 245E.03, subdivision 3; 245E.06, subdivisions 4, 5;
1.11 Minnesota Rules, part 3400.0185, subpart 5.

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

1.13 Section 1. Minnesota Statutes 2016, section 119B.011, is amended by adding a subdivision
1.14 to read:

1.15 Subd. 15b. Law enforcement authority. "Law enforcement authority" means a
1.16 government agency or department within or outside Minnesota with jurisdiction to investigate
1.17 or bring a civil or criminal action against a child care provider, including a county, city, or
1.18 district attorney's office, the Attorney General's Office, a human services agency, a United
1.19 States attorney's office, or a law enforcement agency.

1.20 **EFFECTIVE DATE.** This section is effective July 1, 2017.

1.21 Sec. 2. Minnesota Statutes 2016, section 119B.011, is amended by adding a subdivision
1.22 to read:

1.23 Subd. 19c. Stop payment. "Stop payment" means canceling a payment that was already
1.24 issued to a provider.

1.25 **EFFECTIVE DATE.** This section is effective July 1, 2017.

2.1 Sec. 3. Minnesota Statutes 2016, section 119B.02, subdivision 5, is amended to read:

2.2 Subd. 5. **Program integrity.** For child care assistance programs under this chapter, the
2.3 commissioner shall enforce the requirements for program integrity and fraud prevention
2.4 investigations under sections 256.046, 256.98, and 256.983 and chapter 245E.

2.5 **EFFECTIVE DATE.** This section is effective July 1, 2017.

2.6 Sec. 4. Minnesota Statutes 2016, section 119B.09, subdivision 9a, is amended to read:

2.7 Subd. 9a. **Child care centers; assistance.** ~~(a) For the purposes of this subdivision,~~
2.8 ~~"qualifying child" means a child who is not a child or dependent of an employee of the child~~
2.9 ~~care provider. A child care center may receive authorizations for 25 or fewer children who~~
2.10 ~~are dependents of the center's employees. If a child care center is authorized for more than~~
2.11 ~~25 children who are dependents of center employees, the county cannot authorize additional~~
2.12 ~~dependents of an employee until the number of children falls below 25.~~

2.13 ~~(b) Funds distributed under this chapter must not be paid for child care services that are~~
2.14 ~~provided for a child or dependent of an employee under paragraph (a) unless at all times at~~
2.15 ~~least 50 percent of the children for whom the child care provider is providing care are~~
2.16 ~~qualifying children under paragraph (a).~~

2.17 ~~(c) If a child care provider satisfies the requirements for payment under paragraph (b),~~
2.18 ~~but the percentage of qualifying children under paragraph (a) for whom the provider is~~
2.19 ~~providing care falls below 50 percent, the provider shall have four weeks to raise the~~
2.20 ~~percentage of qualifying children for whom the provider is providing care to at least 50~~
2.21 ~~percent before payments to the provider are discontinued for child care services provided~~
2.22 ~~for a child who is not a qualifying child.~~

2.23 ~~(d) This subdivision shall be implemented as follows:~~

2.24 ~~(1) no later than August 1, 2014, the commissioner shall issue a notice to providers who~~
2.25 ~~have been identified as ineligible for funds distributed under this chapter as described in~~
2.26 ~~paragraph (b); and~~

2.27 ~~(2) no later than January 5, 2015, payments to providers who do not comply with~~
2.28 ~~paragraph (c) will be discontinued for child care services provided for children who are not~~
2.29 ~~qualifying children.~~

2.30 ~~(e) If a child's authorization for child care assistance is terminated under this subdivision,~~
2.31 ~~the county shall send a notice of adverse action to the provider and to the child's parent or~~

3.1 ~~guardian, including information on the right to appeal, under Minnesota Rules, part~~
 3.2 ~~3400.0185.~~

3.3 ~~(f) (b) Funds paid to providers during the period of time between the issuance of a notice~~
 3.4 ~~under paragraph (d), clause (1), and discontinuation of payments under paragraph (d), clause~~
 3.5 ~~(2), when a center is authorized for more than 25 children who are dependents of center~~
 3.6 ~~employees must not be treated as overpayments under section 119B.11, subdivision 2a, due~~
 3.7 ~~to noncompliance with this subdivision.~~

3.8 ~~(g) (c) Nothing in this subdivision precludes the commissioner from conducting fraud~~
 3.9 ~~investigations relating to child care assistance, imposing sanctions, and obtaining monetary~~
 3.10 ~~recovery as otherwise provided by law.~~

3.11 **EFFECTIVE DATE.** This section is effective April 23, 2018.

3.12 Sec. 5. **[119B.097] AUTHORIZATION WITH A SECONDARY PROVIDER.**

3.13 (a) If a child uses any combination of the following providers paid by child care
 3.14 assistance, a parent must choose one primary provider and one secondary provider per child
 3.15 that can be paid by child care assistance:

3.16 (1) an individual or child care center licensed under chapter 245A;

3.17 (2) an individual or child care center or facility holding a valid child care license issued
 3.18 by another state or tribe; or

3.19 (3) a child care center exempt from licensing under section 245A.03.

3.20 (b) The amount of child care authorized with the secondary provider cannot exceed 20
 3.21 hours per two-week service period, per child, and the amount of care paid to a child's
 3.22 secondary provider is limited under section 119B.13, subdivision 1. The total amount of
 3.23 child care authorized with both the primary and secondary provider cannot exceed the
 3.24 amount of child care allowed based on the parents' eligible activity schedule, the child's
 3.25 school schedule, and any other factors relevant to the family's child care needs.

3.26 **EFFECTIVE DATE.** This section is effective April 23, 2018.

3.27 Sec. 6. Minnesota Statutes 2016, section 119B.125, subdivision 4, is amended to read:

3.28 Subd. 4. **Unsafe care.** A county may deny authorization as a child care provider to any
 3.29 applicant or ~~revoke~~ revoke the authorization of any provider when the county knows or has
 3.30 reason to believe that the provider is unsafe or that the circumstances of the chosen child
 3.31 care arrangement are unsafe. The county must include the conditions under which a provider

4.1 or care arrangement will be determined to be unsafe in the county's child care fund plan
4.2 under section 119B.08, subdivision 3.

