

Subject COVID-19 response efforts

Analyst Minnesota House Research Department

Date April 22, 2020

Overview

This act modifies deadlines, requirements for in-person appearances, state programs, and other statutory requirements in response to an outbreak of the infectious disease COVID-19 in Minnesota, and also makes human services forecast adjustments and makes technical and implementation corrections related to human services.

Article 1: COVID-19 Policy

This article appropriates money and modifies statutory deadlines and requirements in response to social distancing practices, transportation needs, and recent changes in testing and other medical services. The article permits some appearances by interactive television to comply with the open meeting law; permits courts to find that certain technical errors in wills and similar documents are harmless; appropriates money for grants to Second Harvest Heartland; permits exceptions for issuing and recognizing some commercial driver's licenses; requires reporting related to transportation; provides that medical assistance is available to cover testing for some uninsured individuals; grants the commissioner of health emergency powers to preserve access to programs and services; supports the use of telemedicine during the peacetime emergency; tolls statutory deadlines covering proceedings in the district and appellate courts; extends the deadline to file challenges to cost of living adjustments to child support; permits the issuance of marriage licenses without an in-person appearance; extends the mediation period under the Farmer-Lender Mediation Act in some circumstances; and grants the commissioner of revenue permissive authority to not publicly list a taxpayer for late filing or payment of tax under the liquor posting statute if the taxpayer's business was affected by certain executive orders.

Section Description – Article 1: COVID-19 Policy

1 **Conditions (open meeting law; meetings by interactive TV).**

Allows a member of a public body to participate in an open meeting by interactive TV from a location not accessible to the public up to three times in a year if the member has been advised by a health care professional against being in a public place for personal or family medical reasons. This provision would only apply during a state of emergency declared under section 12.31 (such as the current declaration due to COVID-19), and expires 60 days after the removal of the state of emergency. Adds

Section Description – Article 1: COVID-19 Policy

that, for all purposes of the section, all votes must be roll call votes. Effective April 16, 2020.

2 Harmless error.

Allows a court probating a will or document, such as a revocation or codicil, to treat a writing that does not meet one or part of a requirement for executing a will currently under law as if it was executed properly if there is clear and convincing evidence the testator intended for the document to be controlling. Current law requires a will to be in writing, signed by the testator or another individual at their direction, and signed by two witnesses who also sign the document verifying they witnessed the testator sign the document or sign an acknowledgment of the signature or will. This section only applies to documents executed between March 13, 2020, and February 15, 2021.

3 Administration and financial assistance.

Adds an additional \$1.25 million to a fiscal year 2020 appropriation to the Minnesota Department of Agriculture (MDA) to reimburse Second Harvest Heartland for the purchase of agricultural commodities distributed to food banks and other charitable organizations. Expands eligible uses of this money to include Second Harvest Heartland's purchase of pork, poultry, beef, dry legumes, cheese, eggs, and other protein products. Under current law and this section, MDA may also reimburse Second Harvest Heartland for purchases of milk, fruits, vegetables, and certain other commodities. Requires Second Harvest Heartland, to the extent practicable, to purchase surplus, low-cost protein products from Minnesota farmers and processors. Provides that MDA may only use the additional \$1.25 million to reimburse Second Harvest Heartland for milk and protein purchases. Limits Second Harvest Heartland's administrative allowance to 2 percent of any protein reimbursement grant from MDA.

4 Out-of-state licenses.

Broadens an out-of-state driver's license extension provision recently enacted in Laws 2020, chapter 71, to include commercial driver's license (CDL) holders who become Minnesota residents. Under the change:

- a CDL holder can continue to use a license from another jurisdiction beyond the usual 30-day grace period; and
- the out-of-state license expiration date is extended in conformance with a federal extension (so that a CDL that would otherwise expire during the peacetime emergency, or at any point during the last month in which the peacetime emergency is in place, is extended to the end of the second month following the month in which the peacetime emergency terminates, but no later than as provided by the federal extension).

Section Description – Article 1: COVID-19 Policy

5 Medical certificates and waivers.

Creates an extension for medical examiner’s certificates and waivers (which are required to be maintained by CDL holders) in the same manner as driver’s license extensions enacted in Laws 2020, chapter 71, but in conformance with a federal extension.

6 Commercial driver’s license.

Authorizes the Department of Public Safety to issue commercial driver’s licenses (CDLs) without immediately administering an eye exam or obtaining an in-person photograph, for (1) seasonal CDLs, as well as (2) other applicants if the department has instituted road exams in a manner that complies with state and federal recommendations related to personal protections with the COVID-19 disease.

