



Legislative Report

Emergency Executive Order 20-12

**Preserving Access to Human Services Programs
during the COVID-19 Peacetime Emergency**

3rd 60-day update

September 11, 2020

For more information contact:

Minnesota Department of Human Services

PO Box 64998

St. Paul, MN 55164-0998

Phone: 651-431-2907

Fax: 651-431-7443



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I. Executive summary

Due to the public health threat posed by COVID-19, Governor Walz declared a peacetime state of emergency on March 13, 2020. During this time it is essential that services provided and managed by the Department of Human Services (DHS) continue to be delivered in a timely and safe manner throughout the duration of the crisis. DHS serves over a million Minnesotans, including many people who are especially vulnerable to the impacts of COVID-19 such as older adults, individuals who have disabilities, families with children, and individuals with mental illness. Additionally, DHS services such as health care coverage, food and economic support, are particularly important at this time because of the significant economic distress caused by COVID-19 and measures taken to stop its spread.

Governor Walz signed [Emergency Executive Order 20-12](#) on March 20, 2020 to ensure that these critical services were maintained during this time. This executive order gives the Commissioner of Human Services flexibility to temporarily waive or modify laws and regulations that govern DHS programs. This ensures that the Department, counties, tribes and providers are able to continue delivering services, and keep the people we serve safe. The executive order requires DHS to report on temporary changes that have been approved every 60 days to the chairs and ranking minority members of the legislative committees that have jurisdiction over the human services. This is the third report to be issued and covers the time period of July 12 through September 10, 2020. The [first](#) and [second](#) reports are available online.

II. Executive Order

Emergency Executive Order 20-12

Preserving Access to Human Services Programs During the COVID-19 Peacetime Emergency

I, **Tim Walz, Governor of the State of Minnesota**, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety.

Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3(1), the Governor may “make, amend, and rescind the necessary orders and rules to carry out the provisions” of Minnesota Statutes, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

Confirmed cases of COVID-19 in Minnesota are rapidly increasing. On March 15, 2020, Minnesota detected the first confirmed cases caused by “community spread”—infections not epidemiologically linked to overseas travel. This development requires Minnesota to take additional proactive measures, including enhanced community mitigation, to slow the spread of this pandemic. Slowing the spread of COVID-19 is critical to ensuring that our healthcare facilities remain able to accommodate those who require intensive medical intervention.

The Minnesota Department of Human Services (“DHS”) serves Minnesotans across the state. DHS provides health care coverage, programs, and services for over 1 million Minnesotans, including groups likely to be significantly impacted by COVID-19 such as older adults, individuals who have disabilities, families with children, and individuals with mental illness.

Tribal Nations, counties, and Minnesotans served by DHS face many challenges due to COVID-19. The public good is promoted by timely and safe access to, and delivery of, programs and services administered by DHS. Strict compliance with laws and regulations related to these programs and services during the peacetime emergency will limit the availability of essential programs and services for Minnesotans and increase the risk for spread of COVID-19. Providing for temporary waiver or modification of these requirements will allow DHS and its human services partners to continue to provide essential programs and services to Minnesotans safely and without undue delay during the peacetime emergency.

Current law and regulations prevent the temporary modification or waiver of laws related to programs and services administered by DHS.

For these reasons, I order as follows:

1. Effective immediately, the Commissioner of the Department of Human Services may temporarily waive or modify any of the following provisions, and applicable rules:
 - a. The Human Services Licensing Act in Minnesota Statutes 2019, chapter 245A, and accompanying program standards governed under Minnesota Statutes, chapters 245D through 245H;
 - b. The Human Services Background Study Act in Minnesota Statutes 2019, chapter 245C, except that the commissioner shall not waive or modify:
 - i. Disqualification standards in Minnesota Statutes 2019, section 245C.14 or 245C.15; or
 - ii. Any provision regarding the scope of individuals required to be subject to a background study conducted under Minnesota Statutes 2019, chapter 245C;
 - c. Provisions with respect to the use, licensing, certification, evaluation, or approval of facilities or programs within the commissioner's jurisdiction;
 - d. Provisions related to appeals;
 - e. Provisions with respect to background studies required to be conducted by the Department of Human Services; and
 - f. Provisions relating to the Minnesota state-operated community services ("MSOCS") program in Minnesota Statutes 2019, chapters 245D, 246, and 252.
2. Effective immediately, the Commissioner of the Department of Human Services may, upon finding that waiver will not endanger the public health, welfare, or safety, temporarily waive or modify any provisions of Minnesota Statutes 2019, chapters 119B, 245, 245A, 245D, 245E, 245F, 245G, 245H, 246, 252, 253, 254A, 254B, 256, 256B, 256D, 256E, 256I, 256J, 256K, 256L, 256M, 256P, 256R, 256S, 260C, 260D, 518A, and 626, and applicable rules, that govern:
 - a. Requirement of in-person assessment, application for services, or case management;
 - b. Application for eligibility and eligibility renewal time frames, processes, and verification, except that the commissioner shall establish processes to verify a client's eligibility as soon as practicable;
 - c. Reporting and verification requirements;
 - d. Assessment renewal timeframes, verifications, and processes;