4.3 **EFFECTIVE DATE.** This section is effective April 23, 2018.

4.4 Sec. 7. Minnesota Statutes 2016, section 119B.125, subdivision 6, is amended to read:

4.5 Subd. 6. **Record-keeping requirement.** (a) As a condition of payment, all providers
4.6 receiving child care assistance payments must keep accurate and legible daily attendance
4.7 records at the site where services are delivered for children receiving child care assistance
4.8 and must make those records available immediately to the county or the commissioner upon
4.9 request. The attendance records must be completed daily and include the date, the first and
4.10 last name of each child in attendance, and the times when each child is dropped off and
4.11 picked up. To the extent possible, the times that the child was dropped off to and picked up
4.12 from the child care provider must be entered by the person dropping off or picking up the
4.13 child. The daily attendance records must be retained at the site where services are delivered
4.14 for six years after the date of service.

4.15 (b) A county or the commissioner may deny or revoke a provider's authorization as a
4.16 child care provider to any applicant, rescind authorization of any provider, to receive child
4.17 care assistance payments under section 119B.13, subdivision 6, paragraph (d), pursue a
4.18 fraud disqualification under section 256.98, take an action against the provider under chapter
4.19 245E, or establish an attendance record overpayment claim in the system under paragraph
4.20 (c) against a current or former provider, when the county or the commissioner knows or
4.21 has reason to believe that the provider has not complied with the record-keeping requirement
4.22 in this subdivision. A provider's failure to produce attendance records as requested on more
4.23 than one occasion constitutes grounds for disqualification as a provider.

4.24 (c) To calculate an attendance record overpayment under this subdivision, the
4.25 commissioner or county agency subtracts the maximum daily rate from the total amount
4.26 paid to a provider for each day that a child's attendance record is missing, unavailable,
4.27 incomplete, illegible, inaccurate, or otherwise inadequate.

4.28 (d) The commissioner shall develop criteria to direct a county when the county must
4.29 establish an attendance overpayment under this subdivision.

4.30 **EFFECTIVE DATE.** This section is effective April 23, 2018.

5.1 Sec. 8. Minnesota Statutes 2016, section 119B.13, subdivision 1, is amended to read:

5.2 Subdivision 1. **Subsidy restrictions.** (a) Beginning February 3, 2014, the maximum
5.3 rate paid for child care assistance in any county or county price cluster under the child care
5.4 fund shall be the greater of the 25th percentile of the 2011 child care provider rate survey
5.5 or the maximum rate effective November 28, 2011. The commissioner may: (1) assign a
5.6 county with no reported provider prices to a similar price cluster; and (2) consider county
5.7 level access when determining final price clusters.

5.8 (b) A rate which includes a special needs rate paid under subdivision 3 may be in excess
5.9 of the maximum rate allowed under this subdivision.

5.10 (c) The department shall monitor the effect of this paragraph on provider rates. The
5.11 county shall pay the provider's full charges for every child in care up to the maximum
5.12 established. The commissioner shall determine the maximum rate for each type of care on
5.13 an hourly, full-day, and weekly basis, including special needs and disability care.

5.14 (d) If a child uses one provider, the maximum payment ~~to a provider~~ for one day of care
5.15 must not exceed the daily rate. The maximum payment ~~to a provider~~ for one week of care
5.16 must not exceed the weekly rate.

5.17 (e) If a child uses two providers under section 119B.097, the maximum payment must
5.18 not exceed:

5.19 (1) the daily rate for one day of care;

5.20 (2) the weekly rate for one week of care by the child's primary provider; and

5.21 (3) two daily rates during two weeks of care by a child's secondary provider.

5.22 ~~(d)~~(f) Child care providers receiving reimbursement under this chapter must not be paid
5.23 activity fees or an additional amount above the maximum rates for care provided during
5.24 nonstandard hours for families receiving assistance.

5.25 ~~(e)~~(g) If the provider charge is greater than the maximum provider rate allowed,
5.26 the parent is responsible for payment of the difference in the rates in addition to any family
5.27 co-payment fee.

5.28 ~~(f)~~(h) All maximum provider rates changes shall be implemented on the Monday
5.29 following the effective date of the maximum provider rate.

5.30 ~~(g)~~(i) Notwithstanding Minnesota Rules, part 3400.0130, subpart 7, maximum registration
5.31 fees in effect on January 1, 2013, shall remain in effect.

5.32 **EFFECTIVE DATE.** This section is effective April 23, 2018.

6.1 Sec. 9. Minnesota Statutes 2016, section 119B.13, subdivision 6, is amended to read:

6.2 Subd. 6. **Provider payments.** (a) A provider must bill only for services documented
6.3 according to section 119B.125, subdivision 6. The provider shall bill for services provided
6.4 within ten days of the end of the service period. ~~If bills are submitted within ten days of the~~
6.5 ~~end of the service period,~~ Payments under the child care fund shall be made within ~~30~~ 21
6.6 days of receiving a complete bill from the provider. Counties or the state may establish
6.7 policies that make payments on a more frequent basis.

6.8 (b) If a provider has received an authorization of care and been issued a billing form for
6.9 an eligible family, the bill must be submitted within 60 days of the last date of service on
6.10 the bill. A bill submitted more than 60 days after the last date of service must be paid if the
6.11 county determines that the provider has shown good cause why the bill was not submitted
6.12 within 60 days. Good cause must be defined in the county's child care fund plan under
6.13 section 119B.08, subdivision 3, and the definition of good cause must include county error.
6.14 Any bill submitted more than a year after the last date of service on the bill must not be
6.15 paid.

6.16 (c) If a provider provided care for a time period without receiving an authorization of
6.17 care and a billing form for an eligible family, payment of child care assistance may only be
6.18 made retroactively for a maximum of six months from the date the provider is issued an
6.19 authorization of care and billing form.

