



# Health and Human Services COVID-19 Response

May 2020

## Executive Summary

On March 13, 2020, Governor Walz issued Emergency Executive Order 20-01, which declared a peacetime emergency and coordinated Minnesota's strategy to protect Minnesotans from the infectious disease known as COVID-19.

The governor has the authority to declare a peacetime emergency when an act of nature endangers life and property and local government resources are inadequate to handle the situation, and under other circumstances as described in Minnesota Statutes, section 12.31, subdivision 2. The term **peacetime emergency** is used throughout this publication to refer to this COVID-related peacetime emergency declared by the governor.

In addition, the Commissioners of Human Services and Health were granted temporary emergency authority by the governor, through executive order, to waive or modify certain requirements in order to provide essential programs and services during the COVID-19 pandemic. The legislature has also enacted several laws and appropriations in response to the COVID-19 pandemic.

This publication describes the health and human services (HHS)-related executive orders issued, waivers and modifications made to HHS programs and services, and legislation enacted in response to the COVID-19 pandemic. Appendix A lists executive orders related to health and human services. Appendices B and C list chapters of statutes referenced in executive orders granting the Commissioners of Human Services and Health with temporary emergency authority. Appendix D lists enacted legislation related to health and human services.

The information in this publication is current through **May 20, 2020**. More detailed information and information on COVID-related actions taken after **May 20, 2020**, can be

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found at: the Minnesota Department of Human Services [website](#),<sup>1</sup> the COVID-19 chapter of the DHS Provider Manual [page](#),<sup>2</sup> the Minnesota Department of Health [website](#).<sup>3</sup>

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<sup>1</sup> <https://mn.gov/dhs/>

<sup>2</sup> <https://www.dhs.state.mn.us/main/idcplg?ldcServ>

<sup>3</sup> <https://www.health.state.mn.us/diseases/coronavirus/index.html>, and the state of Minnesota COVID-19 response website at <https://mn.gov/covid19/>

## Temporary Emergency Authority for DHS and MDH

On March 20, 2020, Governor Walz issued Emergency Executive Orders 20-11 and 20-12, which granted the Commissioner of Human Services temporary emergency authority related to providing essential programs and services while responding to the COVID-19 pandemic.

On April 8, 2020, the governor issued Emergency Executive Order 20-32, which granted temporary emergency authority to the Commissioner of Health to temporarily delay, waive, or modify laws and regulations governing providers, facilities, and activities regulated by the Department of Health; issue temporary variances; temporarily waive requirements related to state-funded grants; and establish temporary alternative health care facilities. Similar temporary emergency authority was granted to the commissioner in law (see Laws 2020, chapter 74).

The executive orders referenced above are described in more detail in this section. Other executive orders issued by the governor that relate generally to health and human services are listed in Appendix A.

### DHS Temporary Waiver or Modification of Federal Requirements

On March 20, 2020, Governor Walz issued Emergency Executive Order 20-11, which allows the Commissioner of Human Services to seek federal authority to waive or modify federal requirements related to programs and services that are administered by the commissioner. The governor granted this authority to allow the Department of Human Services (DHS) to continue to provide essential programs and services during the peacetime emergency.

The programs and services for which the commissioner was given the authority to seek waivers or modifications to federal requirements include, but are not limited to:

- the Minnesota Family Investment Program (MFIP);
- Medical Assistance; and
- MinnesotaCare.

The executive order specifies that the commissioner may seek federal authority to waive or modify federal requirements “as necessary in order to ensure maximum federal funding, maintain enrollee coverage and provider participation, and otherwise protect and preserve public health and safety.”

### Preserving Access to DHS Programs and Services

Also on March 20, 2020, Governor Walz issued Emergency Executive Order 20-12, which is intended to preserve access to human services programs and services during the peacetime emergency. This executive order allows the Commissioner of Human Services to temporarily waive or modify statutory provisions and applicable rules related to the following:

- the Human Services Licensing Act and accompanying program standards, including home and community-based services standards, child care assistance program fraud

- investigations, withdrawal management programs, chemical dependency licensed treatment facilities, and certified license-exempt child care centers;
- the Human Services Background Study Act, except the commissioner cannot waive or modify disqualification standards or provisions related to the scope of individuals required to be subject to a background study;
- the use, licensing, certification, evaluation, or approval of facilities or programs under the commissioner's jurisdiction;
- appeals;
- background studies required to be conducted by DHS; and
- the Minnesota state-operated community services program.

The executive order also allows the commissioner, upon finding that a waiver or modification will not jeopardize public health, welfare, or safety, to temporarily waive or modify statutory provisions and applicable rules that govern various application and assessment procedures, reporting and verification requirements, work or community engagement activities required for eligibility, limits on telehealth use or other electronic communications restrictions, program and provider standards, and appeals. The chapters of law listed in the executive order that are subject to potential waivers and modifications are listed in Appendix B.

In addition, the executive order gives the commissioner the authority to waive or modify statutes and rules under the jurisdiction of DHS to comply with federal law or obtain federal resources related to the peacetime emergency.

Finally, the executive order does the following:

- prohibits the commissioner from issuing any waivers or modifications that affect statutes or requirements outside of the exclusive jurisdiction of DHS;
- suspends the requirement that the commissioner comply with statutory provisions related to rulemaking;
- requires the commissioner to post on the DHS website any waivers or modifications issued under Emergency Executive Order 20-12 within 48 hours of issuance;
- requires the commissioner to communicate any waivers or modifications related to home and community-based services recipient rights or other provisions related to long-term care services and supports to any providers affected by the waiver or modification and any individual whose rights are affected by the waiver or modification, or the individual's legal representative, if applicable;
- requires the commissioner to notify the legislature, ombudsman for long-term care, and ombudsman for mental health and developmental disabilities of any waivers or modifications made;
- establishes an ongoing requirement for the commissioner to report to the legislature regarding any waivers or modifications made; and
- requires the commissioner to submit a final report to the legislature by January 15, 2021, that details state statutes and rules waived or modified in response to COVID-19 and the costs incurred by DHS and lead agencies in implementing the waivers and modifications.

The commissioner has used the authority granted under this executive order to issue waivers and make various modifications. This publication describes selected waivers and modifications; the full list of these actions and more detailed information can be found on the waivers and modifications page on the DHS [website](#)<sup>4</sup> and in the DHS Legislative Report on Emergency Executive Order 20-12—Preserving Access to Human Services Programs during the COVID-19 Peacetime Emergency First 60-day update, May 13, 2020.

## **Department of Health Temporary Emergency Authority**

### **Temporary Emergency Authority in Executive Order**

On April 8, 2020, Governor Walz issued Emergency Executive Order 20-32 to allow the Commissioner of Health to temporarily delay, waive, or modify laws and regulations governing providers, facilities, and activities regulated by the Department of Health. The commissioner is authorized to temporarily delay, waive, or modify the following laws and applicable rules, provided the commissioner's action does not endanger the public health, welfare, or safety:

- provisions governing the hospital construction moratorium and the moratorium on certification of nursing home beds;
- the law and rules governing the health care-based use of x-ray and related technologies;
- provisions for which the Health Department is responsible in the following chapters: 62D; 62J; 62Q; 144; 144A; 144D; 144G; 144H; 146A; 146B; 148; 149A; 153A; 157; 214; and 327;
- provisions for which the Department of Health is responsible in the following sections: 256.045 (administrative and judicial review of human services matters); 626.556 (maltreatment of minors reporting); and 626.557 (maltreatment of vulnerable adults reporting); and
- provisions governing administrative appeals, reconsiderations, or other reviews involving or initiated by the department.

The chapters of statutes in the executive order that may be delayed, waived, or modified by the commissioner are listed in Appendix C.