A CDL issued under this provision expires at the end of the second month following the month in which the peacetime emergency terminates, unless the license holder gets an updated photo taken and passes an eye exam. Prevents imposition of any additional fees or surcharges (beyond what is charged under typical circumstances).

7 Report to legislature; powers exercised by commissioner of transportation during peacetime public health emergency.

Requires a legislative report from the Department of Transportation about use of any temporary powers during the peacetime public health emergency. The report is due within 30 days of expiration of the emergency.

8 Report to legislature; powers exercised by Metropolitan Council during peacetime public health emergency.

Requires a legislative report from the Metropolitan Council about use of any temporary powers during the peacetime public health emergency. The report is due within 30 days of expiration of the emergency.

9 Extending the deadline for the transit finance report.

Delays the next due date for a biennial transit finance report produced by the Metropolitan Council, to be February 15, 2021, instead of October 15, 2020.

10 Use of federal transit funds.

Identifies allowable uses of federal COVID-19 response aid provided to the Metropolitan Council and to the Minnesota Department of Transportation for distribution to transit providers (without restricting other uses). Requires legislative reporting from each agency regarding uses of the federal funds, which is due by February 15, 2021.

Section Description – Article 1: COVID-19 Policy

11 Uninsured individuals needing testing for COVID-19.

(a) States that MA is available for uninsured individuals for testing and diagnosis of COVID-19, as described in federal law.

(b) Limits coverage under this section to any diagnostic product available for the detection of SARS-CoV-2 or the virus that causes COVID-19, that is necessary to make a diagnosis of COVID-19, and any associated visit. Limits coverage to an emergency period as designated by the federal government related to an outbreak of COVID-19. In order to be covered, requires diagnostic products to have received Emergency Use Authorization under federal law.

States that the section is effective upon federal approval.

12 Coverage for testing for COVID-19.

Provides MA coverage for any diagnostic product available for the detection of SARS-CoV-2 or the virus that causes COVID-19, that is necessary to make a diagnosis of COVID-19, and any associated visit. Limits coverage to an emergency period as designated by the federal government related to an outbreak of COVID-19. In order to be covered, requires diagnostic products to have received Emergency Use Authorization under federal law.

States that the section is effective upon federal approval.

13 Commissioner of health; temporary emergency authority.

Authorizes the commissioner of health to temporarily delay, waive, modify, or issue variances to state laws, to prepare for and respond to the COVID-19 outbreak, and to preserve access to programs and services provided, licensed, or regulated by the Health Department. Also authorizes the commissioner to establish temporary alternative health care facilities.

Subd. 1. Peacetime emergency; temporary authority granted. Beginning on the date the governor declared a peacetime emergency for an outbreak of COVID-19, grants the commissioner the temporary authority specified in this section, to prepare for and respond to the COVID-19 outbreak, and to preserve access to programs and services provided, licensed, or regulated by the Health Department.

Subd. 2. Temporary delay, waiver, or modification. Authorizes the commissioner to temporarily delay, waive, or modify the following provisions and applicable rules: provisions governing the hospital construction moratorium and the moratorium on certification of nursing home beds; provisions in statute and rules that govern the health care-based use of x-ray technologies; provisions for which the commissioner is responsible in the listed statutory chapters and sections;

Section Description – Article 1: COVID-19 Policy

provisions related to administrative appeals, reconsiderations, or other reviews; and provisions governing state-funded grants issued by the commissioner.

Subd. 3. Temporary alternative health care facilities. Authorizes the commissioner to establish temporary alternative health care facilities. During the peacetime emergency related to the COVID-19 outbreak, suspends certain compliance and regulatory standards as they apply to nontraditional spaces used for temporary alternative health care facilities. Requires the commissioner to consult with the commissioner of labor and industry on state building code issues as necessary to establish and regulate beds at temporary alternative health care facilities.

Subd. 4. Variances. Allows the commissioner to temporarily grant individual and blanket variances to rules within the commissioner's jurisdiction, provided the variances do not affect the health or safety of persons in licensed programs. Establishes requirements for granting individual and blanket variances. Provides that the commissioner's decision to grant or deny a variance request is final and not subject to appeal.

Subd. 5. Notice. No later than 48 hours after a delay, waiver, blanket variance, or modification goes into effect, requires the commissioner to provide written notice to the appropriate ombudsman and to the chairs and ranking minority members of the legislative committees with jurisdiction over the Health Department. Also requires a delay, waiver, blanket variance, or modification to be posted on the department's website within 48 hours after being issued or granted.