6.20 (d) A county or the commissioner may refuse to issue a child care authorization to a
6.21 licensed or legal nonlicensed provider, revoke an existing child care authorization to a
6.22 licensed or legal nonlicensed provider, stop payment issued to a licensed or legal nonlicensed
6.23 provider, or refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

6.24 (1) the provider admits to intentionally giving the county materially false information
6.25 on the provider's billing forms;

6.26 (2) a county or the commissioner finds by a preponderance of the evidence that the
6.27 provider intentionally gave the county materially false information on the provider's billing
6.28 forms, or provided false attendance records to a county or the commissioner;

6.29 (3) the provider is in violation of child care assistance program rules, until the agency
6.30 determines those violations have been corrected;

6.31 (4) the provider is operating after:

6.32 (i) an order of suspension of the provider's license issued by the commissioner; or

6.33 (ii) an order of revocation of the provider's license; ~~or~~

7.1 ~~(iii) a final order of conditional license issued by the commissioner for as long as the~~
7.2 ~~conditional license is in effect;~~

7.3 (5) the provider submits ~~false~~ an inaccurate attendance reports or refuses to provide
7.4 ~~documentation of the child's attendance upon request; or~~ record;

7.5 (6) the provider gives false child care price information; or

7.6 (7) the provider fails to grant access to a county or the commissioner during regular
7.7 business hours to examine all records necessary to determine the extent of services provided
7.8 to a child care assistance recipient and the appropriateness of a claim for payment.

7.9 (e) If a county or the commissioner finds that a provider violated paragraph (d), clause
7.10 (1) or (2), a county or the commissioner must deny or revoke the provider's authorization
7.11 and either pursue a fraud disqualification under section 256.98, subdivision 8, paragraph
7.12 (c) or refer the case to a law enforcement authority. A provider's rights related to an
7.13 authorization denial or revocation under this paragraph are established in section 119B.161.
7.14 If a provider's authorization is revoked or denied under this paragraph, the denial or
7.15 revocation lasts until either:

7.16 (1) all criminal, civil, and administrative proceedings related to the provider's alleged
7.17 misconduct conclude and any appeal rights are exhausted; or

7.18 (2) the commissioner decides, based on written evidence or argument submitted under
7.19 section 119B.161, to authorize the provider.

7.20 (f) If a county or the commissioner denies or revokes a provider's authorization under
7.21 paragraph (d), clause (4), the provider shall not be authorized until the order of suspension
7.22 or order of revocation against the provider is lifted.

7.23 ~~(e) For purposes of~~ (g) If a county or the commissioner finds that a provider violated
7.24 paragraph (d), clauses (3), (5), and or (6), the county or the commissioner may withhold
7.25 revoke or deny the provider's authorization or payment for a period of time not to exceed
7.26 three months beyond the time the condition has been corrected. If a provider's authorization
7.27 is revoked or denied under this paragraph, the denial or revocation may last up to 90 days
7.28 from the date a county or the commissioner denies or revokes the provider's authorization.

7.29 (h) If a county or the commissioner determines a provider violated paragraph (d), clause
7.30 (7), a county or the commissioner must deny or revoke the provider's authorization until a
7.31 county or the commissioner determines whether the records sought comply with this chapter
7.32 and chapter 245E. The provider's rights related to an authorization denial or revocation
7.33 under this paragraph are established in section 119B.161.

8.1 ~~(f)~~(i) A county's payment policies must be included in the county's child care plan under
8.2 section 119B.08, subdivision 3. If payments are made by the state, in addition to being in
8.3 compliance with this subdivision, the payments must be made in compliance with section
8.4 16A.124.

8.5 EFFECTIVE DATE. Paragraph (a) is effective September 25, 2017. Paragraphs (d) to
8.6 (i) are effective April 23, 2018.

8.7 Sec. 10. Minnesota Statutes 2016, section 119B.16, subdivision 1, is amended to read:

8.8 Subdivision 1. **Fair hearing allowed for applicants and recipients.** (a) An applicant
8.9 or recipient adversely affected by an action of a county agency ~~action~~ or the commissioner
8.10 may request and receive a fair hearing in accordance with this subdivision and section
8.11 256.045.

8.12 (b) A county agency must offer an informal conference to an applicant or recipient who
8.13 is entitled to a fair hearing under this section. A county agency shall advise an adversely
8.14 affected applicant or recipient that a request for a conference is optional and does not delay
8.15 or replace the right to a fair hearing.

8.16 (c) An applicant or recipient does not have a right to a fair hearing if a county agency
8.17 or the commissioner takes action against a provider.

8.18 (d) If a provider's authorization is suspended, denied, or revoked, a county agency or
8.19 the commissioner must mail notice to a child care assistance program recipient receiving
8.20 care from the provider.

8.21 EFFECTIVE DATE. This section is effective April 23, 2018.

8.22 Sec. 11. Minnesota Statutes 2016, section 119B.16, subdivision 1a, is amended to read:

8.23 Subd. 1a. **Fair hearing allowed for providers.** (a) This subdivision applies to providers
8.24 caring for children receiving child care assistance.

8.25 ~~(b) A provider to whom a county agency has assigned responsibility for an overpayment~~
8.26 ~~may request a fair hearing in accordance with section 256.045 for the limited purpose of~~
8.27 ~~challenging the assignment of responsibility for the overpayment and the amount of the~~
8.28 ~~overpayment. The scope of the fair hearing does not include the issues of whether the~~
8.29 ~~provider wrongfully obtained public assistance in violation of section 256.98 or was properly~~
8.30 ~~disqualified under section 256.98, subdivision 8, paragraph (c), unless the fair hearing has~~
8.31 ~~been combined with an administrative disqualification hearing brought against the provider~~
8.32 ~~under section 256.046.~~

9.1 (b) A provider may request a fair hearing only as specified in this subdivision.