The executive order also suspends requirements for the commissioner to comply with chapter 14, which governs rulemaking and administrative appeals.

The commissioner also received authority to:

- temporarily delay, waive, or modify the scope, timelines, reporting requirements, and activities of state-funded grants to allow grant recipients to use these funds, as authorized by the commissioner, to respond to COVID-19;

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<sup>4</sup> <https://mn.gov/dhs/waivers-and-modifications/>

- establish temporary alternative health care facilities and to suspend certain compliance and regulatory standards as they apply to the use of nontraditional spaces to provide patient care in these facilities;
- temporarily grant individual and blanket variances to rules within the commissioner's authority that do not affect the health or safety of persons in the licensed program; and
- suspend any rules or ordinances of a political subdivision, if the commissioner determines the suspension is necessary and does not endanger the public health, welfare, or safety.

Under the executive order, the commissioner is required to post on the department's website, within 48 hours, information on delays, waivers, or modifications. Within 48 hours after a delay, waiver, or modification becomes effective, the commissioner is required to provide written notice to the appropriate ombudsman and to the chairs and ranking minority members of the legislative committees governing the Department of Health. Finally, within 60 days of the end of the peacetime emergency, the commissioner is required to submit a final report to the chairs and ranking minority members of the legislative committees governing the Health Department, with specific details on laws and rules that were delayed, waived, or modified.

This executive order became effective April 8, 2020, and remains in effect until the peacetime emergency ends.

### **Temporary Emergency Authority in Law**

Temporary emergency authority for the Commissioner of Health similar to that provided in the executive order was authorized in law. [Laws 2020, ch. 74, art. 1, § 13]. Differences between the temporary emergency authority granted by executive order and the temporary emergency authority authorized in law include the following:

- the law requires the commissioner to provide notice of blanket variances issued by the commissioner. The executive order does not require notice of blanket variances;
- the law authorizes the commissioner to temporarily delay, waive, or modify provisions for which the commissioner is responsible in chapter 14, and the executive order suspended the requirements for the commissioner to comply with chapter 14; and
- the executive order authorizes the commissioner to suspend rules or ordinances of a political subdivision if the commissioner determines the suspension is necessary and does not endanger the public health, safety, or welfare. The law does not include this authority.

This emergency authority is effective retroactively from March 13, 2020, and expires 60 days after the peacetime emergency ends.

## DHS Temporary Program Changes

This section describes various temporary program changes that have been implemented in response to the COVID-19 pandemic. The changes have been implemented by the governor through executive orders, the legislature through enacted legislation, or the Commissioner of Human Services through the authority granted in Emergency Executive Orders 20-11 and 20-12.

Where applicable, references to the authority for each change and sources of more detailed information are listed. The DHS [web document](#)<sup>5</sup> for additional information about changes made under the authority of executive order 20-12 is identified as “DHS waivers and modifications” and the relevant item number from the document is specified.

### Food Assistance Programs

#### Food Shelves

Laws 2020, chapter 71, article 2, section 17 authorized additional funds to be distributed to the statewide network of food banks, food shelves, and additional transportation providers, and temporarily expanded the list of items for which food shelf grant funds may be used to include food, diapers, toilet paper, and other necessary supplies to needy individuals and families. Normally, food shelf grant funds may only be used to purchase, transport, and coordinate the distribution of food. [Laws 2020, ch. 71, art. 2, § 17]

#### Supplemental Nutrition Assistance Program (SNAP)

The commissioner has used existing authority to implement several federal changes to SNAP including: (1) waiving work requirements for certain SNAP participants; (2) extending recertification dates for SNAP participants; (3) providing emergency increases in SNAP benefits; and (4) streamlining the SNAP waiver process. [DHS waivers and modifications—Changes Under Existing Authority to Respond to COVID-19, item 3]

### Housing and Economic Assistance Programs

The Commissioner of Human Services has used the authority granted in Emergency Executive Order 20-12 to make various changes to housing and economic assistance programs including, but not limited to: suspending application requirements for general assistance, housing support, Minnesota Supplemental Aid, and MFIP; suspending certain referral requirements for MFIP; waiving requirements for reporting, documentation, and signatures for general assistance, housing support, Minnesota Supplemental Aid, and MFIP; waiving the requirement for counties and tribes to conduct program recertifications; suspending enforcement of work and school attendance requirements for MFIP; and suspending imposition of sanctions for not cooperating with child support under MFIP. [DHS waivers and modifications, various items throughout]

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<sup>5</sup> <https://mn.gov/dhs/waivers-and-modifications/>

## Medical Assistance

### COVID-19 Testing for the Uninsured

Laws 2020, chapter 74, article 1, sections 11 and 12, provide MA coverage for certain COVID-related testing services for persons who are uninsured; this is a state option allowed under recent federal law that Minnesota has chosen to implement. Individuals must not be enrolled in: (1) MA or MinnesotaCare, except that an individual may be enrolled in MA with a spenddown, the Alternative Care Program, or the Minnesota Family Planning Program; (2) individual or group private sector health coverage; or (3) a federal health care program such as Medicare, TRICARE, coverage under the Veterans Administration, or coverage under a federal employee health plan.

In order to be eligible, an individual must also:

- 1) be a resident of Minnesota;
- 2) be a U.S. citizen, U.S. national, or lawfully present with an immigration status that qualifies for MA coverage; and
- 3) provide his or her Social Security number, unless an exception applies.

There are no age, income, or asset requirements for this coverage.

Covered services are limited to diagnostic products necessary to test for and diagnose COVID-19 that have received federal Emergency Use Authorization, and the associated visit. Services for the treatment of COVID-19 are not covered. The federal Medicaid match is 100 percent, and there are no patient copayments or deductibles. Providers furnishing the services are reimbursed by DHS on a fee-for-service basis.

Coverage became effective May 1, 2020, and will continue for the duration of the federal public health emergency declared by the Secretary of Health and Human Services. Eligibility for individuals begins the first day of the month of application, and if needed for three months before the month of application is available, but coverage is not available prior to May 1, 2020.

[Laws 2020, chapter 74, article 1, sections 11 and 12; Families First Coronavirus Response Act, P.L. 116-127, section 6004; DHS Bulletin 20-21-03—DHS Announces Medical Assistance for COVID-19 Testing of Uninsured Individuals; Minnesota Health Care Programs Provider Manual, COVID-19 chapter]

### State Health Care Program Renewals and Termination

Under the authority provided under Executive Order 20-12, DHS has temporarily suspended renewals, income reviews, and related reporting requirements for MA and MinnesotaCare enrollees, beginning with April 2020 renewals, and will also not send out renewal notices for those programs. MA and MinnesotaCare enrollees remain covered under those programs regardless of regularly scheduled renewals or redeterminations, unless the enrollee requests an end to coverage, moves out of the state, or is deceased. DHS also restored coverage for MA and MinnesotaCare enrollees who would have lost coverage March 31, 2020.

DHS, beginning April 1, 2020, has suspended periodic data matching under the Minnesota Eligibility Technology System (METS) and any coverage terminations that would have resulted from this data matching. DHS has also suspended coverage terminations or other negative actions based on information received from the Income Eligibility Verification System and the Public Assistance Reporting Information System. DHS continues to confirm Minnesota residency. DHS has also suspended, beginning April 1, 2020, taking actions that would result in an enrollee losing coverage, having increased cost-sharing, or receiving reduced benefits, due to changes in circumstances that affect eligibility (e.g., changes in age, household composition, income, or assets).

MinnesotaCare enrollees and persons eligible for MA under the MA for employed persons with disabilities (MA-EPD) category who are unable to pay premiums during the emergency period will not be disenrolled, but will be expected to pay past due premiums once the emergency period ends.