- e. Work or community engagement activity requirements for eligibility;
 - f. Limits on the use of telehealth or other restrictions on electronic communication with providers;
 - g. Service delivery standards, locations, settings, or staff ratios;
 - h. Provider standards, including staffing ratios;
 - i. Timing of provider reporting requirements;
 - j. Payment procedures, including but not limited to the use of prepayments, partial payment for additional absent days, and payment for closed days;
 - k. Service agreement length; and
 - l. Provisions related to appeals.
3. Effective immediately, the Commissioner of the Department of Human Services may waive or modify any statutes or rules within the department's exclusive jurisdiction to comply with federal law, or obtain federal resources, related to the peacetime emergency.
 4. This Executive Order suspends the requirements for the Commissioner of the Department of Human Services to comply with Minnesota Statutes 2019, Chapter 14.
 5. The Commissioner of the Department of Human Services shall not issue any waiver or modification pursuant to paragraphs 1, 2, or 3 of this Executive Order that affects statutory provisions or requirements regarding matters outside the department's exclusive jurisdiction.
 6. Any waiver or modification issued pursuant to paragraphs 1, 2, or 3 of this Executive Order shall be posted on the department's website within 48 hours and shall include a plain language description of the waiver or modifications made and the rationale for the action.
 7. For any waiver or modification of Minnesota Statutes 2019, section 245D.04, or any other provision relating to long-term care services and supports under Minnesota Statutes 2019, chapter 256B, the Commissioner of the Department of Human Services shall communicate the waiver or modification and the corresponding plain language description in writing to:
 - a. Any provider affected by the waiver or modification; and
 - b. Any individual whose rights under Minnesota Statutes 2019, section 245D.04, are affected by the waiver or modification, or their legal representative, if applicable.
 8. No more than 48 hours after a waiver or modification under paragraphs 1, 2, or 3 of this Executive Order goes into effect, the Commissioner of the Department of Human Services shall provide written notice of the waiver or modification to the ombudsman for long-term care; the ombudsman for mental health and developmental disabilities; and the chairs and ranking minority members of the house of

representatives and senate committees overseeing the Department of Human Services. If two or more of the chairs submit a written objection to a waiver or modification within seven days of receiving the notice, the Commissioner of the Department of Human Services shall cease all activities to implement the waiver or modification and it shall no longer be in effect. A chair submitting an objection under this paragraph may withdraw the objection.

9. Beginning 60 days after the declaration of a peacetime emergency, and every 60 days thereafter while the peacetime emergency is in effect, the Commissioner of the Department of Human Services shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees overseeing the Department of Human Services describing the waivers and modifications made under this Executive Order.
10. The Commissioner of the Department of Human Services shall submit a final report to the chairs and ranking minority members of the house of representatives and senate committees overseeing the Department of Human Services by January 15, 2021, with specific details about state statutes and rules waived or modified as authorized in this Executive Order in response to a COVID-19 outbreak, and the cost to the Department of Human Services and to lead agencies to implement the waivers and modifications.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on March 20, 2020.

III. Introduction

The COVID-19 pandemic has presented a number of unprecedented challenges for the individuals served by human services programs, and for the Department of Human Services' (DHS) partners who deliver these programs. Programs administered by DHS are essential services for some of Minnesota's most vulnerable residents. DHS works with many others, including counties, tribes and nonprofits, to help ensure that Minnesota seniors, people with disabilities, children and others are able to meet their basic needs and have the opportunity to reach their full potential.

In March of 2020, Governor Walz declared a peacetime emergency in response to the COVID-19 pandemic, and has since signed a number of executive orders under this emergency authority. On March 20, 2020, the Governor signed [Executive Order 20-12](#), allowing the Commissioner of Human Services to waive or modify rules and regulations to ensure programs and services continue to be provided in a safe and effective manner in order to help Minnesotans during the COVID-19 pandemic.

Governor Walz also signed [Executive Order 20-11](#) on March 20, which directs DHS to seek all necessary federal approvals to implement COVID-19 changes under existing and forthcoming Executive Orders or legislative enactments. In addition to changes under these executive orders, Minnesota Statutes 2019 12A.10 grants the commissioner limited authority to make payments in the event of a natural disaster or other event that threatens the health and safety of individuals. DHS has implemented several changes under this statute and other existing authority.

During the period covered by this report the United States Department of Agriculture (USDA) denied a request to extend waivers that suspended recertification/renewal requirements for SNAP participants and those who receive food benefits through the Minnesota Family Investment Program (MFIP). DHS was able to issue payments for July and August using the commissioner's authority granted by EO 20-12. The department notified program participants in late July and early August of the need to recertify or renew applications to ensure they receive September benefits.