9.2 (c) A provider may request a fair hearing according to sections 256.045 and 256.046 if
9.3 a county agency or the commissioner:

9.4 (1) denies or revokes a provider's authorization, unless the action entitles the provider
9.5 to a consolidated contested case hearing under section 119B.16, subdivision 3, or an
9.6 administrative review under section 119B.161;

9.7 (2) assigns responsibility for an overpayment to a provider under section 119B.11,
9.8 subdivision 2a;

9.9 (3) establishes an overpayment for failure to comply with section 119B.125, subdivision
9.10 6;

9.11 (4) seeks monetary recovery or recoupment under section 245E.02, subdivision 4,
9.12 paragraph (c), item (2);

9.13 (5) initiates an administrative fraud disqualification hearing; or

9.14 (6) issues a payment and the provider disagrees with the amount of the payment.

9.15 (d) A provider may request a fair hearing by submitting a written request to the
9.16 Department of Human Services, Appeals Division. A provider's request must be received
9.17 by the appeals division no later than 30 days after the date a county or the commissioner
9.18 mails the notice. The provider's appeal request must contain the following:

9.19 (1) each disputed item, the reason for the dispute, and, if appropriate, an estimate of the
9.20 dollar amount involved for each disputed item;

9.21 (2) the computation the provider believes to be correct, if appropriate;

9.22 (3) the statute or rule relied on for each disputed item; and

9.23 (4) the name, address, and telephone number of the person at the provider's place of
9.24 business with whom contact may be made regarding the appeal.

9.25 **EFFECTIVE DATE.** This section is effective April 23, 2018.

9.26 Sec. 12. Minnesota Statutes 2016, section 119B.16, subdivision 1b, is amended to read:

9.27 Subd. 1b. **Joint fair hearings.** ~~When a provider requests a fair hearing under subdivision~~
9.28 ~~1a, the family in whose case the overpayment was created must be made a party to the fair~~
9.29 ~~hearing. All other issues raised by the family must be resolved in the same proceeding.~~
9.30 ~~When a family requests a fair hearing and claims that the county should have assigned~~
9.31 ~~responsibility for an overpayment to a provider, the provider must be made a party to the~~

10.1 ~~fair hearing.~~ The human services judge assigned to a fair hearing may join a family or a
10.2 provider as a party to the fair hearing whenever joinder of that party is necessary to fully
10.3 and fairly resolve ~~overpayment~~ issues raised in the appeal.

10.4 **EFFECTIVE DATE.** This section is effective April 23, 2018.

10.5 Sec. 13. Minnesota Statutes 2016, section 119B.16, is amended by adding a subdivision
10.6 to read:

10.7 Subd. 1c. **Notice to providers.** (a) Before taking an action appealable under subdivision
10.8 1a, paragraph (c), a county agency or the commissioner must mail written notice to the
10.9 provider against whom the action is being taken.

10.10 (b) The notice shall state:

10.11 (1) the factual basis for the department's determination;

10.12 (2) the action the department intends to take;

10.13 (3) the dollar amount of the monetary recovery or recoupment, if known; and

10.14 (4) the right to appeal the department's proposed action.

10.15 (c) A county agency or the commissioner must mail the written notice at least 15 calendar
10.16 days before the adverse action's effective date.

10.17 **EFFECTIVE DATE.** This section is effective April 23, 2018.

10.18 Sec. 14. Minnesota Statutes 2016, section 119B.16, is amended by adding a subdivision
10.19 to read:

10.20 Subd. 3. **Consolidated contested case hearing.** If a county agency or the commissioner
10.21 denies or revokes a provider's authorization based on a licensing action, the provider may
10.22 only appeal the denial or revocation in the same contested case proceeding that the provider
10.23 appeals the licensing action.

10.24 **EFFECTIVE DATE.** This section is effective April 23, 2018.

10.25 Sec. 15. Minnesota Statutes 2016, section 119B.16, is amended by adding a subdivision
10.26 to read:

10.27 Subd. 4. **Final department action.** Unless the commissioner receives a timely and
10.28 proper request for an appeal, a county agency's or the commissioner's action shall be
10.29 considered a final department action.

11.1 **EFFECTIVE DATE.** This section is effective April 23, 2018.

11.2 Sec. 16. **[119B.161] ADMINISTRATIVE REVIEW.**

11.3 Subdivision 1. **Temporary denial or revocation of authorization.** (a) A provider has
11.4 the rights listed under this section if:

11.5 (1) the provider's authorization was denied or revoked under section 119B.13, subdivision
11.6 6, paragraph (d), clause (1), (2), or (7);

11.7 (2) the provider's authorization was temporarily suspended under paragraph (b); or

11.8 (3) a payment was suspended under chapter 245E.

11.9 (b) Unless the commissioner receives a timely and proper request for an appeal, a county's
11.10 or the commissioner's action is a final department action.

11.11 (c) The commissioner may temporarily suspend a provider's authorization without prior
11.12 notice and opportunity for hearing if the commissioner determines either that there is a
11.13 credible allegation of fraud for which an investigation is pending under the child care
11.14 assistance program, or that the suspension is necessary for public safety and the best interests
11.15 of the child care assistance program. An allegation is considered credible if the allegation
11.16 has indications of reliability. The commissioner may determine that an allegation is credible,
11.17 if the commissioner reviewed all allegations, facts, and evidence carefully and acts judiciously
11.18 on a case-by-case basis.

11.19 Subd. 2. **Notice.** (a) A county or the commissioner must mail a provider notice within
11.20 five days of suspending, revoking, or denying a provider's authorization under subdivision
11.21 1.

11.22 (b) The notice must:

11.23 (1) state the provision under which a county or the commissioner is denying, revoking,
11.24 or suspending a provider's authorization or suspending payment to the provider;

11.25 (2) set forth the general allegations leading to the revocation, denial, or suspension of a
11.26 provider's authorization. The notice need not disclose any specific information concerning
11.27 an ongoing investigation;

11.28 (3) state that the suspension, revocation, or denial of a provider's authorization is for a
11.29 temporary period and explain the circumstances under which the action expires; and

11.30 (4) inform the provider of the right to submit written evidence and argument for
11.31 consideration by the commissioner.