These modifications apply to enrollees who were MA or MinnesotaCare enrollees on March 18, 2020, or who enrolled in one of those programs on or after that date. The modifications will remain in effect until the last day of the month in which the federal public health emergency declared by the Secretary of Health and Human Services ends.<sup>6</sup> [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 1; DHS Bulletin 20-21-02 – DHS Announces Temporary Policy Changes to Minnesota Health Care Programs During the COVID-19 Peacetime Emergency, April 29, 2020]

### **Prescription Drug Quantity Limits**

DHS increased the quantity limit for maintenance medications dispensed under MA and MinnesotaCare from a 34-day to a 90-day supply. This applies to both fee-for-service and managed care. This change, made under the authority of Executive Order 20-12, is effective retroactively to March 18, 2020, and will remain in effect until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 4]

### **Postponing Provider Re-enrollment**

DHS has postponed the requirement for MA and MinnesotaCare providers to re-enroll with DHS (every five years for most providers, and every three years for personal care attendants). The collection of encounter claims data from managed care-only providers is also postponed. These changes, made under the authority of Executive Order 20-12, are effective retroactively to March 18, 2020, and will remain in effect until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 5]

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<sup>6</sup> This is one of the requirements for Minnesota to continue to receive the temporary enhanced federal Medicaid match of 6.2 percentage points provided under the Families First Coronavirus Response Act, P.L. 116-127; see Sarah Lister and Paulette Morgan, "Health Care Provisions in the Families First Coronavirus Response Act, P.L. 116-127" Congressional Research Service report R46316, April 17, 2020.

## **Elimination of Cost-sharing**

DHS has eliminated cost-sharing, including copayments and deductibles, under MA and MinnesotaCare (both fee-for-service and managed care) for the diagnosis, testing, and treatment of COVID-19. This change was made under the authority of Executive Order 20-12, and took effect March 19, 2020, but applies retroactively to testing and treatment that occurred beginning January 1, 2020.<sup>7</sup> The change is effective until the national federal public health emergency declared by the Secretary of Health and Human Services ends. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 6]

## **Waiver of Face-to-face Visit Requirement for Home and Community-based Services**

The commissioner, under the authority of Executive Order 20-12, has waived certain face-to-face requirements for MA home and community-based services, allowing for assessments of need to be conducted by phone or online and allowing case managers to conduct visits by phone or online. The programs affected by these changes include alternative care, the home and community-based services waivers (BI, CAC, CADI, DD, and elderly waiver), and essential community supports. These provisions are effective retroactively to March 18, 2020, and remain in effect until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 2]

## **Waiver of Face-to-face Visits for Targeted Case Management**

The commissioner, under the authority of Emergency Executive Order 20-12, has waived the requirement that certain targeted case management services be provided through a face-to-face visit. This waiver applies to: child welfare targeted case management, children’s mental health targeted case management, adult mental health targeted case management, vulnerable adult or adult with developmental disabilities targeted case management, and relocation service coordination targeted case management. The change was effective retroactive to March 19, 2020, and is effective until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 8; DHS Bulletin 20-69-02, Targeted Case Management changes for face-to-face contact requirements, April 2, 2020]

## **Waiver of Signature Requirement**

The commissioner, under the authority of Executive Order 20-12, has waived the requirement that providers obtain the signature of the enrollee when providing durable medical equipment and nonemergency medical transportation services to MA and MinnesotaCare enrollees. This waiver is effective April 20, 2020, and expires at the end of the peacetime emergency. [DHS waivers and modifications, item 22]

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<sup>7</sup> This is required for Minnesota to receive the temporary enhanced federal match of 6.2 percentage points provided under the Families First Coronavirus Response Act, P.L. 116-127, beginning the month of March 2020. (DHS email communication dated May 20, 2020; see also Sarah Lister and Paulette Morgan, “Health Care Provisions in the Families First Coronavirus Response Act, P.L. 116-127, Congressional Research Service report R46316, April 17, 2020]

## **Expediting Payments to Nursing Homes**

The commissioner used existing authority in Minnesota Statutes, section 12A.10, to expedite payments to nursing homes for costs related to COVID-19 incurred on or after March 13, 2020. The expedited payments are for costs including, but not limited to: (1) costs of additional staffing, paid sick leave, and overtime for staff due to COVID-19; (2) reimbursement for personal protective equipment for staff; and (3) personal care services during the pandemic. [DHS waivers and modifications – Changes Under Existing Authority to Respond to COVID-19, item 2]

## **Providing Flexibility for Personal Care Assistance (PCA) Service Oversight and Hours**

The commissioner, under the authority of Executive Order 20-12, has allowed qualified professionals to provide required in-person oversight of PCA workers via two-way interactive telecommunications and increased the monthly limit on the number of hours a PCA agency can bill for an individual worker from 275 hours to 310 hours per month. These modifications are effective May 12, 2020, and apply to PCA services provided under the MA state plan, alternative care, and extended PCA authorized under the HCBS waivers. These modifications terminate at the end of the peacetime emergency. [DHS waivers and modifications, item 32]

## **Telemedicine**

### **Provision at Patient’s Residence**

Health carriers serving private sector, MA, and MinnesotaCare enrollees must cover telemedicine services delivered by a licensed health care provider at a distant site to a patient at the patient’s residence. This provision expires February 1, 2021. [Laws 2020, chapter 70, article 3, § 1]

### **Eligible Provider – Health Carriers**

The definition of “licensed health care provider” (i.e., those providers eligible to provide telemedicine services) is expanded to include mental health practitioners<sup>8</sup> and respiratory therapists. This applies to health carriers serving private sector, MA, and MinnesotaCare enrollees. This provision expires 60 days after end of the peacetime emergency. [Laws 2020, chapter 74, article 1, § 15, subd. 2]

### **Telephone Conversations as Covered Telemedicine Services**

Health carriers serving private sector, MA, and MinnesotaCare enrollees must cover telemedicine services that consist solely or primarily of a telephone conversation between a

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<sup>8</sup> Under current law, mental health practitioners are eligible telemedicine providers for MA and MinnesotaCare, but are not required to be eligible telemedicine providers under private sector insurance coverage.

licensed health care provider and a patient. This provision expires 60 days after the end of the peacetime emergency. [Laws 2020, chapter 74, article 1, § 15, subd. 3]

### **Reimbursement – Health Carriers**

Health carriers serving private sector, MA, and MinnesotaCare enrollees are prohibited from denying or limiting reimbursement solely because services were delivered by telemedicine, or solely based on the mechanism or platform used to deliver telemedicine services. This provision ends 60 days after the end of the peacetime emergency. [Laws 2020, chapter 74, article 1, § 15, subd. 4]

### **School-linked Mental Health Services**

DHS has waived certain requirements for school-linked mental health and Intermediate School District Mental Health Innovations programs, to allow:

- reimbursement of school mental health providers for expanded telemedicine services using grant funds;
- the first visit to not be in-person;
- provision of more than three telemedicine visits per-person per-week; and
- use of telephone and other nonsecured communication platforms.

These changes were made under the authority of Emergency Executive Order 20-12, and remain in effect until the end of the peacetime emergency. [DHS waivers and modifications, item 11]

### **Expansion of Telemedicine in Public Health Care Programs**

DHS has eased certain limits on the use of telemedicine for MA and MinnesotaCare enrollees under both fee-for-service and managed care, to allow:

- expanding the definition of telemedicine to include telephone calls
- a provider's first visit with a patient to be by phone
- more than three telemedicine visits per-enrollee per-week

These changes, made under the authority of Executive Order 20-12, became effective retroactively March 18, 2020, and remain in effect until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 3]

The expanded use of telemedicine also applies to services provided to children with autism spectrum disorder and related conditions through the MA Early Intensive Developmental and Behavioral Intervention benefit. [See DHS Bulletin 20-48-02, Early Intensive Developmental and Behavioral Intervention (EIDBI) changes for telemedicine, coordinated care conferences, and individual treatment plans, May 5, 2020.]