Additionally, during this time period a handful of waivers and modifications expired. Two changes that were approved under EO 20-12 expired on June 30, 2020. These modifications modified requirements for Child Care Assistance Program (CCAP) which suspended certain redetermination requirements for families on the program (CV.09) and extended renewal dates for providers participating in the program (CV.10). Additionally two changes approved under DHS's existing authority expired which allowed additional reimbursements to providers of customized living services for older adults and people with disabilities (CV.32), and extended the recertification dates for recipients of SNAP and MFAP.

This report outlines the waivers and modifications approved or updated between July 12, 2020 and September 10, 2020. This is the third 60 day report on these waivers and modifications. Waivers approved prior to July 12, 2020 were documented in the [first](#) and [second](#) 60 Day Reports. Additional reports will be provided every 60-days. The final report will be provided by January 15, 2021. We continue to assess our decisions to date and are committed to providing updates on our website and in detailed instructions to our partners.

IV. Fiscal Impact Summary

The total fiscal impact of changes to date is \$324.89 million across fiscal years 2020 and 2021, with \$306.87 million of that occurring in the general fund, and a savings of \$6.15 million to the general fund in fiscal years 2022 and 2023.

Many of these costs are necessary to receive an enhanced federal match on Medical Assistance expenditures. The 6.2 percentage point enhanced federal match is estimated to generate an additional \$588 million in federal resources for Medical Assistance from January to September of 2020.

Most of the changes have no impact on the state budget forecast, and the total cost of actions taken under EO 20-12 and existing authority is more than covered by the enhanced federal matching funds. However, DHS forecasts additional enrollment, which is not reflected in these estimates, and continues to exercise fiscal caution when considering additional expenditures.

The fiscal impact of each item is outlined in the descriptions contained in this report and a spreadsheet with the fiscal detail can be found in the appendix.

V. Waivers under peacetime emergency authority, Executive Order 20-12

Items in this section were approved between July 12, 2020 and Sept 10, 2020. Section VII of this document reflects changes and amendments to waivers approved prior to July 12, 2020.

CV.83 – Modifying certain licensing standards for DHS licensed children residential facilities, child care centers and family child care providers

Description

The commissioner temporarily modified certain training requirements for DHS-licensed children residential facilities, child care centers, and family child care providers. The modifications allow for greater program flexibility during the peacetime emergency.

The changes modify the in-person child passenger restraint systems training requirement for children’s residential facilities and child care providers to allow an online option. The modifications also allow for alternative trainings on health, safety and supervision for applicants for family child care licenses.

Affects Minnesota Statutes, sections [245A.18](#), subdivision 2; [245A.40](#), subdivision 6; [245A.50](#), subdivisions 6 and 9(a).

Timeline

These modifications are effective July 16, 2020, and may remain in effect for a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.90 – Modifying certain licensing and certification standards for DHS-licensed and certified child care center-based programs

Description

The commissioner has modified certain requirements for DHS-licensed child care centers and certified child care centers to allow existing license or certification holders to temporarily expand and operate at satellite locations to serve school-age children to support their distance learning.

The changes will enable the license and certification holders to respond to a temporary need for additional school-age capacity due to schools implementing distance learning because of the COVID-19 pandemic. While

many centers can accommodate these additional school-age children within their current program, others may need to temporarily use currently unlicensed space in their building, or elsewhere in the community (employer-based site or community-donated space, for example). The modifications allow the commissioner to authorize the license or certification holder to temporarily provide services for school-age children at a satellite location during the peacetime emergency using a streamlined approval process and without requiring payment of a license application fee. A license holder who is subject to or appealing a conditional license, a license revocation, or immediate suspension is not eligible for a satellite location.

The satellite location must be needed to respond to the peacetime emergency; may only serve children ages 5 and older who are enrolled in school, and the provider must not undertake construction or renovation to the satellite location in order to operate there. In addition, the provider must provide documentation of compliance with applicable fire and safety codes and health rules and documentation that the premises was inspected for compliance with the building code or that no inspection was deemed warranted, prior to the commissioner approving the satellite location. All services for school age children provided at the satellite location must comply with all applicable licensing and certification standards under the provider's primary license, and the provider must post the letter approving the satellite location in a conspicuous place.

Affects Minnesota Statutes, sections [245A](#) and [245H](#), and [Minnesota Rules, Chapter 9503](#).

Timeline

The approval to operate an additional program at the satellite location is valid for up to 60 days after the peacetime emergency ends or June 30, 2021, whichever occurs first. These changes are effective August 28, 2020.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.92 – Temporarily exempting certain programs from child care licensing to support distance learning

Description

The commissioner has modified licensing requirements to allow for a temporary exemption from licensure for the support and supervision of school-age children engaged in distance learning.

The change will allow individuals or organizations to provide support to children whose schools have implemented remote, hybrid or distance learning. Licensed child care programs can provide such support and supervision while children are engaged in distance learning with their school, but they may not be able to meet all of this temporary increased need for supervision of school age children during the typical hours of a child's school day.

