

# House Research Act Summary

**CHAPTER:** 155

**SESSION:** 2005 Regular Session

**TOPIC:** K-12 and Human Services Forecast Adjustments; Human Services Savings

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## Overview

This act makes forecast adjustments for prekindergarten through Grade 12 education and human services. The act also includes provisions related to human services savings.

### Section

#### **Article 1: Prekindergarten Through Grade 12 Education**

An appropriations deficiency occurs when the appropriation in law is smaller than the amount necessary to fully fund the program. For the last several years, the Legislature and the executive branch have operated under a series of budget principles that require the Legislature to fully fund programs and for the Forecast to reflect the full cost of these programs.

This article makes corrections to appropriations for fiscal years 2004 and 2005 where the line item appropriation was either insufficient to fully fund the aid amounts or was in excess of the estimated amount needed to fund the program. These appropriations are already included in the February 2005 Forecast of base expenditures.

Appropriations that are modified in this bill to match the February 2005 Forecast aid estimates include:

- } general education aid;
- } referendum tax base replacement aid;

- } abatement aid
- } consolidation transition
- } nonpublic pupil aid;
- } nonpublic pupil transportation aid;
- } charter school building lease aid;
- } integration aid;
- } magnet school startup aid
- } inter-district desegregation or integration transportation grants
- } success for the future aid;
- } aid for tribal contract schools;
- } regular special education aid;
- } aid for children with disabilities;
- } travel for home-based services;
- } special education excess cost aid;
- } litigation costs for special education
- } aid for the transition of disabled students;
- } court-placed special education aid;
- } out-of-state tuition special education
- } health and safety aid;
- } debt service equalization aid;
- } alternative facilities bonding aid;
- } school lunch aid
- } school breakfast aid;
- } basic system support grants;
- } library aid;
- } school readiness aid;
- } early childhood family education aid
- } health and developmental screening aid;
- } community education aid;
- } adults with disabilities program aid;
- } school age care aid; and
- } adult basic education aid.

## **Article 2: Human Services Forecast Adjustments**

This article makes forecast adjustments related to Department of Human Services appropriations.

## **Article 3: Human Services Savings**

- 1** **Period of ineligibility.** Amends § 256B.0595, subd. 2. Allows a cause of action against a person receiving a transfer of assets, if the transfer was reported to the local agency after the date that advance notice of a period of ineligibility could be provided to the recipient, and the recipient received MA services. States that the section is effective for transfers occurring on or after July 1, 2005.
- 2** **Health services policy committee.** Amends § 256B.0625, by adding subd. 3c. Requires the commissioner, after receiving recommendations from specified groups, to establish a 13-member Health Services Policy Committee. Requires the committee to advise the commissioner on health services issues related to health care benefits under state health care programs. Requires the committee to meet at least quarterly and to annually elect a

physician chair to work with the commissioner's medical director to establish meeting agendas.

3 **Health services policy committee members.** Amends § 256B.0625, by adding subd. 3d. Specifies membership of the Health Services Policy Committee.

4 **Health services policy committee terms and compensation.** Amends § 256B.0625, by adding subd. 3e. Specifies terms, provides for payment of an honorarium and expenses, and states that the committee does not expire.

5 **Payment rates.** Amends § 256B.0625, subd. 13e. The amendment to paragraph (a) requires the actual acquisition cost of antihemophilic factor drugs to be estimated at average wholesale price (AWP) minus 30 percent. Also eliminates obsolete language.

The amendment to paragraph (d) sets the payment amount of drugs administered in an outpatient setting at the lower of the usual and customary cost or the amount established by Medicare.

A new paragraph (e) allows the commissioner to negotiate lower reimbursement rates for specialty pharmacy products. Allows the commissioner to require state health care program enrollees to obtain specialty pharmacy products from providers with whom the commissioner has negotiated a lower rate. Provides a definition of specialty pharmacy products and requires the commissioner to consult with the formulary committee to develop a list of specialty pharmacy products, taking specified factors into consideration. Allows the commissioner to adjust the reimbursement rate to prevent access to care issues.

6 **Prior authorization.** Amends § 256B.0625, subd. 13f. Allows the commissioner to automatically require prior authorization, for a period not to exceed 180 days, for any drug approved by the U.S. Food and Drug Administration on or after July 1, 2005. Requires the formulary committee to recommend general criteria for prior authorization, but does not require the committee to review each individual drug. Requires the commissioner to follow the general prior authorization provisions, in order to continue prior authorizations after the 180-day period has expired.

7 **Public health care programs and certain trusts.** Adds § 501B.895.

Paragraph (a) states that it is the public policy of the state that individuals use all available resources to pay for long-term care before turning to Minnesota health care program funds, and that trust instruments should not be permitted to shield available resources.

Paragraph (b) provides that any irrevocable inter vivos trust or similar instrument created on or after July 1, 2005, becomes revocable for the sole purpose of determining eligibility for payment of long-term care services through a Minnesota public health care program. States that any inter vivos irrevocable trust or similar instrument shall be deemed to be located in and subject to the laws of this state. States such an instrument is created as of the date it is fully executed by all of the settlers or others.

Paragraph (c) defines a legal instrument, device, or instrument similar to an irrevocable inter vivos trust.

Paragraph (d) provides that if there is a conflict between this section and the provisions of an irrevocable trust created on or after July 1, 2005, this section shall control.

Paragraph (e) provides that this section does not apply to trusts that qualify as supplemental

needs trusts or as special needs trusts under 42 U.S.C. § 1396p (d)(4)(a) and (c).

Paragraph (f) provides that this section applies to all trusts first created on or after July 1, 2005, and applies to all interests in real or personal property regardless of the date the interest was created, reserved or acquired.

**8 Limiting waiver growth.** Paragraph (a) requires the commissioner of human services, for each year of the biennium ending June 30, 2007, to limit new diversion caseload growth in the MR/RC waiver to 75 additional allocations. Requires available diversion allocations to be awarded to individuals whose health and safety needs result in an imminent risk of institutional placement at anytime during the fiscal year.

Paragraph (b) requires the commissioner of human services, for each year of the biennium ending June 30, 2007, to make available additional allocations for the community alternatives for disabled individuals (CADI) waiver at a rate of 105 per month or 1,260 per year, plus any legislatively authorized growth. Requires priority to be given to individuals anticipated to be discharged from institutional settings or who are at imminent risk of placement in an institutional setting.

Paragraph (c) requires the commissioner of human services, for each year of the biennium ending June 30, 2007, to make available additional allocations for the traumatic brain injury (TBI) waiver at a rate of 165 per year. Requires priority to be given to individuals anticipated to be discharged from institutional settings or who are at imminent risk of placement in an institutional setting.