## **Eligible Provider – State Health Care, Mental Health, and Substance Use Disorder Services**

DHS, under the authority of Executive Order 20-12, has expanded the list of providers eligible to provide telemedicine services, to include the following, and their tribal provider equivalents:

- providers who are supervised by providers eligible under current law to provide telemedicine services
- mental health-certified peer specialists and mental health family peer specialists
- mental health rehabilitation workers in Adult Rehabilitative Mental Health Services (ARMHS)
- mental health behavioral aides in Children’s Therapeutic Support Services (CTSS)
- alcohol and drug counselors, alcohol and drug counselor-tmps, recovery peers, and student interns in licensed SUD programs

Telemedicine is also expanded to Rule 25 assessments, comprehensive assessments, and group therapy.

These changes took effect March 19, 2020, and remain in effect until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 7]

## **Out-of-state Mental Health Providers**

Under Emergency Executive Order 20-28, out-of-state mental health providers are allowed to provide telehealth services in Minnesota. This applies to providers who otherwise must be licensed by the Boards of Psychology, Social Work, Marriage and Family Therapy, and Behavioral Health and Therapy. Individuals must register with the appropriate board. This provision is in effect until the end of the peacetime emergency. [See also discussion in Health-Related Licensing Boards section]

## **Remote Delivery of Adult Day Services**

DHS has authorized licensed adult day service providers, directed to close on March 29, 2020, to provide certain services remotely via two-way interactive video or audio communication, and/or in-person, to one individual at a time. This alternative delivery authorization applies to: wellness checks and health-related services, socialization/companionship, activities, delivered meals, assistance with activities of daily living, and individual support to family caregivers. This change received federal approval April 29, 2020, and will remain in effect until the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 9]

## **Expansion of Remote Services for Waivered Service Enrollees**

DHS has allowed waivered services clients living in their own homes to receive services remotely by phone or other interactive technologies. This modification affects the following programs: Alternative Care (AC) program, Brain Injury (BI) waiver, Community Alternative Care (CAC) waiver, Community Access for Disability Inclusion (CADI) waiver, Developmental

Disabilities (DD) waiver, Elderly waiver (EW), and Essential Community Supports. This change is effective April 29, 2020, and terminates at the end of the peacetime emergency. [DHS waivers and modifications – Medicaid and MinnesotaCare approvals, item 10]

### **Issuance of Prescriptions for Substance Use Disorder Treatment**

Laws 2020, chapter 115, article 2, section 30 allows the examination requirement for prescribing drugs to treat substance use disorder to be met if the prescribing practitioner performs a telemedicine examination. This provision took effect May 28, 2020, and terminates 60 days after the peacetime emergency ends. [Laws 2020, ch. 115, art. 2, § 30]

### **Background Studies**

The superintendent of the Bureau of Criminal Apprehension (BCA) has been authorized in law to delay submission of fingerprints as part of background studies for “essential workers,” who are employed, licensed, or applying for employment or licensure in “critical infrastructure,” during the peacetime emergency. “Critical infrastructure” includes the following sectors *related to health and human services*:

- health and public health, including individuals who support food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- individuals who perform mortuary services or who ensure the proper disposal of human remains;
- first responders;
- water and wastewater; and
- community-based government operations and essential functions, including educators and child care providers.

The law requires the superintendent to determine which “essential workers” are subject to the fingerprint submission delay and to post the determination on the BCA website. The law also requires the superintendent to provide written notice to the relevant legislative committees and divisions at least 48 hours before suspending the fingerprint requirement. Individuals who provide false material information as part of a background study while the fingerprint requirement is suspended face a gross misdemeanor penalty. The superintendent must report to the legislature on the exercise of this suspension by January 31, 2021. [Laws 2020, ch. 71, art. 2, § 26]

### **DHS Background Studies**

The Commissioner of Human Services temporarily modified several background study requirements for health and human services providers, effective April 6, 2020, until the end of the peacetime emergency. DHS background studies during this time will use an individual’s name and date of birth, and fingerprints are not required. The studies are limited to Minnesota registries and databases, requirements for out-of-state checks are waived, and the cost for a study is \$20. The commissioner also waived the requirement for direct contact supervision

while a background study is pending, to allow certain individuals to work without supervision with a pending background study, on a case-by-case basis, except for transportation and PCA providers. Background studies for applicants for foster care, adoption, legal guardianship, and children’s residential facilities who live or have recently lived outside of Minnesota will still conduct checks of registries in other states, and fees for these studies remain unchanged.

After the end of the peacetime emergency, all background study subjects for whom these modified studies were completed must submit a new background study, with fingerprints and a photograph, as required under chapter 245C. [[DHS bulletin #20-68-23](#); DHS waivers and modifications, modifying certain background study requirements – amended]

## **Health-related Licensing Boards**

In addition, Governor Walz issued Emergency Executive Order 20-23 on March 27, 2020, authorizing the health-related licensing boards to accept and process licensure applications without background check fingerprints, if the applicant provides all other required criminal background check information. All individuals granted a license without submitting fingerprints will be required to submit to a new background check, with fingerprints, upon their first licensure renewal after the peacetime emergency ends.

## **Human Services Licensing**

Under the authority granted in Emergency Executive Order 20-12, DHS has temporarily modified licensing requirements and suspended certain routine enforcement actions for child care providers, child and adult foster care, community residential settings, housing support settings, adult day services, substance use disorder treatment, children’s residential facilities, and intensive residential treatment services. DHS will continue to respond to incidents that endanger persons served by the programs, with on-site visits on a case-by-case basis. For further information and updates, see the [DHS Waivers and Modifications website](#).<sup>9</sup>

## **Child Welfare**

The Commissioner of Human Services has used the authority granted in Emergency Executive Order 20-12 to modify policies and practices related to child protection services and out-of-home placements. These modifications expire at the end of the peacetime emergency.

## **Face-to-face Contact**

The commissioner temporarily modified face-to-face contact requirements for child protection responses to alleged child maltreatment. Under current statute, the responsible social services agency must conduct face-to-face contact with a child alleged to have been maltreated and their primary caregiver immediately for allegations of sexual abuse or substantial child endangerment, or within five days for all other reports. This contact may now occur via video or telephone call, taking into consideration the nature of the allegations and specified factors. For

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<sup>9</sup> <https://mn.gov/dhs/waivers-and-modifications/>

reports of substantial child endangerment or sexual abuse, the face-to-face contact may still be required. Specific requirements depend on: (1) whether law enforcement or hospital staff have seen the alleged victim; (2) whether the primary caregiver is the alleged offender; and (3) whether the alleged offender has or will have access to the child. If a caseworker must conduct an in-person face-to-face visit, the caseworker should complete a health questionnaire and take precautions to reduce COVID-19 exposure. For detailed information on these modifications, see [DHS Bulletin #20-68-13](#).