Subd. 6. Report. Within 60 days after the peacetime emergency related to COVID-19 ends, requires the commissioner to submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over the Health Department, with details on the statutes and rules delayed, waived, or modified.

Subd. 7. Expiration. Makes this section expire 60 days after the peacetime emergency related to COVID-19 ends.

This section is effective retroactively from March 13, 2020.

- 14 **Medical assistance reimbursement for temporary alternative health care facilities.** Requires the commissioner of human services to enroll temporary alternative health care facilities as MA providers. Requires the commissioner to establish a payment rate for inpatient services provided by these facilities that: (1) utilizes to the extent practicable the existing inpatient payment rate method for hospitals based on diagnostic related groups; and (2) takes into account the statewide average costs of

Section Description – Article 1: COVID-19 Policy

similar acute care facilities. Requires the commissioner to expedite the procedures for provider enrollment, background studies, and provider screening necessary for service delivery by these facilities. Provides that the section expires 60 days after the peacetime emergency declared by the governor for an outbreak of COVID-19 is terminated or rescinded.

15 Telemedicine coverage during a peacetime emergency.

Subd. 1. Peacetime emergency; temporary modification to telemedicine coverage. Requires coverage of telemedicine services by health carriers to comply with this section, during a peacetime emergency declared by the governor for an outbreak of COVID-19.

Subd. 2. Licensed health care provider. Requires the definition of “licensed health care provider” (i.e. those providers eligible to provide telemedicine services) to be expanded to include mental health practitioners working under the supervision of a mental health professional and respiratory therapists licensed under chapter 147C and providing respiratory care services according to that chapter.

Subd. 3. Definition of telemedicine. Provides that the definition of “telemedicine” must include communication between a licensed health care provider and a patient that consists solely or primarily of a telephone conversation.

Subd. 4. Reimbursement. (a) Prohibits a health carrier from denying or limiting reimbursement based solely on a provider delivering consultations or health care services via telemedicine instead of in-person.

(b) Prohibits a health carrier from denying or limiting reimbursement based solely on the mechanism or platform of telemedicine used by the provider to deliver consultations or health care services, so long as the mechanism or platform allows for the delivery of telemedicine services.

Subd. 5. Expiration. States that this section expires 60 days after the peacetime emergency is terminated or rescinded.

This section is effective April 16, 2020.

16 Deadlines governing proceedings in district and appellate courts suspended during peacetime emergency.

Suspends the running of statutory deadlines that govern proceedings in the district and appellate courts. The suspension includes statutes of limitations and other time periods prescribed by statute. The suspension lasts for the length of the peacetime emergency and for an additional 60 days after it ends. Courts can continue to hold

Section Description – Article 1: COVID-19 Policy

hearings, require appearances, and issue orders if the judge determines that the individual circumstances make action appropriate. The suspension applies to any deadlines that had not expired as of March 13, 2020, or were triggered on or after that date.

17 Motions contesting child support cost-of-living adjustments.

Extends the deadline to file a motion to contest the COLA increase until June 30, 2020, due to the effects of the COVID-19 pandemic. Under section 518A.75, court-ordered child support is subject to a cost-of-living adjustment (COLA) based on the Consumer Price Index every two years. The scheduled increase this year is approximately 4.7 percent, effective May 1, 2020, and notices have been sent to child support obligors, per statutory requirements. Typically, an obligor would have until the effective date of the COLA increase to file a motion to contest the increase, under section 518A.75, subdivision 2a. Allows the court to use its discretion if an obligor is unable to file a motion by June 30, 2020, due to COVID-19, but files such a motion by October 31, 2020. Specifies that, if the court makes a full or partial adjustment to the child support obligation, the adjustment is effective retroactive to May 1, 2020, unless the court chooses an alternative date. This section is effective April 16, 2020.

18 Public health emergency; marriage license application and oath without appearance.

Allows counties to accept electronic filings, or mailed or faxed marriage applications, and to examine the parties under oath using audio or video. Requires counties to follow all the provisions of existing statute but does not require one of the parties to appear in person for the application. This section only allows this exception when a peacetime emergency related to COVID-19 is in place and expires on January 15, 2021.

19 Farmer-lender mediation extensions.

Delays the enforcement of certain debts secured by agricultural property (e.g., foreclosing a mortgage, cancelling a contract for deed, executing a court judgment) by extending the mediation period under the Farmer-Lender Mediation Act if (1) the farmer and creditor are in mediation when this act takes effect, or (2) an eligible farmer requests mediation prior to July 31, 2020.