The exemption is available to a nonresidential program operated by an individual or organization that serves only school-age children ages 5 and above enrolled in public or nonpublic educational settings. The program must provide support and supervision of learning as appropriate to the child's needs during the typical school hours of the child's day, and no more than one hour before and one hour after the start or end of the typical school hours of the children's day. Hours of support and supervision that exceed this amount must meet an existing exemption from licensure or the program must be licensed or certified by the commissioner as a child care program. The program must meet certain staffing and parental consent and notice requirements, and comply with health and safety guidelines established by the [Minnesota Department of Health \(PDF\)](#).

An individual or organization that also operates a licensed child care center or certified child care program must operate as a distinct program and cannot combine children, and cannot share staff or share space with the licensed or certified program when the programs operate at the same time. A program exempt under this modification is not eligible for the Child Care Assistance Program.

Affects Minnesota Statutes, sections [245A](#) and [245H](#), and Minnesota Rules, [Chapter 9503](#).

Timeline

These changes are effective August 28, 2020, and may remain in effect for a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor or through June 30, 2021, whichever occurs first.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

VI. Federal waivers requested under peacetime emergency authority, Executive Order 20-11

Items in this section were approved between July 12, 2020 and Sept X, 2020. Section VII of this document reflects changes and amendments to waivers approved prior to July 12, 2020.

CV.88 – Waiving non-electronic notice for Elderly Waiver amendments

Description

With federal approval, the commissioner has waived the requirement for a non-electronic public notice as part of Elderly Waiver amendments. DHS will provide only an electronic notice for the 30-day public comment period. The waiver of hard copy (non-electronic) public notice requirements will not affect access to existing services.

Because most agencies have closed their offices during the COVID-19 pandemic, this change:

- Waives the requirement for DHS to provide a non-electronic public notice;
- Means lead agencies (counties, tribal nations and managed care organizations) will not post hard copies of the public notice; and
- Allows DHS flexibility to gather meaningful feedback from people who receive services while also promoting social distancing.

Timeline

This change is effective from August 18, 2020, through January 26, 2021.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

VII. Updates to Previously Approved Waivers Under Peacetime Emergency Authority, Executive Order 20-12

CV.03 – Suspending application requirements for economic assistance and housing programs

Description

The commissioner waived certain requirements for economic assistance and housing programs, affecting procedures for applications and interviews, verification, changes to existing applications and reporting. The affected programs include General Assistance, Housing Support, Minnesota Supplemental Aid, the Minnesota Family Investment Program and the Diversionary Work Program. The changes also reduce barriers for families applying for cash assistance, relieve eligibility workers of after-the-fact verifications, and ensure that participants do not have to repay cash assistance overpayments caused by state, local agency or system errors. These changes will reduce the number of face-to-face contacts in county and tribal offices while making it easier for Minnesotans in sudden financial crisis to receive assistance.

Affects Minnesota Statutes, Chapters [256D](#), [256I](#), [256J](#), and [256P](#).

Related operational changes

[Bulletin #20-68-12, issued April 10, 2020: Waiver of Requirements for cash programs during COVID-19 response](#)

Timeline

This change may remain in effect for a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor. The portion of this waiver allowing telephone interviews at application for the Minnesota Family investment program remains in effect until June 30, 2021, and reiterates the authority to accept electronic signatures on applications.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.04 – Suspending some rules to allow continuation of economic assistance

Description

Under this waiver the commissioner temporarily waived a number of requirements, including the requirement for counties and tribes to conduct program recertifications for the Supplemental Nutrition Assistance Program (SNAP), General Assistance, Minnesota Family Investment Program (MFIP), Minnesota Supplemental Aid and Housing Support.

The other changes that continue to be waived include requirements for reporting, documentation and signatures for Minnesota Family Investment Program, Diversionary Work Program, General Assistance, Minnesota Supplemental Aid and Housing Support; and that no overpayments caused by agency or system errors should be charged to participants, because no reasonable person could be expected to recognize errors as emergency program policies are implemented.

In addition, because implementing the following MFIP policies requires face-to-face meetings and/or documentation from third parties, requirements for the following will be suspended during the public health emergency for:

- Enforcing work requirements
- Enforcing school attendance requirements for teen parents
- Imposing sanctions for not cooperating with child support
- Discontinuing assistance to any family reaching the 60-month lifetime limit or being due for a review of their extension status until the end of the emergency declaration.

Affects Minnesota Statutes, sections [256J.30, subds. 4 and 5](#); [256J.42](#); [256J.425](#); [256J.46](#); [256J.54, subd. 5](#); [256J.561](#); [256J.57](#); [256P.04, subd. 8s, 11, 12, and 15 \(4\)](#); [256P.07, subd. 4](#); and [256P.08](#).

Related operational changes

[Bulletin #20-68-12, issued April 10, 2020: Waiver of Requirements for cash programs during COVID-19 response](#)

Timeline

The waiver of the requirement to conduct program recertifications expired Aug. 31, 2020. Recertifications have begun again for those due in September and thereafter.