## **Physical Examinations**

Given the limited availability of routine preventive care during the COVID-19 pandemic, the commissioner has also temporarily waived the requirement under Minnesota Statutes, section 260C.219 for the responsible social services agency to ensure that a child entering out-of-home placement has a physical examination within 30 days of placement, if the agency determines that the child has not had a physical examination in the preceding 12 months. The agency must still seek the child's medical records and continue to take appropriate actions to ensure that the child's immediate medical needs are met, and may consider telemedicine as a temporary substitute for a physical examination. [[DHS Bulletin #20-68-17](#)]

## **Monthly Caseworker Visits**

The commissioner also issued a bulletin allowing monthly foster care caseworker visits required under Minnesota Statutes, section 260C.212, subdivision 4a, to be conducted via videoconferencing or similar technology, rather than face-to-face with the child, as required under federal and state law. This modification aligns with federal guidance issued in March 2020. [[DHS bulletin #20-68-11](#)]

## **Out-of-home Placement Plans**

The commissioner modified timeline and signature requirements for out-of-home placement plans and case planning, required under federal law and Minnesota Statutes, section 260C.212, subdivision 1. The time for completion of an out-of-home placement plan is extended from 30 days to 60 days, and signatures are no longer required. The responsible social services agency must provide a copy of the plan to all specified parties and allow each party to verify receipt. A court has the authority to override these modifications. Case planning may be conducted by phone, email, or videoconferencing, and in lieu of signatures, the agency must document efforts to explain the case plan, provide copies, and verify receipt of the plan. [[DHS bulletin #20-68-16](#)]

## **Child Support**

### **Cost-of-living Adjustment**

Laws 2020, chapter 74, article 1, section 17 extended the deadline to file a motion to contest the cost-of-living adjustment (COLA) increase scheduled for May 1, 2020, until June 30, 2020, due to the effects of the COVID-19 pandemic. Typically, a child support obligor would have until the effective date of the COLA increase to file such a motion. The extension also allows a court

to use its discretion to consider a motion filed by an obligor who is unable to file a motion by June 30, 2020, for reasons related to COVID-19, but files by October 31, 2020. [Laws 2020, ch. 74, art. 1, § 17]

### **Enforcement Remedies**

The Commissioner of Human Services has suspended some child support enforcement remedies until the end of the peacetime emergency. Under current statute, parents whose child support arrears balance reaches a specified threshold are subject to driver's license and occupational license suspensions, and may be reported to consumer credit bureaus. Due to anticipated economic hardship and a lack of access to the courts for parents to challenge these actions, the commissioner has waived these mandatory suspensions for parents who have not already been notified of impending actions. The commissioner has also stopped the reporting of arrears to credit bureaus for parents whose arrears have newly reached the level at which reporting would normally occur. [DHS waivers and modifications, item 7].

## **Health Department Temporary Program Changes**

### **Medical Cannabis**

In Emergency Executive Order 20-26, issued March 31, 2020, Governor Walz ordered several changes to the operation of the medical cannabis program. Specifically, the order:

- extends patient enrollments scheduled to expire between March 31, 2020, and seven days after the end of the peacetime emergency declared in Executive Order 20-01, to August 1, 2020, or 60 days after the end of the peacetime emergency, whichever is later;
- authorizes health care practitioners to certify a patient's qualifying medical condition via videoconference, telephone, or other remote means;
- permits the Office of Medical Cannabis to register emergency temporary caregivers to help registered patients access medical cannabis during the peacetime emergency. Background study requirements for these temporary caregivers are not required, and caregivers are permitted to serve more than one patient;
- allows medical cannabis manufacturers to use curbside pickup to dispense medical cannabis to patients or their registered caregivers, provided the transactions comply with other requirements in the executive order; and
- waives and suspends provisions in Minnesota Statutes, chapter 152, and Minnesota Rules, chapter 4770, that are inconsistent with the executive order.

Changes to the medical cannabis program were ordered to reduce the risk of spreading COVID-19 among patients, health care practitioners, and medical cannabis manufacturer employees; to maintain patient access to medical cannabis; and to lessen the burden on health care practitioners. These directions remain in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or rescinded by proper authority. However, the order extends patient enrollments that were set to expire until August 1, 2020, or 60 days after the end of the peacetime emergency, whichever is later.

## **Applications for Birth and Death Records**

Laws 2020, chapter 92 in part authorized local registrars to accept documents, signatures, or filings by United States mail, electronically, or by facsimile for applications for birth and death records. This provision became effective May 17, 2020, and remains in effect until January 6, 2021, or 60 days after the peacetime emergency ends, whichever is earlier.

## **Waivers and Modifications Authorized by the Commissioner of Health**

Under the authority granted to the Commissioner of Health in Emergency Executive Order 30-32 and Laws 2020, chapter 74, article 1, section 13, the commissioner has authorized waivers and modifications in the following areas.

### **Equipment Performance Evaluations for X-ray Equipment and Related Technologies**

The commissioner modified the intervals at which equipment performance evaluations must be performed for the health care-based use of x-ray equipment and related technologies. This modification is effective March 13, 2020, and remains in effect until the end of the peacetime emergency.

### **Renewals of Asbestos Certifications**

The commissioner modified the requirements for renewals of asbestos certifications, to allow individuals to obtain the training required for renewal within 30 days after the end of the peacetime emergency. This modification is effective March 13, 2020, and remains in effect until 30 days after the end of the peacetime emergency.

### **Renewals of Licenses to Perform Regulated Lead Work**

The commissioner modified the requirements for renewal of licensure to perform regulated lead work, to allow individuals to obtain the training required for renewal within 30 days after the end of the peacetime emergency. This modification is effective March 13, 2020, and remains in effect until 30 days after the end of the peacetime emergency.

### **Renewals of Water Supply System Operator Certifications**

The commissioner modified the time period within which water supply system operators must renew their certifications and the time period within which these operators must satisfy the training requirements for certification renewal. This modification is effective March 13, 2020, and remains in effect until the end of the peacetime emergency.

### **Renewals of Food Protection Manager Certifications**

The commissioner modified the requirements for renewal of certified food protection manager certification to allow certified food protection managers to satisfy the continuing education requirements for renewal within six months after their credentials expire. This modification is

effective March 13, 2020, and remains in effect until 30 days after the end of the peace time emergency.

### **Trained Pool Operator and Lifeguard Certifications**

The commissioner modified requirements to renew or obtain certification as a trained pool operator or to renew certification as a lifeguard. Trained pool operators who are currently certified are permitted to satisfy the training requirements for certification within six months after their credentials expire, and pool operators not currently certified are permitted to obtain certification within two months after being assigned as a pool operator. Lifeguards who are currently certified are permitted to renew their certifications within six months after their current certifications expire. This modification is effective March 13, 2020, and remains in effect until 30 days after the end of the peacetime emergency.

### **Well Contractor License Renewal Requirements**

The commissioner modified requirements to renew well contractor licenses, to allow well contractors to satisfy the training requirements for renewal when training sessions are available. This modification is effective March 13, 2020, and remains in effect until 30 days after the end of the peacetime emergency.

### **Hospital Licensing and Inspection Requirements, Fees, and Construction Moratorium**

The commissioner waived statutes governing hospital licensing and inspections and governing hospital licensing fees. The commissioner also waived statutes establishing a moratorium on construction of new hospital beds, establishing a public interest review process for new construction, and governing the licensing and inspection of new hospitals. This waiver remains in effect for up to 60 days after the end of the peacetime emergency.

### **Supplemental Nursing Services Agencies**

The commissioner waived statutes that require an entity providing temporary staff to health care facilities to register with the department as a supplemental nursing services agency. The commissioner also waived a statute establishing maximum hourly charges for supplemental nursing services provided in nursing homes. This waiver remains in effect for up to 60 days after the end of the peacetime emergency.

### **Nursing Home Bed Layaway Requirements**

The commissioner waived statutes that govern nursing home bed layaway requirements, to allow nursing homes to immediately access beds on layaway status. This waiver remains in effect for up to 60 days after the end of the peacetime emergency.