20 No obligation to list on liquor posting.

Grants the commissioner of revenue permissive authority to not publicly list, or “post,” a taxpayer for late filing or payment of tax under the liquor posting statute if the taxpayer owns a business affected by the executive order closing bars, restaurants, and other places of public accommodation. Liquor posting is mandatory under current law for taxpayers who are ten days or more delinquent in filing certain

Section Description – Article 1: COVID-19 Policy

returns or paying certain taxes and a liquor manufacturer or wholesaler is prohibited from selling or delivering alcoholic beverages to a taxpayer on the list. Effective retroactively for taxes and returns due after January 31, 2020, and before four months from the date the executive order expires.

Article 2: Non-COVID-19 Policy

This article amends calculation of the motor vehicle registration tax; identifies situations where DPS can adjust the registration tax amount for a motor vehicle; and permits coroners and medical examiners to access the criminal justice data communications network in some circumstances.

Section Description – Article 2: Non-COVID-19 Policy

1 Passenger automobile; hearse.

Modifies and clarifies calculation of the motor vehicle registration tax, so that the formula is based on manufacturer's suggested retail price (MSRP) without other cost or price adjustments such as destination charge. Among the changes, it: (1) increases the tax rate used for vehicles being newly registered in Minnesota, from 1.25 to 1.28 percent (which has the effect of offsetting some of the revenue reduction from other changes); (2) bases the registration tax calculation only on the MSRP; (3) clarifies the ways in which MSRP can be determined; and (4) makes various clarifying and technical changes. Effective the earlier of January 1, 2021, or implementation of the necessary changes to the information technology system.

2 Adjustments to registration tax.

Provides for the circumstances where the Department of Public Safety can adjust the registration tax amount for a motor vehicle.

3 Criminal justice data communication network; authorized use.

Expands the permitted uses of the criminal justice data communication network to include coroners and medical examiners when they are seeking to identify a deceased person. (Current law provides that the criminal justice data communications network can only be used for specified purposes by entities identified in the statute.) This section is effective April 16, 2020. (See, HF 3730)

Article 3: Human Services Technical and Implementation Corrections

Sections 1 to 6 make technical changes in order to implement withdrawal management language passed in 2017, and make other technical changes and clarifications related to the Substance Use Disorder demonstration waiver implementation. Sections 7 to 11 make technical corrections to the appropriations article of the 2019 Health and Human Services Appropriations Act. Section 12 retroactively reinstates a section of statute that was repealed in error, and section 13 repeals that same section, effective July 1, 2020.

Section Description – Article 3: Human Services Technical and Implementation Corrections

- 1 Application.**

Amends § 245F.03. Specifies that Minnesota Rules, parts 9530.6600 to 9530.6655 do not apply to withdrawal management programs licensed under chapter 245F. This change is necessary to implement withdrawal management services language passed in 2017. This section is effective April 16, 2020.
- 2 Withdrawal management services authorization.**

Amends § 245F.04 by adding subd. 5. Allows a withdrawal management services license holder to admit an individual who meets admission criteria in section 245F.05, subds. 1 and 2. Specifies the process for additional assessments, and specifies the county financial responsibility if an individual needs withdrawal management services while a resident in a substance use disorder (SUD) treatment facility. These changes are necessary to implement withdrawal management services language passed in 2017. This section is effective April 16, 2020.
- 3 Rules for substance use disorder care.**

Amends § 254A.03, subd. 3. Clarifies that an individual may choose to obtain a comprehensive assessment through any enrolled, appropriately licensed provider. Specifies that if the individual is enrolled in a prepaid health plan, provider network requirements or limitations apply. These changes are necessary to implement withdrawal management services language passed in 2017. Provides a July 1, 2022, expiration date for the subdivision. This section is effective April 16, 2020.
- 4 Local agency duties.**

Amends § 254B.03, subd. 1.

(a) Clarifies that an individual may choose to obtain a comprehensive assessment under section 245G.05 through any enrolled, appropriately licensed provider. Specifies that if the individual is enrolled in a prepaid health plan, provider network requirements or limitations apply.

(b) Prohibits local agencies from making SUD treatment placement location determinations beginning July 1, 2022. These changes are necessary to implement

Section Description – Article 3: Human Services Technical and Implementation Corrections

withdrawal management services language passed in 2017. This section is effective April 16, 2020.