The other changes may remain in effect for a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.07 – Allowing child care assistance payments for a second child care provider when a program temporarily closes or is unavailable

Description

The commissioner amended her previous decisions that temporarily modified certain requirements under the Child Care Assistance Program (CCAP). Under those decisions, the commissioner: (1) permitted CCAP to pay a second providers when a child’s regular provider is temporarily closed and the child is attending a new program; (2) waived the normal 15-day notice period required when a family changes providers; and (3) allowed CCAP to pay for more than the usual maximum of 120 hours of care per child every two weeks.

These changes support children, families and providers by continuing to prioritize child care needs during the COVID-19 peacetime emergency, and reducing the negative financial impact on families and providers due to the COVID-19 pandemic.

Affects Minnesota Statutes, sections [119B.09, subd. 6](#); [119B.097](#); [119B.13, subd. 7](#); Minnesota Rules, part [3400.0040, subp. 4\(B\)](#); and [45 C.F.R. Part 98](#).

Related operational changes

[Bulletin #20-68-22, issued May 15, 2020: Child Care Assistance Program temporary policy changes due to COVID-19](#)

Timeline

The commissioner’s earlier decisions allowed payment for two providers for the same child, for the same period of time for up to one month between March 13, 2020 and June 30, 2020. The commissioner later allowed CCAP payments to be paid to the second provider for up to an additional four weeks beginning June 1, 2020.

Under a decision made July 30, 2020, the modifications were set to end September 6, 2020. Under a decision made August 18, 2020, the modifications were extended to October 11, 2020, or through a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor, whichever is later.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.08 – Paying CCAP to child care providers while children not attending care

Description

The commissioner previously approved a waiver on March 20, 2020, temporarily allowing for flexibility and expanded use of medical exemptions to pay child care providers under the Child Care Assistance Program (CCAP) for more days when children are absent. Under that March 20, 2020, waiver, the department will make CCAP payments to temporarily closed child care providers, for up to one month.

Changes approved by the commissioner on June 10, 2020 allow providers to bill for absent days through expanded use of medical exemptions through June 30, 2020.

In further response to the COVID-19 pandemic, on April 9, 2020 and May 27, 2020, the commissioner approved additional flexibility, which temporarily allows CCAP providers to:

- Receive CCAP payments even if they have chosen not to charge, or reduce fees for, private pay families during closure.
- Bill CCAP for closed days from the date the provider closed for up to one month, beginning as early as March 13, 2020, which is the date of the federal emergency declaration, and ending no later than June 30, 2020. The beginning date in the original waiver was March 20, 2020.
- Bill CCAP for up to an additional four weeks after closure, beginning as early as June 1, 2020, through the end of the peacetime emergency, whichever is later.

These changes support children, families and providers by prioritizing care needs during the COVID-19 peacetime emergency.

Affects Minnesota Statutes, sections [119B.13, subs. 4 and 7](#); and Minnesota Rules, part [3400.0120, subp. 1a\(C\)](#); [45 C.F.R. Part 98](#).

Timeline

Under a decision made July 30, 2020, the modifications were set to end September 6, 2020. Under a decision made August 18, 2020, the modifications were extended to October 11, 2020, or through a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor, whichever is later.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.49 – Modifying certain license requirements for providers of adult day centers

Description

The commissioner amended the temporary modification of certain licensing requirements that allowed providers of adult day centers to provide in-person group services. The changes are necessary to recognize that individuals served have a right to make an informed choice about whether to receive group services in a licensed setting.

The additional modifications: allow people who live in congregate settings to attend adult day centers, provided that the congregate setting has not had any COVID-19 exposure in the last 28 days; increase the maximum duration that a person can receive in-person, group-based services in one day from three hours to four hours; increase the maximum cohort size from 8 to 10 people; and remove the 50-person maximum limit to allow greater flexibility for buildings with larger license capacity while maintaining the 50% cap on licensed capacity (including staff) of the facility.

The license holders must continue to adhere to [Minnesota Department of Health](#) and [Centers for Disease Control and Prevention](#) guidelines and must establish and implement a COVID-19 Preparedness Plan as set forth in [Emergency Executive Order 20-74, paragraph 7e](#).

They must also follow additional requirements regarding physical plant and space, capacity, cohort size, duration of shifts, screening protocols and other measures to mitigate the spread of COVID-19.

Affects Minnesota Statutes, [Chapter 245A](#) and Minnesota Rules, parts [9555.9600 to 9555.9730 \(Rule 223\)](#).

Timeline

The changes are effective Aug. 12, 2020, and may remain in effect for a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.73 – Modifying certain licensing requirements for providers of day services for adults with disabilities

Description

The commissioner amended the temporary modification of certain licensing requirements that allowed day service providers for adults with disabilities to reopen. The change recognized that individuals served have a right to make an informed choice about whether to receive services in a licensed setting.