### **Requirements for Holding Deceased Persons Pending Disposition**

The commissioner waived statutes and rules governing how deceased persons are held pending final disposition, to allow facilities to hold deceased persons for longer periods of time and to

allow facilities to hold deceased persons in types of storage units other than those permitted in law. This waiver remains in effect for up to 60 days after the end of the peacetime emergency.

### **Nursing Home Resident Transfer and Discharge Notification Requirements**

The commissioner waived a statute that governs the time period within which nursing home residents must receive notices related to the resident's transfer or discharge from a nursing home. This waiver remains in effect for up to 60 days after the end of the peacetime emergency.

More information on waivers and modifications authorized by the commissioner of health may be found on the [Waivers and Modifications page](#)<sup>10</sup> of the Department of Health website.

## **Health-Related Licensing Boards**

In Emergency Executive Order 20-23, issued March 27, 2020, Governor Walz authorized several changes related to the operation of health-related licensing boards. These changes allow:

- health-related licensing boards to defer continuing education requirements;
- the Emergency Medical Services Regulatory Board to extend the March 31, 2020 expiration date for board-issued registrations or certifications until June 30, 2020, and allow for completion of continuing education requirements through distance learning;
- the Board of Nursing to renew or extend the 60-day expiration period for temporary permits to practice nursing issued to applicants for licensure by endorsement (who are currently licensed to practice in another state, territory, or Canadian province);
- the boards to accept and process licensure applications without background check fingerprints, if the applicant provides all other required criminal background check information. All individuals granted a license without submitting fingerprints will be required to do so upon their first licensure renewal after the peacetime emergency ends;
- the Board of Pharmacy to enforce limitations on dispensing chloroquine or hydroxychloroquine, allowing dispensing only when the prescription drug order contains a diagnosis appropriate for their use, and for no more than a 30-day supply.

### **Out-of-state Mental Health Providers**

The governor issued Emergency Executive Order 20-28 on April 6, 2020, which authorizes mental health providers who are licensed, certified, or otherwise permitted in good standing in another state, to render aid in Minnesota via telemedicine. Providers are required to complete a registration form required by the applicable Minnesota health-related licensing board (Psychology, Social Work, Marriage and Family Therapy, or Behavioral Health and Therapy), and provide a copy of their license, certificate, or permit to the board. The relevant board has

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<sup>10</sup> <https://mn.gov/dhs/waivers-and-modifications/>

jurisdiction over these individuals, and may revoke an individual's authorization to practice under the executive order at the board's discretion. Executive order 20-28 also authorizes the Board of Dentistry and the Board of Cosmetologist Examiners to waive late fees for renewal applications, for licenses that expire during the peacetime emergency, and authorizes the Board of Barber Examiners to extend its shop registration renewal deadlines.

### **Out-of-state Health Care Professionals**

In Emergency Executive Order 20-46, issued on April 25, 2020, Governor Walz authorized and requested licensed out-of-state health care professionals to render aid in Minnesota during the peacetime emergency, under Minnesota Statutes, section 12.42. Specifically, the order:

- applies only to out-of-state health care professionals who would, if practicing in Minnesota, be required to be licensed by the Board of Medical Practice or Board of Nursing;
- specifies that an out-of-state professional's license, certificate, or permit has the same force and effect as if issued by a Minnesota board, when the professional is rendering aid during the peacetime emergency;
- requires that the out-of-state health care professionals be engaged with a health care system or provider in Minnesota before rendering aid in this state;
- requires a health care system or provider engaged with an out-of-state health care professional to verify that each professional holds an active, relevant license, certificate, or other permit in good standing in another state, showing evidence of the provider's qualifications;
- requires a health care system or provider engaged with an out-of-state health care professional to file a report with the Minnesota Department of Health within 60 days after the peacetime emergency ends, detailing the number of out-of-state health care professionals engaged, their license types, and the length of the engagement;
- specifies that the Board of Medical Practice or Board of Nursing has jurisdiction over these health care professionals, and may revoke the professional's authorization to practice under this executive order at the board's discretion, at which point the professional must immediately cease rendering aid in this state.

### **Pharmacist Prescribing and Vaccinations**

Laws 2020, chapter 115, article 2, sections 20 and 33 expanded some pharmacist practice provisions in response to the COVID-19 pandemic. Pharmacists will be allowed to administer COVID-19 or SARS-CoV-2 vaccines approved by the United States Food and Drug Administration to eligible individuals six years of age and over, as with influenza vaccines. [Laws 2020, Ch. 115, Art. 2, § 20]

Pharmacists are also temporarily authorized in law to dispense therapeutically equivalent and interchangeable prescribed drugs or biological products without a protocol in place during the peacetime emergency, if: (1) the drug is in short supply and the pharmacist cannot obtain it; (2) the pharmacist cannot contact the prescriber within a reasonable time period to get

authorization to dispense an available drug; (3) the pharmacist determines that the equivalent drug is available and in the same classification; (4) the pharmacist informs the patient and provides required counseling to the patient; (5) the pharmacist informs the prescriber as soon as possible; and (6) the therapeutic interchange occurs only until 60 days after the COVID-19 peacetime emergency ends. [Laws 2020, Ch. 115, Art. 2, § 33]

### **Podiatrist Continuing Education**

Licensed podiatrists are authorized in law to complete required hours of continuing education through participation in live online continuing education activities from March 13, 2020, to December 31, 2020, or the day after the COVID-19 peacetime emergency ends, whichever is later. The Board of Podiatric Medicine must classify these hours as if the credits were obtained through in-person participation. [Laws 2020, Ch. 115, Art. 2, § 31]

### **Physical Therapist Assistants Observation**

Physical therapists are authorized in law to meet the on-site observation requirement for treatment delegated to physical therapy assistants by observing treatment components via telemedicine. This remote observation is permitted until 60 days after the end of the peacetime emergency. [Laws 2020, Ch. 115, Art. 2, § 32]

## **DHS Appropriations and Costs**

The legislature has appropriated funds in response to the COVID-19 pandemic for a variety of purposes including, but not limited to food shelf programs, housing supports, and emergency services grants. DHS has also estimated costs to state programs that are expected to result from the suspension of renewal and other related requirements.

### **Food Shelf Programs**

The legislature appropriated \$9 million in fiscal year 2020 for food shelf programs to address food bank, food shelf, and transportation needs in responding to the COVID-19 pandemic. This appropriation is available until June 30, 2021. [Laws 2020, ch. 71, art. 1, § 4]

### **Housing Supports and Homelessness**

The legislature appropriated:

- \$5.53 million in fiscal year 2020 for housing support to increase room and board limits and rates and supplementary service limits and rates by 15 percent for three consecutive months to maintain access to room and board. [Laws 2020, ch. 71, art. 1, § 5]; and
- \$26.537 million in fiscal year 2020 for emergency services grants to: provide additional shelter space; purchase vouchers for the cost of a motel or hotel room; fund other housing options, in order to provide housing that promotes health and safety, or to isolate homeless individuals exposed to COVID-19 or who are

experiencing respiratory illness; purchase hygiene, sanitation, and cleaning supplies to support compliance with Centers for Disease Control and Prevention guidance on sanitation and personal protective equipment; and hire staff necessary to protect the health and wellness of program recipients, increase the number of persons served, or provide staffing when workers are quarantined or cannot work because they are caring for someone with COVID-19. This appropriation is available until February 1, 2021, or until 60 days after the peacetime emergency ends, whichever is earlier. [Laws 2020, ch. 71, art. 1, § 6]

The table below shows DHS general fund appropriations for activities related to the response to the COVID-19 outbreak.