12.1 (c) Notwithstanding Minnesota Rules, part 3400.0185, if a county or the commissioner
12.2 denies or revokes a provider's authorization under section 119B.13, subdivision 6, paragraph
12.3 (d), clause (1), (2), or (7); suspends a payment to a provider under chapter 245E; or
12.4 temporarily suspends a payment to a provider under section 119B.161, subdivision 1, a
12.5 county or the commissioner must send notice of termination to an affected family. The
12.6 termination sent to an affected family is effective on the date the notice is created.

12.7 Subd. 3. **Duration.** If a provider's authorization is denied or revoked under section
12.8 119B.13, subdivision 6, paragraph (d), clause (1), (2), or (7); authorization is temporarily
12.9 suspended under section 119B.161; or payment is suspended under chapter 245E, the
12.10 provider's denial, revocation, temporary suspension, or payment suspension remains in
12.11 effect until:

12.12 (1) the commissioner or a law enforcement authority determines that there is insufficient
12.13 evidence warranting the action and a county or the commissioner does not pursue an
12.14 additional administrative remedy under chapter 245E or section 256.98; or

12.15 (2) all criminal, civil, and administrative proceedings related to the provider's alleged
12.16 misconduct conclude and any appeal rights are exhausted.

12.17 Subd. 4. **Good cause exception.** A county or the commissioner may find that good cause
12.18 exists not to deny, revoke, or suspend a provider's authorization, or not to continue a denial,
12.19 revocation, or suspension of a provider's authorization if any of the following are applicable:

12.20 (1) a law enforcement authority specifically requested that a provider's authorization
12.21 not be denied, revoked, or suspended because it may compromise an ongoing investigation;

12.22 (2) a county or the commissioner determines that the denial, revocation, or suspension
12.23 should be removed based on the provider's written submission; or

12.24 (3) the commissioner determines that the denial, revocation, or suspension is not in the
12.25 best interests of the program.

12.26 **EFFECTIVE DATE.** This section is effective April 23, 2018.

12.27 Sec. 17. Minnesota Statutes 2016, section 245E.01, is amended by adding a subdivision
12.28 to read:

12.29 Subd. 6a. **Credible allegation of fraud.** "Credible allegation of fraud" has the meaning
12.30 given in section 256B.064, subdivision 2, paragraph (b), clause (2).

12.31 **EFFECTIVE DATE.** This section is effective July 1, 2017.

13.1 Sec. 18. Minnesota Statutes 2016, section 245E.02, subdivision 1, is amended to read:

13.2 Subdivision 1. **Investigating provider or recipient financial misconduct.** The
13.3 department shall investigate alleged or suspected financial misconduct by providers and
13.4 errors related to payments issued by the child care assistance program under this chapter.
13.5 Recipients, employees, agents and consultants, and staff may be investigated when the
13.6 evidence shows that their conduct is related to the financial misconduct of a provider, license
13.7 holder, or controlling individual. When the alleged or suspected financial misconduct relates
13.8 to acting as a recruiter offering conditional employment on behalf of a provider that has
13.9 received funds from the child care assistance program, the department may investigate the
13.10 provider, center owner, director, manager, license holder, or other controlling individual or
13.11 agent, who is alleged to have acted as a recruiter offering conditional employment.

13.12 **EFFECTIVE DATE.** This section is effective April 23, 2018.

13.13 Sec. 19. Minnesota Statutes 2016, section 245E.02, subdivision 3, is amended to read:

13.14 Subd. 3. **Determination of investigation.** After completing its investigation, the
13.15 department shall ~~issue one of the following determinations~~ determine that:

13.16 (1) no violation of child care assistance requirements occurred;

13.17 (2) there is insufficient evidence to show that a violation of child care assistance
13.18 requirements occurred;

13.19 (3) a preponderance of evidence shows a violation of child care assistance program law,
13.20 rule, or policy; or

13.21 (4) there exists a credible allegation of fraud involving the child care assistance program.

13.22 **EFFECTIVE DATE.** This section is effective April 23, 2018.

13.23 Sec. 20. Minnesota Statutes 2016, section 245E.02, subdivision 4, is amended to read:

13.24 Subd. 4. ~~Actions Referrals or administrative sanctions~~ actions. (a) After completing
13.25 the determination under subdivision 3, the department may take one or more of the actions
13.26 or sanctions specified in this subdivision.

13.27 (b) The department may take any of the following actions:

13.28 (1) refer the investigation to law enforcement or a county attorney for possible criminal
13.29 prosecution;

14.1 (2) refer relevant information to the department's licensing division, the background
 14.2 studies division, the child care assistance program, the Department of Education, the federal
 14.3 child and adult care food program, or appropriate child or adult protection agency;

14.4 (3) enter into a settlement agreement with a provider, license holder, owner, agent,
 14.5 controlling individual, or recipient; or

14.6 (4) refer the matter for review by a prosecutorial agency with appropriate jurisdiction
 14.7 for possible civil action under the Minnesota False Claims Act, chapter 15C.

14.8 (c) In addition to section 256.98, the department may impose sanctions by:

14.9 (1) pursuing administrative disqualification through hearings or waivers;

14.10 (2) establishing and seeking monetary recovery or recoupment;

14.11 (3) issuing an order of corrective action that states the practices that are violations of
 14.12 child care assistance program policies, laws, or regulations, and that they must be corrected;
 14.13 ~~or~~

14.14 (4) ~~suspending, denying, or terminating~~ payments to a provider; or

14.15 (5) taking an action under section 119B.13, subdivision 6, paragraph (d).