As of May 30, the commissioner allowed day service facilities to only serve individuals who lived on their own or with their families. As of July 13, the commissioner allowed individuals who live in congregate care settings,

including group homes, to attend the facilities, but prohibited individuals from attending a day service facility if they live with any person with an active case of COVID-19 or have had COVID-19 exposure in the last 14 days.

These new modifications: increase the maximum duration that a person can receive in-person, facility-based services in one day from three hours to four hours; allow day services to be provided in indoor community facilities and buildings during times when people receiving services are engaged in volunteer or vocational activities; and remove the 50-person maximum limit to allow greater flexibility for buildings with larger licensed capacity while maintaining the 50% cap on licensed capacity (including staff) of the facility.

As before, day services facility license holders must adhere to [Minnesota Department of Health](#) and [Centers for Disease Control and Prevention](#) guidelines to establish and implement a COVID-19 Preparedness Plan as set forth in [Emergency Executive Order 20-74, paragraph 7e](#).

They must also follow additional requirements regarding capacity, cohort size, duration of shifts, screening protocols and other measures to mitigate the spread of COVID-19. Programs may resume operating after receiving the specific licensing guidance and completing the [COVID-19 Preparedness Plan](#).

Affects Minnesota Statutes, sections [245D.04](#), [245D.28](#), [245D.29](#), and [245D.31](#).

Timeline

The change is effective Aug. 12, 2020, and may remain in effect for a 60-day transition period after the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

VIII. Expired waivers under peacetime emergency authority, Executive Order 20-12

CV.09 – Suspending certain requirements for child care assistance program redetermination due dates

Description

The commissioner has extended redetermination due dates for families' eligibility for the Child Care Assistance Program by three months on cases with redeterminations due on or before June 30, 2020. This will allow families to continue to receive care until their new redetermination date and allow time to gather verifications.

Affects Minnesota Statutes, section [119B.025, subd. 3](#); and Minnesota Rule [3400.0040](#).

Related operational changes

[Bulletin #20-68-22, issued May 15, 2020: Child Care Assistance Program temporary policy changes due to COVID-19](#)

Timeline

This change expired on June 30, 2020.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

CV.10 – Extending Child Care Assistance Program provider registration renewal dates

Description

The commissioner ordered that registration renewal due dates be extended by three months for Child Care Assistance Program providers with renewals due between March 20, 2020 and June 30, 2020. Without this action, families served by the Child Care Assistance Program would need to send their children to a different registered Child Care Assistance Program provider if their current provider's registration were to lapse. The commissioner took this action to ensure continuity of care for children served by the Child Care Assistance Program during the COVID-19 peacetime emergency. This modification is retroactive to March 20, 2020, and will remain in effect through June 30, 2020.

Affects Minnesota Statutes, [section 119B.011, subd. 19a](#).

Related operational changes

[Bulletin #20-68-22, issued May 15, 2020: Child Care Assistance Program temporary policy changes due to COVID-19](#)

Timeline

This change expired on June 30, 2020.

Fiscal Impact

This proposal has no fiscal impact relative to end of session estimates.

IX. Expired changes under existing authority to respond to COVID-19

CV.32 – Allowing additional reimbursement to Customized Living providers

Description

The commissioner extended the eligibility period for additional compensation for Customized Living providers where there have been one or more confirmed cases of COVID-19 (resident or staff).

About 18,000 older adults and people with disabilities receive Customized Living services. This Medicaid program includes both health-related and supportive services provided to people living in a customized living setting. People in these settings are at higher risk for COVID-19 due to their age, health and because they live in a group setting.

On June 30, the commissioner extended the last date a provider can become eligible for additional compensation from June 30, 2020 to July 31, 2020.

The reimbursement increase will help providers stabilize staffing to meet the health and safety needs of Medicaid enrollees living in Customized Living settings and will cover:

- Additional Personal Protective Equipment (PPE);
- Additional staff and staff time to perform public health practices like social distancing, quarantining and screening for health concerns;
- Implementing infection control measures such as additional facility cleaning and disinfecting; and
- Additional staffing costs such as paid sick leave, replacement or overtime pay for staff.

This change expired on July 31, 2020. However, providers who had at least one confirmed COVID-19 exposure on or before July 31, 2020 are eligible for the 45-day add-on payments. Eligible providers must submit an attestation to DHS by September 30, 2020. Please see [bulletin #20-25-02](#) for further information.

Affected Minnesota Statutes, section [12A.10](#).

Timeline

This change expired on July 31, 2020. However, providers who had at least one confirmed COVID-19 exposure on or before July 31, 2020 are eligible for the 45-day add-on payments. Eligible providers must submit an attestation to DHS by September 30, 2020. Please see [bulletin #20-25-02](#) for further information

Fiscal Impact

This change has no fiscal impact relative to end of session estimates.

CV.37 – Extending recertification dates for SNAP and MFAP

Description

The commissioner temporarily waived minimum certification periods for SNAP and MFAP recipients, who normally must verify their situations every six months to receive benefits. This waiver maintains uninterrupted benefits during the peacetime emergency even if recipients cannot submit otherwise required documentation. It also allows county and tribal eligibility staff to process new applications.

