

1.1 Senator moves to amend the delete-everything amendment (SCS2934A-1)
1.2 to S.F. No. 2934 as follows:

1.3 Page 27, after line 32, insert:

1.4 "Sec. 19. Minnesota Statutes 2022, section 256B.49, subdivision 11, is amended to read:

1.5 Subd. 11. **Authority.** (a) The commissioner is authorized to apply for home and
1.6 community-based service waivers, as authorized under section 1915(c) of the federal Social
1.7 Security Act to serve persons under the age of 65 who are determined to require the level
1.8 of care provided in a nursing home and persons who require the level of care provided in a
1.9 hospital. The commissioner shall apply for the home and community-based waivers in order
1.10 to:

- 1.11 (1) promote the support of persons with disabilities in the most integrated settings;
- 1.12 (2) expand the availability of services for persons who are eligible for medical assistance;
- 1.13 (3) promote cost-effective options to institutional care; and
- 1.14 (4) obtain federal financial participation.

1.15 (b) The provision of waiver services to medical assistance recipients with disabilities
1.16 shall comply with the requirements outlined in the federally approved applications for home
1.17 and community-based services and subsequent amendments, including provision of services
1.18 according to a service plan designed to meet the needs of the individual, except when
1.19 applying a size limitation to a setting, the commissioner must treat residents under 55 years
1.20 of age who are receiving services under the brain injury or the community access for
1.21 disability inclusion waiver as if the residents are 55 years of age or older if the residents
1.22 lived and received services in the setting on or before March 1, 2023. For purposes of this
1.23 section, the approved home and community-based application is considered the necessary
1.24 federal requirement.

1.25 (c) The commissioner shall provide interested persons serving on agency advisory
1.26 committees, task forces, the Centers for Independent Living, and others who request to be
1.27 on a list to receive, notice of, and an opportunity to comment on, at least 30 days before
1.28 any effective dates, (1) any substantive changes to the state's disability services program
1.29 manual, or (2) changes or amendments to the federally approved applications for home and
1.30 community-based waivers, prior to their submission to the federal Centers for Medicare
1.31 and Medicaid Services.

2.1 (d) The commissioner shall seek approval, as authorized under section 1915(c) of the
 2.2 federal Social Security Act, to allow medical assistance eligibility under this section for
 2.3 children under age 21 without deeming of parental income or assets.

2.4 (e) The commissioner shall seek approval, as authorized under section 1915(c) of the
 2.5 Social Act, to allow medical assistance eligibility under this section for individuals under
 2.6 age 65 without deeming the spouse's income or assets.

2.7 (f) The commissioner shall comply with the requirements in the federally approved
 2.8 transition plan for the home and community-based services waivers authorized under this
 2.9 section, except when applying a size limitation to a setting, the commissioner must treat
 2.10 residents under 55 years of age who are receiving services under the brain injury or the
 2.11 community access for disability inclusion waiver as if the residents are 55 years of age or
 2.12 older if the residents lived and received services in the setting on or before March 1, 2023.

2.13 (g) The commissioner shall seek federal approval to allow for the reconfiguration of the
 2.14 1915(c) home and community-based waivers in this section, as authorized under section
 2.15 1915(c) of the federal Social Security Act, to implement a two-waiver program structure.

2.16 (h) The commissioner shall seek federal approval for the 1915(c) home and
 2.17 community-based waivers in this section, as authorized under section 1915(c) of the federal
 2.18 Social Security Act, to implement an individual resource allocation methodology.

2.19 **EFFECTIVE DATE.** This section is effective retroactively from January 11, 2021."

2.20 Page 48, after line 24, insert:

2.21 "Sec. 40. Minnesota Statutes 2022, section 256B.492, is amended to read:

2.22 **256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH**
 2.23 **DISABILITIES.**

2.24 (a) Individuals receiving services under a home and community-based waiver under
 2.25 section 256B.092 or 256B.49 may receive services in the following settings:

2.26 (1) home and community-based settings that comply with:

2.27 (i) all requirements identified by the federal Centers for Medicare and Medicaid Services
 2.28 in the Code of Federal Regulations, title 42, section 441.301(c);₂ and

2.29 ~~with~~ (ii) the requirements of the federally approved transition plan and waiver plans for
 2.30 each home and community-based services waiver except when applying a size limitation
 2.31 to a setting, the commissioner must treat residents under 55 years of age who are receiving
 2.32 services under the brain injury or the community access for disability inclusion waiver as

3.1 if the residents are 55 years of age or older if the residents lived and received services in
3.2 the setting on or before March 1, 2023; and

3.3 (2) settings required by the Housing Opportunities for Persons with AIDS Program.

3.4 (b) The settings in paragraph (a) must not have the qualities of an institution which
3.5 include, but are not limited to: regimented meal and sleep times, limitations on visitors, and
3.6 lack of privacy. Restrictions agreed to and documented in the person's individual service
3.7 plan shall not result in a residence having the qualities of an institution as long as the
3.8 restrictions for the person are not imposed upon others in the same residence and are the
3.9 least restrictive alternative, imposed for the shortest possible time to meet the person's
3.10 needs."

3.11 Renumber the sections in sequence