

- 1.1 ..... moves to amend H.F. No. 663 as follows:
- 1.2 Page 4, line 9, strike "provide"
- 1.3 Page 4, delete lines 10 to 14 and insert "enrollment, reenrollment, and revalidation as a  
1.4 personal care assistance provider agency and in a format determined by the commissioner,  
1.5 provide information and documentation that includes, but is not limited to, the following:"
- 1.6 Page 6, delete lines 10 and 11
- 1.7 Page 6, line 12, reinstate the stricken "(b)" and delete "(c)"
- 1.8 Page 6, line 17, reinstate the stricken "(c)" and delete "(d)"
- 1.9 Page 7, line 10, reinstate the stricken "(d)" and delete "(e)"
- 1.10 Page 7, line 12, before the first "at" insert "annually"
- 1.11 Page 7, line 17, delete "(f)" and insert "(e)" and delete "enrolling for the first time" and  
1.12 delete "also"
- 1.13 Page 7, delete lines 18 and 19 and insert "at the time of initial enrollment as a personal  
1.14 care assistance provider agency and in a format determined by the commissioner, provide"
- 1.15 Page 7, line 20, delete "documentation must include"
- 1.16 Page 7, line 27, delete "(g) At the time of revalidation as a personal care assistance  
1.17 provider agency," and insert "(f)"
- 1.18 Page 7, line 28, after "provide" insert "at the time of revalidation"
- 1.19 Page 7, line 29, after "includes" insert a comma and after "to" insert a comma
- 1.20 Page 9, after line 11, insert:

2.1 "Sec. 6. Minnesota Statutes 2020, section 256B.85, subdivision 10, is amended to read:

2.2 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)

2.3 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision  
2.4 13a shall:

2.5 (1) enroll as a medical assistance Minnesota health care programs provider and meet all  
2.6 applicable provider standards and requirements;

2.7 (2) demonstrate compliance with federal and state laws and policies for CFSS as  
2.8 determined by the commissioner;

2.9 (3) comply with background study requirements under chapter 245C and maintain  
2.10 documentation of background study requests and results;

2.11 (4) verify and maintain records of all services and expenditures by the participant,  
2.12 including hours worked by support workers;

2.13 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,  
2.14 or other electronic means to potential participants, guardians, family members, or participants'  
2.15 representatives;

2.16 (6) directly provide services and not use a subcontractor or reporting agent;

2.17 (7) meet the financial requirements established by the commissioner for financial  
2.18 solvency;

2.19 (8) have never had a lead agency contract or provider agreement discontinued due to  
2.20 fraud, or have never had an owner, board member, or manager fail a state or FBI-based  
2.21 criminal background check while enrolled or seeking enrollment as a Minnesota health care  
2.22 programs provider; and

2.23 (9) have an office located in Minnesota.

2.24 (b) In conducting general duties, agency-providers and FMS providers shall:

2.25 (1) pay support workers based upon actual hours of services provided;

2.26 (2) pay for worker training and development services based upon actual hours of services  
2.27 provided or the unit cost of the training session purchased;

2.28 (3) withhold and pay all applicable federal and state payroll taxes;

2.29 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,  
2.30 liability insurance, and other benefits, if any;

3.1 (5) enter into a written agreement with the participant, participant's representative, or  
3.2 legal representative that assigns roles and responsibilities to be performed before services,  
3.3 supports, or goods are provided;

3.4 (6) report maltreatment as required under section 626.557 and chapter 260E;

3.5 (7) comply with the labor market reporting requirements described in section 256B.4912,  
3.6 subdivision 1a;

3.7 (8) comply with any data requests from the department consistent with the Minnesota  
3.8 Government Data Practices Act under chapter 13; ~~and~~

3.9 (9) maintain documentation for the requirements under subdivision 16, paragraph (e),  
3.10 clause (2), to qualify for an enhanced rate under this section; and

3.11 (10) notify the commissioner on a form prescribed by the commissioner within six  
3.12 months following the date upon which a support worker is no longer employed by or  
3.13 otherwise affiliated with the agency-provider, or upon which the support worker is no longer  
3.14 employed by the participant employer.

3.15 Sec. 7. Minnesota Statutes 2020, section 256B.85, subdivision 12, is amended to read:

3.16 Subd. 12. **Requirements for enrollment of CFSS agency-providers.** (a) All CFSS  
3.17 agency-providers must ~~provide~~, at the time of enrollment, reenrollment, and revalidation  
3.18 as a CFSS agency-provider and in a format determined by the commissioner, provide  
3.19 information and documentation that includes, but is not limited to, the following:

3.20 (1) the CFSS agency-provider's current contact information including address, telephone  
3.21 number, and e-mail address;