Affects Minnesota Statute sections [256D.0516](#) and [256D.053](#), and Federal Regulations [7 CFR 273.10\(f\)\(3\)\(i\)](#), [7 CFR 273.10\(f\)\(5\)](#), [7 CFR 273.10\(f\)\(1\)](#), [7 CFR 273.12\(a\)\(5\)\(iii\)\(B\)](#), and [7 CFR 273.14](#)

Timeline

This waiver is retroactive to March 1, 2020, and extended the recertification dates through May 30, 2020. The waiver was amended to extend the recertification dates through June 30 and July 31, 2020, then amended again to extend the recertification dates through Aug. 31, 2020, when this change expires.

Fiscal Impact

This change has no fiscal impact relative to end of session estimates.

IX. Appendix

Fiscal Estimates Department of Human Services COVID-19 Changes

Reflects items approved as of 9/10/2020; (\$ in thousands)

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
1	CV.02	3/20/2020; 5/1/2020	EO	Suspension or Modification of Licensing Requirements	GF	10	-
2	CV.03	3/20/2020	EO	Economic Assistance Programs Applications	GF	-	-
3	CV.05	3/20/2020	EO	Family Violence Specialist Waiver in MFIP	GF	-	-
4	CV.06	3/20/2020	MS 256J.57	Good Cause Exemptions from MFIP Sanctions	GF	-	-
5	CV.08	3/20/2020	EO	Pay Child Care Assistance Program Providers While Children Not Attending Care	GF	-	-
6	CV.10	3/20/2020	EO	Child Care Assistance Program Provider Registration Renewals	GF	-	-
7	CV.11	3/20/2020	EO	Monthly Foster Care Caseworker Visits Videoconferencing	GF	-	-
8	CV.12	3/20/2020	EO	Waiving Prospective Mandatory Child Support Enforcement Remedies	GF	-	-
9	CV.15	3/20/2020	EO	Waiver of Face-to-Face Requirement of Assessments and Case Management for HCBS Waiver Services	GF	-	-
10	CV.17	3/20/2020 4/13/2020 6/16/2020	EO	Ensuring Uninterrupted Coverage & Services for State Public Program Enrollees	GF HCAF	193,229 18,026	9,981 -
11	CV.18	3/20/2020	7 CFR 273.7(i)	Good Cause Exemption for Able-Bodied Adults without Dependents SNAP Participants	GF	-	-
12	CV.16	3/23/2020	EO	Increasing Access to Services via Telemedicine	GF	-	-
13	CV.01	3/23/2020	MS 12A.10	Expedited Reimbursement to Nursing Facilities under M.S. 12A.10	GF	65,331	(16,127)
14	CV.04	3/20/2020	EO	Economic Assistance Program Renewals and Recertifications	GF	36,796	-
15	CV.19	3/23/2020	EO	Allow 90 Day Refill Limits for Prescription Maintenance Medications	GF	(3,027)	-

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
16	CV.22	3/23/2020	EO	Suspend Provider Revalidation	GF	-	-
17	CV.14	3/23/2020	EO	Waiver Recertification for AIDS Drug Assistance Program	GF	-	-
18	CV.07	3/24/2020	EO	Paying Second Child Care Assistance Providers if One Provider is Closed or Unavailable	GF	2,630	-
19	CV.07A2	5/26/2020	EO	Paying Second Child Care Assistance Provider if One Provider is Closed or Unavailable - Extension	CCDBG	[4,948]	-
20	CV.09	3/24/2020	EO	Waiving, Modifying and Suspending Certain Requirements for Child Care Assistance Redetermination	GF	472	-
21	CV.21	3/24/2020	EO	Continuation of School-Linked and Intermediate School District Mental Health Services	GF	-	-
22	CV.24	3/27/2020	EO	Removal of Face-to-Face Requirements for MN Medicaid Targeted Case Management	GF	-	-
23	CV.20	3/23/2020	EO	Eliminating Cost Sharing for COVID-19 Testing and Treatment	GF	-	-
24	CV.23	3/27/2020	EO	Modify Certain Background Study Requirements	GF	-	-
25	CV.26	4/3/2020	EO	Modify Certain Requirements for Licensed Child Care Centers & Certified Child Care Centers	GF	-	-
26	CV.25	4/3/2020	EO	Modify Certain License Requirements for Family Child Care	GF	-	-
27	CV.27	3/30/2020 6/24/2020	EO Ch. 7	Allowing Exemption for Temporary Absence Policy in Housing Support	GF CRF	207 1,135	- -
28	CV.29	3/31/2020	EO	Waiving In-person Requirement to Allow Fair Hearings to Take Place by Telephone or Video	GF	-	-
29	CV.30	4/6/2020	EO	Expanding Telemedicine in Health Care, Mental Health, and Substance Use Disorder Settings	GF	-	-
30	CV.33	4/3/2020	EO	Modify Timelines & Face to Face Requirements for Certain Child Protection Responses to Alleged Maltreatment	GF	-	-
31	CV.35	4/8/2020	EO	Modifying Requirements for Physical Examinations of Foster Children	GF	-	-
32	CV.36	4/10/2020	EO	Modifying the Time Period to Complete an Out-of-Home Placement Plan After a Child is Placed in Foster Care and Signature Requirements	GF	-	-
33	CV.38	4/15/2020	EO	Allowing Flexibility in Housing Licensing Requirements	GF	-	-