14.16 (d) ~~Upon a finding by~~ If the commissioner determines that any child care provider, center
 14.17 owner, director, manager, license holder, or other controlling individual of a child care
 14.18 center has employed, used, or acted as a recruiter offering conditional employment for a
 14.19 child care center that has received child care assistance program funding, the commissioner
 14.20 shall:

14.21 (1) immediately suspend all program payments to all child care centers in which the
 14.22 person employing, using, or acting as a recruiter offering conditional employment is an
 14.23 owner, director, manager, license holder, or other controlling individual. The commissioner
 14.24 shall suspend program payments under this clause even if services have already been
 14.25 provided; and

14.26 (2) immediately and permanently revoke the licenses of all child care centers of which
 14.27 the person employing, using, or acting as a recruiter offering conditional employment is an
 14.28 owner, director, manager, license holder, or other controlling individual.

14.29 **EFFECTIVE DATE.** This section is effective April 23, 2018.

15.1 Sec. 21. Minnesota Statutes 2016, section 245E.03, subdivision 2, is amended to read:

15.2 Subd. 2. **Failure to provide access.** ~~Failure to provide access may result in denial or~~
 15.3 ~~termination of authorizations for or payments to a recipient, provider, license holder, or~~
 15.4 ~~controlling individual in the child care assistance program. If a provider fails to grant the~~
 15.5 ~~department immediate access to records, the department may immediately suspend payments~~
 15.6 ~~under section 119B.161, or the department may deny or revoke the provider's authorization.~~
 15.7 A provider, license holder, controlling individual, employee, or staff member must grant
 15.8 the department access during any hours that the program is open to examine the provider's
 15.9 program or the records listed in section 245E.05. A provider shall make records immediately
 15.10 available at the provider's place of business at the time the department requests access,
 15.11 unless the provider and the department both agree otherwise.

15.12 **EFFECTIVE DATE.** This section is effective April 23, 2018.

15.13 Sec. 22. Minnesota Statutes 2016, section 245E.03, subdivision 4, is amended to read:

15.14 Subd. 4. **Continued or repeated failure to provide access.** If the provider continues
 15.15 to fail to provide access at the expiration of the 15-day notice period, child care assistance
 15.16 program payments to the provider must be ~~denied~~ suspended beginning the 16th day
 15.17 following notice of the initial failure or refusal to provide access. ~~The department may~~
 15.18 ~~rescind the denial based upon good cause if the provider submits in writing a good cause~~
 15.19 ~~basis for having failed or refused to provide access. The writing must be postmarked no~~
 15.20 ~~later than the 15th day following the provider's notice of initial failure to provide access. A~~
 15.21 provider's, license holder's, controlling individual's, employee's, staff member's, or recipient's
 15.22 duty to provide access in this section continues after the provider's authorization is denied,
 15.23 revoked, or suspended. Additionally, the provider, license holder, or controlling individual
 15.24 must immediately provide complete, ongoing access to the department. Repeated failures
 15.25 to provide access must, after the initial failure or for any subsequent failure, result in
 15.26 termination from participation in the child care assistance program.

15.27 **EFFECTIVE DATE.** This section is effective April 23, 2018.

15.28 Sec. 23. Minnesota Statutes 2016, section 245E.04, is amended to read:

15.29 **245E.04 HONEST AND TRUTHFUL STATEMENTS.**

15.30 It shall be unlawful for a provider, license holder, controlling individual, or recipient to:

- 15.31 (1) falsify, conceal, or cover up by any ~~trick, scheme, or device~~ a material fact means;
- 15.32 (2) make any materially false, fictitious, or fraudulent statement or representation; or

16.1 (3) make or use any false writing or document knowing the same to contain any materially
16.2 false, fictitious, or fraudulent statement or entry related to any child care assistance program
16.3 services that the provider, license holder, or controlling individual supplies or in relation to
16.4 any child care assistance payments received by a provider, license holder, or controlling
16.5 individual or to any fraud investigator or law enforcement officer conducting a financial
16.6 misconduct investigation.

16.7 **EFFECTIVE DATE.** This section is effective April 23, 2018.

16.8 Sec. 24. Minnesota Statutes 2016, section 245E.05, subdivision 1, is amended to read:

16.9 Subdivision 1. **Records required to be retained.** The following records must be
16.10 maintained, controlled, and made immediately accessible to license holders, providers, and
16.11 controlling individuals. The records must be organized and labeled to correspond to categories
16.12 that make them easy to identify so that they can be made available immediately upon request
16.13 to an investigator acting on behalf of the commissioner at the provider's place of business:

16.14 (1) payroll ledgers, canceled checks, bank deposit slips, and any other accounting records;

16.15 (2) daily attendance records required by and that comply with section 119B.125,
16.16 subdivision 6;

16.17 (3) billing transmittal forms requesting payments from the child care assistance program
16.18 and billing adjustments related to child care assistance program payments;

16.19 (4) records identifying all persons, corporations, partnerships, and entities with an
16.20 ownership or controlling interest in the provider's child care business;

16.21 (5) employee or contractor records identifying those persons currently employed by the
16.22 provider's child care business or who have been employed by the business at any time within
16.23 the previous five years. The records must include each employee's name, hourly and annual
16.24 salary, qualifications, position description, job title, and dates of employment. In addition,
16.25 employee records that must be made available include the employee's time sheets, current
16.26 home address of the employee or last known address of any former employee, and
16.27 documentation of background studies required under chapter 119B or 245C;

16.28 (6) records related to transportation of children in care, including but not limited to:

16.29 (i) the dates and times that transportation is provided to children for transportation to
16.30 and from the provider's business location for any purpose. For transportation related to field
16.31 trips or locations away from the provider's business location, the names and addresses of
16.32 those field trips and locations must also be provided;

17.1 (ii) the name, business address, phone number, and Web site address, if any, of the
17.2 transportation service utilized; and

17.3 (iii) all billing or transportation records related to the transportation.

17.4 **EFFECTIVE DATE.** This section is effective April 23, 2018.