3.22 (2) proof of surety bond coverage. Upon new enrollment, or if the agency-provider's  
3.23 Medicaid revenue in the previous calendar year is less than or equal to \$300,000, the  
3.24 agency-provider must purchase a surety bond of \$50,000. If the agency-provider's Medicaid  
3.25 revenue in the previous calendar year is greater than \$300,000, the agency-provider must  
3.26 purchase a surety bond of \$100,000. The surety bond must be in a form approved by the  
3.27 commissioner, must be renewed annually, and must allow for recovery of costs and fees in  
3.28 pursuing a claim on the bond;

3.29 (3) proof of fidelity bond coverage in the amount of \$20,000;

3.30 (4) proof of workers' compensation insurance coverage;

3.31 (5) proof of liability insurance;

4.1 (6) a description of the CFSS agency-provider's organization identifying the names of  
4.2 all owners, managing employees, staff, board of directors, and the affiliations of the directors  
4.3 and owners to other service providers;

4.4 (7) a copy of the CFSS agency-provider's written policies and procedures including:  
4.5 hiring of employees; training requirements; service delivery; identification, prevention,  
4.6 detection, and reporting of fraud or any billing, record keeping, or other administrative  
4.7 noncompliance; and employee and consumer safety, including the process for notification  
4.8 and resolution of participant grievances, incident response, identification and prevention of  
4.9 communicable diseases, and employee misconduct;

4.10 (8) copies of all other forms the CFSS agency-provider uses in the course of daily  
4.11 business including, but not limited to:

4.12 (i) a copy of the CFSS agency-provider's time sheet; and

4.13 (ii) a copy of the participant's individual CFSS service delivery plan;

4.14 (9) a list of all training and classes that the CFSS agency-provider requires of its staff  
4.15 providing CFSS services;

4.16 (10) documentation that the CFSS agency-provider and staff have successfully completed  
4.17 all the training required by this section;

4.18 (11) documentation of the agency-provider's marketing practices;

4.19 (12) disclosure of ownership, leasing, or management of all residential properties that  
4.20 are used or could be used for providing home care services;

4.21 (13) documentation that the agency-provider will use at least the following percentages  
4.22 of revenue generated from the medical assistance rate paid for CFSS services for CFSS  
4.23 support worker wages and benefits: 72.5 percent of revenue from CFSS providers, except  
4.24 100 percent of the revenue generated by a medical assistance rate increase due to a collective  
4.25 bargaining agreement under section 179A.54 must be used for support worker wages and  
4.26 benefits. The revenue generated by the worker training and development services and the  
4.27 reasonable costs associated with the worker training and development services shall not be  
4.28 used in making this calculation; ~~and~~

4.29 (14) documentation that the agency-provider does not burden participants' free exercise  
4.30 of their right to choose service providers by requiring CFSS support workers to sign an  
4.31 agreement not to work with any particular CFSS participant or for another CFSS  
4.32 agency-provider after leaving the agency and that the agency is not taking action on any  
4.33 such agreements or requirements regardless of the date signed;

5.1 (15) a copy of the CFSS agency-provider's self-auditing policy and other materials  
5.2 demonstrating the CFSS agency-provider's internal program integrity procedures; and

5.3 (16) a copy of the CFSS agency-provider's policy for notifying the commissioner within  
5.4 six months that a support worker is no longer employed by the CFSS agency-provider.

5.5 (b) CFSS agency-providers shall provide to the commissioner the information specified  
5.6 in paragraph (a). All CFSS agency-providers must provide annually to the commissioner  
5.7 the information described in paragraph (a), clauses (2) to (5).

5.8 (c) All CFSS agency-providers shall require all employees in management and  
5.9 supervisory positions and owners of the agency who are active in the day-to-day management  
5.10 and operations of the agency to complete mandatory training as determined by the  
5.11 commissioner. The mandatory training, or any substantially similar refresher training  
5.12 developed by the commissioner, must be completed every two years thereafter. Employees  
5.13 in management and supervisory positions and owners who are active in the day-to-day  
5.14 operations of an agency who have completed the required training as an employee with a  
5.15 CFSS agency-provider do not need to repeat the required training if they are hired by another  
5.16 agency, if they have completed the training within the past ~~three~~ two years. CFSS  
5.17 agency-provider billing staff shall complete training about CFSS program financial  
5.18 management. Any new owners or employees in management and supervisory positions  
5.19 involved in the day-to-day operations are required to complete mandatory training as a  
5.20 requisite of working for the agency.

5.21 (d) The commissioner shall send annual review notifications to agency-providers 30  
5.22 days prior to renewal. The notification must:

5.23 (1) list the materials and information the agency-provider is required to submit;

5.24 (2) provide instructions on submitting information to the commissioner; and

5.25 (3) provide a due date by which the commissioner must receive the requested information.

5.26 Agency-providers shall submit all required documentation for annual review within 30 days  
5.27 of notification from the commissioner. If an agency-provider fails to submit all the required  
5.28 documentation, the commissioner may take action under subdivision 23a.