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
34	CV.37	4/15/2020	CA	Extending Recertification Dates for SNAP and MFAP	GF	-	-
35	CV.35	4/17/2020	CA	Providing emergency increases of SNAP and MFAP benefits	GF	60	-
36	CV.42	4/17/2020	CA	Streamlining the SNAP waiver process	GF	-	-
37	CV.40	4/17/2020	EO	Waiving Signature Requirements for Medical Equipment and Transportation	GF	-	-
38	CV.31	4/27/2020	EO	Allowing Waiver of County Cost When COVID-19 Delays Discharges from DHS-operated Psychiatric Hospitals	GF	-	-
39	CV.44	4/23/2020	EO	Allowing Remote Delivery of Adult Day Services	GF	-	-
40	CV.43	4/22/2020; 5/26/2020	EO	Expanding Remote Home and Community Based Services Waiver Services for People with Disabilities	GF	2,094	-
41	CV.45	4/23/2020	EO	Modifying certain licensing requirements for substance use disorder treatment	GF	-	-
42	CV.46	4/23/2020	EO	Modifying Certain Licensing Requirements for Children's Residential Facilities	GF	-	-
43	CV.47	4/23/2020	EO	Modifying Certain Licensing Requirements for Intensive Residential Treatment Service Providers	GF	-	-
44	CV.48	4/22/2020	EO	Modifying Requirements for Child Protection New Worker Training	GF	-	-
45	CV.49	4/23/2020; 6/15/2020	EO	Modifying Certain License Requirements for Adult Day Services	GF	-	-
46	CV.50	4/23/2020	EO	Modifying Certain Requirements for Early Intensive Developmental and Behavioral Intervention (EIDBI) Services	GF	-	-
47	CV.55	4/29/2020	EO	Modifying certain licensing requirements for adult foster care, community residential settings, child foster care and family adult day services	GF	-	-
48	CV.54	4/29/2020	EO	Modifying certain licensing requirements for detoxification programs	GF	-	-
49	CV.32	5/1/2020	MS 12A.10	Allowing additional reimbursement to Customized Living providers	GF	8,169	-
50	CV.53	5/6/2020	EO	Allowing Flexibility for Personal Care Assistance (PCA) Service Oversight and Hours	GF	243	-
51	CV.58	5/6/2020	EO	Authorizing federal waiver request & modifying certain requirements for legal nonlicensed provider registration for CCAP	GF	-	-

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
52	CV.63	5/6/2020	EO	Modify Certain Licensing Requirements for the Residential Facilities: Forensic Mental Health Program	GF	-	-
53	CV.61	5/7/2020	EO	Modifying Certain Requirements for the Minnesota Sex Offender Program	GF	-	-
54	CV.62	5/7/2020	EO	Waiving Vendor Payment Requirement for Certain MFIP Participants	GF	-	-
55	CV.64	5/12/2020	EO	Modifying Certain Certification Requirements for Mental Health Centers (Rule 29)	GF	-	-
56	CV.65	5/12/2020	EO	Modify Certain Licensing Requirements for Psychiatric Residential Treatment Facilities	GF	-	-
57	CV.70	5/28/2020	EO	Waiving the County Child Support Agency In-Person Payment Location Requirement	GF	-	-
58	CV.73	5/26/2020	EO	Modifying Certain Licensing Requirements for Providers of Day Services for Adults with Disabilities	GF	654	-
59	CV.80	6/15/2020	EO	Modifying Licensing Requirements for Licensed and Certified Providers to require COVID-19 Plan	GF	-	-
60	CV.78	6/10/2020	EO	Extending Recertification Timelines for Community Mental Health Service Providers	GF	-	-
61	CV.83	7/16/2020	EO	Modifying certain licensing standards for DHS licensed & certified services	GF	-	-
62	CV.84	7/9/2020	EO	Grant additional flexibilities for day services	GF	-	-
63	CV.90	8/28/2020	EO	Modifying Certain Licensing Standards for Child Care Centers to Operate at an Additional Location	GF	-	-
64	CV.92	8/28/2020	EO	Temporary Child Care Licensing Exclusion	GF	-	-
65				Total Forecast Costs Approved	GF	306,868	(6,146)
					HCAF	18,026	-
66				Additional Forecast Changes to DHS Program			
67				Enhanced Federal Matching Funds: January through September 2020	GF	(588,154)	
68				FY 2020-21 General Fund Forecast Costs of Program Waivers After Enhanced Federal Match		(281,286)	