17.5 Sec. 25. Minnesota Statutes 2016, section 245E.06, subdivision 1, is amended to read:

17.6 Subdivision 1. **Factors regarding imposition of administrative ~~sanctions~~ actions.** (a)

17.7 The department shall consider the following factors in determining the administrative
17.8 ~~sanctions~~ actions to be imposed:

17.9 (1) nature and extent of financial misconduct;

17.10 (2) history of financial misconduct;

17.11 (3) actions taken or recommended by other state agencies, other divisions of the
17.12 department, and court and administrative decisions;

17.13 (4) prior ~~imposition of sanctions~~ actions;

17.14 (5) size and type of provider;

17.15 (6) information obtained through an investigation from any source;

17.16 (7) convictions or pending criminal charges; and

17.17 (8) any other information relevant to the acts or omissions related to the financial
17.18 misconduct.

17.19 (b) Any single factor under paragraph (a) may be determinative of the department's
17.20 decision of whether and what ~~sanctions are imposed~~ actions to take.

17.21 **EFFECTIVE DATE.** This section is effective April 23, 2018.

17.22 Sec. 26. Minnesota Statutes 2016, section 245E.06, subdivision 2, is amended to read:

17.23 Subd. 2. **Written notice of department ~~sanction action~~; sanction action effective**

17.24 **~~date; informal meeting.~~** (a) The department shall give notice in writing to a person of an
17.25 administrative sanction that is to be imposed. The notice shall be sent by mail as defined in
17.26 section 245E.01, subdivision 11.

17.27 (b) ~~The notice shall state:~~

17.28 (1) ~~the factual basis for the department's determination;~~

17.29 (2) ~~the sanction the department intends to take;~~

- 18.1 ~~(3) the dollar amount of the monetary recovery or recoupment, if any;~~
- 18.2 ~~(4) how the dollar amount was computed;~~
- 18.3 ~~(5) the right to dispute the department's determination and to provide evidence;~~
- 18.4 ~~(6) the right to appeal the department's proposed sanction; and~~
- 18.5 ~~(7) the option to meet informally with department staff, and to bring additional~~
- 18.6 ~~documentation or information, to resolve the issues.~~
- 18.7 ~~(e) In cases of determinations resulting in denial or termination of payments, in addition~~
- 18.8 ~~to the requirements of paragraph (b), the notice must state:~~
- 18.9 ~~(1) the length of the denial or termination;~~
- 18.10 ~~(2) the requirements and procedures for reinstatement; and~~
- 18.11 ~~(3) the provider's right to submit documents and written arguments against the denial~~
- 18.12 ~~or termination of payments for review by the department before the effective date of denial~~
- 18.13 ~~or termination.~~
- 18.14 ~~(d) The submission of documents and written argument for review by the department~~
- 18.15 ~~under paragraph (b), clause (5) or (7), or paragraph (c), clause (3), does not stay the deadline~~
- 18.16 ~~for filing an appeal.~~
- 18.17 (a) When taking an action against a provider, the department must give notice to:
- 18.18 (1) the provider as specified in section 119B.16 or 119B.161; and
- 18.19 (2) a family as specified under Minnesota Rules, part 3400.0185, or section 119B.161.
- 18.20 ~~(e) (b) Notwithstanding section 245E.03, subdivision 4, and except for a payment~~
- 18.21 ~~suspension or action under section 119B.161, subdivision 1, the effective date of the proposed~~
- 18.22 ~~sanction action under this chapter shall be 30 days after the license holder's, provider's,~~
- 18.23 ~~controlling individual's, or recipient's receipt of the notice, unless timely appealed. If a~~
- 18.24 ~~timely appeal is made, the proposed sanction action shall be delayed pending the final~~
- 18.25 ~~outcome of the appeal. Implementation of a proposed sanction action following the resolution~~
- 18.26 ~~of a timely appeal may be postponed if, in the opinion of the department, the delay of~~
- 18.27 ~~sanction action is necessary to protect the health or safety of children in care. The department~~
- 18.28 ~~may consider the economic hardship of a person in implementing the proposed sanction,~~
- 18.29 ~~but economic hardship shall not be a determinative factor in implementing the proposed~~
- 18.30 ~~sanction.~~

19.1 ~~(f) Requests for an informal meeting to attempt to resolve issues and requests for appeals~~
 19.2 ~~must be sent or delivered to the department's Office of Inspector General, Financial Fraud~~
 19.3 ~~and Abuse Division.~~

19.4 **EFFECTIVE DATE.** This section is effective April 23, 2018.

19.5 Sec. 27. Minnesota Statutes 2016, section 245E.06, subdivision 3, is amended to read:

19.6 Subd. 3. **Appeal of department ~~sanction~~ action.** ~~(a) If the department does not pursue~~
 19.7 ~~a criminal action against a provider, license holder, controlling individual, or recipient for~~
 19.8 ~~financial misconduct, but the department imposes an administrative sanction under section~~
 19.9 ~~245E.02, subdivision 4, paragraph (c), any individual or entity against whom the sanction~~
 19.10 ~~was imposed may appeal the department's administrative sanction under this section pursuant~~
 19.11 ~~to section 119B.16 or 256.045 with the additional requirements in clauses (1) to (4). An~~
 19.12 ~~appeal must specify:~~

19.13 ~~(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount~~
 19.14 ~~involved for each disputed item, if appropriate;~~

19.15 ~~(2) the computation that is believed to be correct, if appropriate;~~

19.16 ~~(3) the authority in the statute or rule relied upon for each disputed item; and~~

19.17 ~~(4) the name, address, and phone number of the person at the provider's place of business~~
 19.18 ~~with whom contact may be made regarding the appeal.~~

19.19 ~~(b) Notwithstanding section 245E.03, subdivision 4, an appeal is considered timely only~~
 19.20 ~~if postmarked or received by the department's Appeals Division within 30 days after receiving~~
 19.21 ~~a notice of department sanction.~~

19.22 ~~(c) Before the appeal hearing, the department may deny or terminate authorizations or~~
 19.23 ~~payment to the entity or individual if the department determines that the action is necessary~~
 19.24 ~~to protect the public welfare or the interests of the child care assistance program.~~

19.25 A provider's rights related to an action taken under this chapter are established in sections
 19.26 119B.16 and 119B.161.

19.27 **EFFECTIVE DATE.** This section is effective April 23, 2018.