Program	FY 2020	FY 2021
Food shelf programs	\$9,000,000	\$0
Housing support	\$5,530,000	\$0
Emergency services grants	\$26,537,000	\$0

## Costs Related to DHS Temporary Emergency Authority

A number of the waivers and modifications to DHS program and service requirements are expected to have state costs. For these cost estimates, refer to: Department of Human Services, Legislative Report – Emergency Executive Order 20-12 – Preserving Access to Human Services Programs during the COVID-19 Peacetime Emergency – 1st 60-day update, May 13, 2020, Appendix – Fiscal Estimates of Department of Human Services COVID-19 Changes.

## MDH Appropriations and Grant Programs

### Health Department Public Health Response Activities

Money in the public health response contingency account is appropriated to the Commissioner of Health to fund specific activities for a public health response to pandemic influenza or an outbreak of a communicable or infectious disease. \$20,889,000 was transferred from the general fund to the public health response contingency account for the commissioner to use for a public health response to a potential outbreak of COVID-19. The commissioner was also authorized to use up to the balance in the account before this transfer—\$4,622,000—for a public health response to any outbreak of a communicable or infectious disease. Any unobligated, unexpended amount in the contingency account over \$5,000,000 on February 1, 2021, will transfer back to the general fund. [Laws 2020, ch. 66, § 1; Minn. Stat. § 144.4199]

### Grant Programs to Fund Health Care Preparation and Response

Two grant programs were established to fund COVID-19 preparation and response activities by health care facilities and organizations.

## Short-term Emergency Grant Program

The short-term emergency grant program was designed to quickly award grants to health care facilities and organizations for necessary activities by these entities, on an emergency basis, to plan for, prepare for, or respond to COVID-19. This grant program was funded with a transfer of \$50,000,000 from the general fund to the public health response contingency account. These grants were available to ambulance services, health care clinics, pharmacies, health care facilities and long-term care facilities, and health systems. A grant recipient may use grant funds:

- to expand or modify the recipient’s operations, including establishing and operating temporary sites to provide testing services, treatment beds, or space for isolation or quarantine; temporarily converting space for another use; developing and implementing screening and testing procedures; for additional emergency transportation of patients; and for temporary information technology and systems costs for patient triage, screening, and telemedicine;
- for staffing costs, including staff overtime; hiring additional staff; staff training and orientation; and costs, other than wages, of isolating and quarantining staff;
- to purchase supplies, including consumable protective or treatment supplies and equipment, replacement parts or filters for medical equipment, and specialty cleaning supplies;
- for patient outreach activities; and
- for other expenses that, in the commissioner’s judgment, cannot reasonably be expected to generate income for the grant recipient after the outbreak ends. [Laws 2020, ch. 70, art. 1, § 3; Minn. Stat. § 144.4199, subd. 4a]

Another law—Laws 2020, chapter 66, section 1—specifies that any unobligated and unexpended amount in the contingency account over \$5,000,000 on February 1, 2021, shall transfer to the general fund.

On April 8, 2020, the Health Department announced grant awards under this program, awarding \$49,999,994 to 346 recipients. Grant recipients include assisted living providers, health clinics, federally qualified health centers, hospitals and health systems, pharmacies, ambulance services, and tribal governments and tribal health services. A list a grant recipients and grant amounts may be found at <https://www.health.state.mn.us/facilities/ruralhealth/funding/grants/covidshort.html>.

## Health Care Response Grant Program

The health care response grant program was established to issue grants to eligible entities using a request for proposals process, with evaluation by the Commissioner of Health of the needs of health care organizations in the state and of statewide and regional priorities. This grant program was funded with a transfer of \$150,000,000 from the general fund to a new health care response fund created in the state treasury.

The commissioner is permitted to issue grants for the same uses as the authorized uses of money under the short-term emergency grant program. In addition, these grants may be used for the Commissioner of Health to establish and operate temporary sites for testing, treatment, or isolation or quarantine-related to COVID-19, if no provider is reasonably capable of establishing and operating these sites. Any unobligated and unexpended amount in health care response fund on February 1, 2021, will transfer to the general fund. [Laws 2020, ch. 70, art. 2, §§ 1, 2]

The request for proposals and electronic application forms were made available beginning April 14, 2020. No application deadline was established, but the department recommended that eligible applicants apply as soon as possible because the money available is likely not sufficient to satisfy all requests.

## **Federal Money Received by Commissioner of Health for COVID-19**

Laws 2020, chapter 66, section 2 provides that all federal money received by the Commissioner of Health in fiscal years 2020 and 2021 for preparedness and response to a COVID-19 outbreak is appropriated in the fiscal year in which it is received. This section requires the Commissioner of Management and Budget to report anticipated federal funds and their intended purpose to the Legislative Advisory Commission, before spending federal funds. This section also requires the Commissioner of Health, by January 15, 2021, to report the actual federal funds received and their actual uses to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

## **Costs Related to MDH Temporary Emergency Authority**

According to the Department of Health, the commissioner's exercise of temporary emergency authority has not resulted in costs or savings to the department.

## **Other Health and Human Services Executive Orders**

### **Postponement of Inpatient and Outpatient Elective Surgery and Procedural Cases; Oversight and Plan to Prioritize Procedures**

#### **Postponement of Nonessential or Elective Surgeries and Procedures (rescinded by Executive Order 20-51)**

In Emergency Executive Order 20-09, issued March 20, 2020, and subsequently amended by Emergency Executive Order 20-17, Governor Walz ordered that nonessential or elective surgeries and procedures, including medical, dental, and veterinary procedures that use personal protective equipment or ventilators must be postponed indefinitely. These orders define a nonessential surgery or procedure as one that may be delayed without undue risk to the current or future health of a patient. In making this determination, a provider is authorized to consider criteria such as the threat to the patient's life if the surgery or procedure was not performed; the threat of permanent dysfunction of an extremity or organ system; the risk of metastasis or progression of staging; and in the context of veterinary medicine, threats to

public health, threats to the health or safety of the animal's owner, and threats to the health or safety of the animal.

These steps were ordered to establish consistency throughout the health care system; conserve critical resources, such as ventilators and personal protective equipment; and decrease the risk of COVID-19 transmission by lessening contact between providers, staff, and patients. The original order became effective no later than March 23, 2020, at 5:00 p.m., and the revised order became effective March 23, 2020. These executive orders were rescinded by Executive Order 20-51 as of May 10, 2020, at 11:59 p.m.

### **Allowing Certain Procedures; Requiring Facilities to Develop Oversight Structure and Plan**

In addition to rescinding the executive order that required postponement of nonessential and elective surgeries and procedures, Emergency Executive Order 20-51 requires any facility that offers procedures for which personal protective equipment or ventilators are used to develop and implement an oversight structure and plan with criteria to determine whether a procedure should take place during the COVID-19 pandemic, prioritize procedures, and ensure a safe environment for staff, patients, and visitors. The plan must comply with requirements in the order and Health Department guidance on the subject. A facility must make its plan available to the Health Department or the facility's licensing authority, and the Health Department, professional licensing authorities, or other licensing authorities may enforce the order. Health care facilities that provide procedures using personal protective equipment or ventilators must comply with this order beginning May 10, 2020, at 11:59 p.m., and the order remains in effect until the peacetime emergency ends.

### **Inventory and Preservation of Vital Medical Equipment**

In Emergency Executive Order 20-16, issued March 23, 2020, Governor Walz ordered Minnesota businesses, nonprofit organizations, and nonhospital health care facilities to inventory personal protective equipment, ventilators, respirators, anesthesia machines, and consumable accessories to these devices, that are not required to provide critical health care services or essential services and were not produced by the entity for the purpose of sale. The order directs these entities to submit their inventories to state government. Minnesota entities with consumable personal protective equipment, including health care facilities other than hospitals and nursing homes, are directed to not use this equipment for any use other than delivering critical health care services or essential services.