5.29 (e) CFSS provider-agencies must, at the time of initial enrollment as a CFSS  
5.30 agency-provider and in a format determined by the commissioner, provide proof of sufficient  
5.31 initial operating capital to support the infrastructure necessary to allow for ongoing  
5.32 compliance with the requirements of this section. Sufficient operating capital may be  
5.33 demonstrated as follows:

- 6.1 (1) copies of business bank account statements showing at least \$5,000 in cash reserves;  
6.2 (2) proof of a cash reserve or business line of credit sufficient to equal two payrolls of  
6.3 the CFSS agency-provider's current or projected business; or  
6.4 (3) any other manner prescribed by the commissioner.

6.5 (f) All CFSS provider-agencies must at the time of revalidation provide information and  
6.6 documentation in a format determined by the commissioner that includes but is not limited  
6.7 to the following:

- 6.8 (1) documentation of the payroll paid for the preceding 12 months or other time period  
6.9 as prescribed by the commissioner; and  
6.10 (2) financial statements demonstrating compliance with the use of revenue requirements  
6.11 of paragraph (a), clause (13).

6.12 Sec. 8. Minnesota Statutes 2020, section 256B.85, subdivision 16, is amended to read:

6.13 Subd. 16. **Support workers requirements.** (a) Support workers shall:

6.14 (1) enroll with the department as a support worker after a background study under chapter  
6.15 245C has been completed and the support worker has received a notice from the  
6.16 commissioner that the support worker:

6.17 (i) is not disqualified under section 245C.14; or

6.18 (ii) is disqualified, but has received a set-aside of the disqualification under section  
6.19 245C.22;

6.20 (2) have the ability to effectively communicate with the participant or the participant's  
6.21 representative;

6.22 (3) have the skills and ability to provide the services and supports according to the  
6.23 participant's CFSS service delivery plan and respond appropriately to the participant's needs;

6.24 (4) complete the basic standardized CFSS training as determined by the commissioner  
6.25 before completing enrollment. The training must be available in languages other than English  
6.26 and to those who need accommodations due to disabilities. CFSS support worker training  
6.27 must include successful completion of the following training components: basic first aid,  
6.28 vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and  
6.29 responsibilities of support workers including information about basic body mechanics,  
6.30 emergency preparedness, orientation to positive behavioral practices, orientation to  
6.31 responding to a mental health crisis, fraud issues, time cards and documentation, and an

7.1 overview of person-centered planning and self-direction. Upon completion of the training  
7.2 components, the support worker must pass the certification test to provide assistance to  
7.3 participants;

7.4 (5) complete employer-directed training and orientation on the participant's individual  
7.5 needs;

7.6 (6) maintain the privacy and confidentiality of the participant; and

7.7 (7) not independently determine the medication dose or time for medications for the  
7.8 participant.

7.9 (b) The commissioner may deny or terminate a support worker's provider enrollment  
7.10 and provider number if the support worker:

7.11 (1) does not meet the requirements in paragraph (a);

7.12 (2) fails to provide the authorized services required by the employer;

7.13 (3) has been intoxicated by alcohol or drugs while providing authorized services to the  
7.14 participant or while in the participant's home;

7.15 (4) has manufactured or distributed drugs while providing authorized services to the  
7.16 participant or while in the participant's home; or

7.17 (5) has been excluded as a provider by the commissioner of human services, or by the  
7.18 United States Department of Health and Human Services, Office of Inspector General, from  
7.19 participation in Medicaid, Medicare, or any other federal health care program.

7.20 (c) A support worker may appeal in writing to the commissioner to contest the decision  
7.21 to terminate the support worker's provider enrollment and provider number.

7.22 (d) A support worker must not provide or be paid for more than 310 hours of CFSS per  
7.23 month, regardless of the number of participants the support worker serves or the number  
7.24 of agency-providers or participant employers by which the support worker is employed.  
7.25 The department shall not disallow the number of hours per day a support worker works  
7.26 unless it violates other law.

7.27 (e) CFSS qualify for an enhanced rate if the support worker providing the services:

7.28 (1) provides services, within the scope of CFSS described in subdivision 7, to a participant  
7.29 who qualifies for 12 or more hours per day of CFSS; and

7.30 (2) satisfies the current requirements of Medicare for training and competency or  
7.31 competency evaluation of home health aides or nursing assistants, as provided in the Code

8.1 of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state-approved  
8.2 training or competency requirements.

8.3 (f) Within six months of ceasing employment as a support worker with any  
8.4 agency-provider or any participant employer, the support worker must notify the  
8.5 commissioner on a form prescribed by the commissioner that the support worker is no longer  
8.6 providing services and supports through community first services and supports on behalf  
8.7 of an agency-provider or to a participant employer with whom the support worker was  
8.8 previously employed, enrolled, or affiliated."

8.9 Amend the title accordingly