19.28 Sec. 28. Minnesota Statutes 2016, section 245E.07, subdivision 1, is amended to read:

19.29 Subdivision 1. **Grounds for and methods of monetary recovery.** (a) The department
 19.30 may obtain monetary recovery from a provider who has been improperly paid by the child
 19.31 care assistance program, regardless of whether the error was on the part of the provider, the

20.1 department, or the county and regardless of whether the error was intentional or county
20.2 error. The department does not need to establish a pattern as a precondition of monetary
20.3 recovery of erroneous or false billing claims, duplicate billing claims, or billing claims
20.4 based on false statements or financial misconduct.

20.5 (b) The department shall obtain monetary recovery from providers by the following
20.6 means:

20.7 (1) permitting voluntary repayment of money, either in lump-sum payment or installment
20.8 payments;

20.9 (2) using any legal collection process;

20.10 (3) deducting or withholding program payments; or

20.11 (4) utilizing the means set forth in chapter 16D.

20.12 **EFFECTIVE DATE.** This section is effective April 23, 2018.

20.13 Sec. 29. Minnesota Statutes 2016, section 256.98, subdivision 8, is amended to read:

20.14 Subd. 8. **Disqualification from program.** (a) Any person found to be guilty of
20.15 wrongfully obtaining assistance by a federal or state court or by an administrative hearing
20.16 determination, or waiver thereof, through a disqualification consent agreement, or as part
20.17 of any approved diversion plan under section 401.065, or any court-ordered stay which
20.18 carries with it any probationary or other conditions, in the Minnesota family investment
20.19 program and any affiliated program to include the diversionary work program and the work
20.20 participation cash benefit program, the food stamp or food support program, the general
20.21 assistance program, the group residential housing program, or the Minnesota supplemental
20.22 aid program shall be disqualified from that program. In addition, any person disqualified
20.23 from the Minnesota family investment program shall also be disqualified from the food
20.24 stamp or food support program. The needs of that individual shall not be taken into
20.25 consideration in determining the grant level for that assistance unit:

20.26 (1) for one year after the first offense;

20.27 (2) for two years after the second offense; and

20.28 (3) permanently after the third or subsequent offense.

20.29 The period of program disqualification shall begin on the date stipulated on the advance
20.30 notice of disqualification without possibility of postponement for administrative stay or
20.31 administrative hearing and shall continue through completion unless and until the findings
20.32 upon which the sanctions were imposed are reversed by a court of competent jurisdiction.

21.1 The period for which sanctions are imposed is not subject to review. The sanctions provided
21.2 under this subdivision are in addition to, and not in substitution for, any other sanctions that
21.3 may be provided for by law for the offense involved. A disqualification established through
21.4 hearing or waiver shall result in the disqualification period beginning immediately unless
21.5 the person has become otherwise ineligible for assistance. If the person is ineligible for
21.6 assistance, the disqualification period begins when the person again meets the eligibility
21.7 criteria of the program from which they were disqualified and makes application for that
21.8 program.

21.9 (b) A family receiving assistance through child care assistance programs under chapter
21.10 119B with a family member who is found to be guilty of wrongfully obtaining child care
21.11 assistance by a federal court, state court, or an administrative hearing determination or
21.12 waiver, through a disqualification consent agreement, as part of an approved diversion plan
21.13 under section 401.065, or a court-ordered stay with probationary or other conditions, is
21.14 disqualified from child care assistance programs. The disqualifications must be for periods
21.15 of one year and two years for the first and second offenses, respectively. Subsequent
21.16 violations must result in permanent disqualification. During the disqualification period,
21.17 disqualification from any child care program must extend to all child care programs and
21.18 must be immediately applied.

21.19 (c) A provider caring for children receiving assistance through child care assistance
21.20 programs under chapter 119B is disqualified from receiving payment for child care services
21.21 from the child care assistance program under chapter 119B when the provider is found to
21.22 have wrongfully obtained child care assistance by a federal court, state court, or an
21.23 administrative hearing determination or waiver under section 256.046, through a
21.24 disqualification consent agreement, as part of an approved diversion plan under section
21.25 401.065, or a court-ordered stay with probationary or other conditions. The disqualification
21.26 must be for a period of ~~one year~~ two years for the first offense ~~and two years for the second~~
21.27 ~~offense~~. Any subsequent violation must result in permanent disqualification. The
21.28 disqualification period must be imposed immediately after a determination is made under
21.29 this paragraph. During the disqualification period, the provider is disqualified from receiving
21.30 payment from any child care program under chapter 119B.

21.31 (d) Any person found to be guilty of wrongfully obtaining MinnesotaCare for adults
21.32 without children and upon federal approval, all categories of medical assistance and
21.33 remaining categories of MinnesotaCare, except for children through age 18, by a federal or
21.34 state court or by an administrative hearing determination, or waiver thereof, through a
21.35 disqualification consent agreement, or as part of any approved diversion plan under section

22.1 401.065, or any court-ordered stay which carries with it any probationary or other conditions,
22.2 is disqualified from that program. The period of disqualification is one year after the first
22.3 offense, two years after the second offense, and permanently after the third or subsequent
22.4 offense. The period of program disqualification shall begin on the date stipulated on the
22.5 advance notice of disqualification without possibility of postponement for administrative
22.6 stay or administrative hearing and shall continue through completion unless and until the
22.7 findings upon which the sanctions were imposed are reversed by a court of competent
22.8 jurisdiction. The period for which sanctions are imposed is not subject to review. The
22.9 sanctions provided under this subdivision are in addition to, and not in substitution for, any
22.10 other sanctions that may be provided for by law for the offense involved.

22.11 **EFFECTIVE DATE.** This section is effective April 23, 2018.

22.12 Sec. 30. **REPEALER.**

22.13 Minnesota Statutes 2016, sections 119B.16, subdivision 2; 245E.03, subdivision 3; and
22.14 245E.06, subdivisions 4 and 5, and Minnesota Rules, part 3400.0185, subpart 5, are repealed
22.15 effective April 23, 2018.