5 Provider standards.

Amends § 256B.0759, subd. 3. Modifies SUD demonstration project provider standards by clarifying that a provider must be licensed either as a withdrawal management program or a treatment facility, and clarifying language related to medication-assisted treatment providers. This section is effective April 16, 2020.

6 Provider payment rates.

Amends § 256B.0759, subd. 4. Modifies SUD demonstration project section by modifying the dates in paragraph (b) for a 15 percent payment rate increase for licensed residential SUD treatment services, after July 1, 2020; adds certain licensed outpatient adolescent treatment programs to list of services in paragraph (c) receiving a payment rate increase after January 1, 2021.

Adds paragraph (d), requiring managed care and county-based purchasing plans to reimburse SUD services providers who meet statutory requirements, and who are employed by or under contract with the plan, at a rate that is at least equal to the fee-for-service base rate for SUD services that increase under paragraphs (b) and (c) of this section. This requirement is effective January 1, 2021, and contingent on federal approval. Requires the commissioner to monitor the effect of this requirement on access to services and residential services rates. Requires that capitation rates paid to these plans reflect the impact of this rate requirement. Specifies that this paragraph expires if federal approval is not received.

Adds paragraph (e), requiring contracts between managed care and county-based purchasing plans and providers to whom paragraph (d) applies to allow recovery of payments from those providers if federal approval for the provisions of paragraph (d) is not received, but capitation rates are adjusted as a result. This requirement is effective July 1, 2021. Specifies that payment recoveries must not exceed an amount equal to any decrease in rates resulting from this provision.

This section is effective April 16, 2020, except that the date changes in paragraph (b) are effective retroactively from July 1, 2019.

7 TANF maintenance of effort.

Amends Laws 2019, First Special Session chapter 9, article 14, § 2, subd. 2. Amends a provision in the appropriations article of the 2019 Health and Human Services Appropriations Act, by adding qualifying working family credit expenditures to the list of allowable activities the commissioner of human services may report to meet

Section Description – Article 3: Human Services Technical and Implementation Corrections

- federal TANF maintenance of effort requirements. (This language was mistakenly omitted from the 2019 act.) This section is effective retroactively from July 1, 2019.
- 8 **Working family credit as TANF/MOE.**
Adds subd. 2a to Laws 2019, First Special Session chapter 9, article 14, § 2. Allows the commissioner of human services to claim as TANF/MOE up to \$6,707,000 of working family credit expenditures each fiscal year. (This rider was mistakenly omitted from the 2019 act.) This section is effective retroactively from July 1, 2019.
- 9 **Grant programs; children and economic support grants.**
Amends Laws 2019, First Special Session chapter 9, article 14, § 2, subd. 24. In the appropriations article for the 2019 Health and Human Services Appropriations Act, moves a rider for emergency services grants to the children and economic support grants budget activity. This section is effective retroactively from July 1, 2019.
- 10 **Grant programs; housing support grants.**
Amends Laws 2019, First Special Session chapter 9, article 14, § 2, subd. 30. In the appropriations article for the 2019 Health and Human Services Appropriations Act, deletes a rider for emergency services grants from the housing support grants budget activity (this rider is being moved to the children and economic support grants budget activity). This section is effective retroactively from July 1, 2019.
- 11 **Grant programs; adult mental health grants.**
Amends Laws 2019, First Special Session chapter 9, article 14, § 2, subd. 31. In the appropriations article for the 2019 Health and Human Services Appropriations Act, corrects a rider for community behavioral health center expansion to make the rider match the appropriation. This section is effective retroactively from July 1, 2019.
- 12 **Revival and reenactment.**
Revives and reenacts section 254B.03, subd. 4a (county share of chemical dependency services reimbursed by medical assistance), effective retroactively and without interruption from July 1, 2019. This section is effective April 16, 2020.
- 13 **Repealer.**
(a) Repeals section 254B.03, subd. 4a (revived retroactively in previous section), effective July 1, 2020.

(b) Repeals Minnesota Rules related to chemical dependency care for public assistance recipients, parts 9530.6600, subparts 1 and 3; 9530.6605, subparts 1, 2, 3, 4, 12.17 5, 8, 9, 10, 11, 12, 13, 14, 21a, 21b, 24a, 25, 25a, and 26; 9530.6610, subparts 1, 2, 3, and 12.18 5; 9530.6615; 9530.6620; 9530.6622; and 9530.6655, effective July 1, 2022.

Article 4: Human Services Forecast Adjustments

This article adjusts appropriations in fiscal years 2020 and 2021 for forecasted programs administered by the Department of Human Services, to conform with the February 2020 forecast.



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155