An inventory and reporting of vital medical equipment and limits on the use of personal protective equipment were ordered to identify and preserve available personal protective equipment and other equipment, to protect health care providers and patients from the spread of COVID-19, and to treat patients.

This executive order was modified by Executive Order 20-51. As of May 10, 2020, at 11:59 p.m., the portion of the order prohibiting entities from using personal protective equipment is no

longer in effect. Executive Order 20-51 also reclassifies the reporting and inventory data supplied. The remainder of Executive Order 20-16 remains in effect until the peacetime emergency ends.

## **Sharing Certain Information on Individuals Infected with COVID-19**

In Emergency Executive Order 20-34, issued April 10, 2020, Governor Walz directed the Commissioner of Health to share the addresses of individuals who have tested positive for COVID-19 and are currently contagious, with the Commissioner of Public Safety, according to a protocol developed by the commissioners. The protocol must only allow the addresses of contagious persons to be shared with the Department of Public Safety, 911 dispatchers, and first responders, including emergency medical services personnel, law enforcement personnel, and public safety workers; and the information must only be provided to first responders who need the information to inform their infection control practices.

The executive order stated that it was necessary for the commissioner to share this information to control and prevent the spread of COVID-19 between contagious individuals and first responders. The direction to share this data remains in effect until the peacetime emergency ends.

## **Ensuring that Emergency Economic Relief Does Not Prevent Eligibility for Essential Human Services Programs During the COVID-19 Peacetime Emergency**

In Emergency Executive Order 20-42, issued April 24, 2020, Governor Walz prohibited the following payments received by Minnesotans from being counted as income, assets, personal property, or resources, subject to any necessary federal approval, when determining eligibility for DHS programs:

- Federal CARES Act payments of up to \$1,200 per adult and \$500 per child;
- State government payments issued to individuals to relieve the adverse economic impact of the COVID-19 pandemic;
- Local government payments issued to individuals to relieve the adverse economic impact of the COVID-19 pandemic; and
- Tribal government payments issued to tribal members to relieve the adverse economic impact of the COVID-19 pandemic.

The executive order stated that counting receipt of federal, state, local, or tribal government payments for COVID-19 relief as income, assets, personal property, or resources when determining eligibility for programs administered by DHS would endanger public health and cause severe hardship to Minnesotans who need these programs. This executive order remains in effect until the peacetime emergency ends.

## Appendix A: Governor’s Emergency Executive Orders Related to Health and Human Services

Note: This table does not list executive orders related to social distancing generally—e.g., closing of schools, restaurants, and bars, direction to stay at home, etc.

E.O. Number	Topic	Date Issued
<a href="#">20-01</a>	Declaration of peacetime emergency related to COVID-19	March 13, 2020
<a href="#">20-09</a>	Delay of inpatient and outpatient elective surgery and procedures	March 19, 2020
<a href="#">20-11</a>	Securing federal authority to continue human services programs	March 20, 2020
<a href="#">20-12</a>	Preserving access to human services programs (DHS waiver authority)	March 20, 2020
<a href="#">20-16</a>	Non-hospital entities to inventory and preserve vital medical equipment	March 23, 2020
<a href="#">20-17</a>	Clarification of E.O. 20-09 related to veterinary surgeries and procedures	March 23, 2020
<a href="#">20-23</a>	Licensing boards authorized to modify requirements	March 27, 2020
<a href="#">20-26</a>	Ensure continued operation of the medical cannabis program	March 31, 2020
<a href="#">20-28</a>	Out-of-state mental health providers and telehealth; license and registration relief for licensing boards	April 6, 2020
<a href="#">20-32</a>	Ensuring quick and safe response by health care providers (MDH waiver authority)	April 8, 2020
<a href="#">20-34</a>	MDH authority to share data with Department of Public Safety and other entities	April 10, 2020
<a href="#">20-35</a>	Extending the peacetime emergency related to COVID-19	April 13, 2020
<a href="#">20-42</a>	Ensuring that emergency economic relief does not prevent eligibility for essential human services programs during the COVID-19 peacetime emergency	April 24, 2020
<a href="#">20-46</a>	Authorizing out-of-state health care professionals to render aid in Minnesota during the COVID-19 peacetime emergency	April 25, 2020

E.O. Number	Topic	Date Issued
<a href="#">20-51</a>	Rescinding executive order that postponed nonessential and elective surgeries and procedures; requiring facilities that offer procedures using personal protective equipment or ventilators to develop a plan for prioritizing procedures and ensuring staff, patient, and visitor safety	May 5, 2020

## **Appendix B: Chapters of Statutes Referenced in Emergency Executive Order 20-12 – DHS Authority to Waive or Modify**

119B – Child care programs

245 – Adult and children’s mental health; community support and day treatment

245A – Human services licensing

245D – Home and community-based service standards

245E – Child care assistance program fraud investigations

245F – Withdrawal management programs

245G – Chemical dependency licensed treatment facilities

245H – Certified license-exempt child care centers

246 – State operated services

252 – Services for persons with developmental disabilities

253 – Hospitals for persons with mental illness

254A – Treatment for alcohol and drug abuse

254B – Chemical dependency treatment

256 – Human services

256B – Medical assistance

256D – General assistance

256E – Community social services

256I – Housing support

256J – Minnesota family investment program

256K – Services for homeless families and youth

256L -- MinnesotaCare

256M – Vulnerable children and adults

256P – Economic assistance program eligibility and verification

256R – Nursing facility rates

256S – Medical assistance elderly waiver

260C – Juvenile safety and placement

260D – Child in voluntary foster care

518A – Child support

626 – Mandatory reporting

## **Appendix C: Chapters of Statutes Referenced in Emergency Executive Order 20-32 – Health Department Temporary Emergency Authority**

62D – Health maintenance organizations

62J – Health care cost containment, electronic health records, health care information exchange, MERC, patient protection, health care price transparency

62Q – Health plan companies

144 – Department of Health

144A – Nursing homes; home care providers; hospices

144D – Housing with services establishments

144G – Assisted living services

144H – Prescribed pediatric extended care centers

146A – Complementary and alternative health care

146B – Body art

148 – Health occupations

149A – Mortuary science; disposition of dead bodies

153A – Hearing instrument dispensers

157 – Food, beverage, and lodging establishments

214 – Examining and licensing boards

327 -- Hotels, motels, resorts, manufactured home parks, camping areas

## Appendix D: Laws Enacted During the 2020 Session Related to Health and Human Services and COVID-19

Chapter	Date Signed Into Law	HHS topics
66	March 10, 2020	Transfer of money from the general fund to the public health response contingency account; MDH reporting on federal funds received related to COVID-19.
70	March 17, 2020	Authorization for use of funds in the public health response contingency account; establishment of a health care response fund and provider grant program; coverage of telemedicine at patient's residence.
71	March 28, 2020.	Appropriation to DHS for food shelves, housing support, and emergency services grants; establishment of COVID-19 Minnesota fund and Legislative COVID-19 Response Commission; fee modifications for medical gas manufacturers, wholesalers, and distributors; modifications related to food shelf funding.
74	April 15, 2020	MA coverage of COVID-19 testing for uninsured; grant of temporary emergency authority for Commissioner of Health; establishment of temporary alternative health care facilities by Commissioner of Health and MA reimbursement; expansion of telemedicine coverage.
92	May 16, 2020	Temporary authorization for local registrars to accept documents, signatures, and filings in alternate forms for applications for birth and death records
115	May 27, 2020	Health care omnibus policy bill; pharmacist prescribing and vaccinations; podiatrist continuing education; and physical therapist assistants observation.



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