



# Legislative Report

## Emergency Executive Order 20-12

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

**4<sup>th</sup> 60-day update**

November 13, 2020

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Minnesota Statutes, Chapter 3.197, requires the disclosure of the cost to prepare this report. The estimated cost of preparing this report is \$150.

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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 fourth report to be issued and covers the time period of September 11, 2020 and November 10, 2020. The [first](#), [second](#) and [third](#) 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.

In March, under her existing authority, the commissioner offered expedited payments to nursing facilities for the additional costs of COVID-19 response. The Department projected the costs of the expedited payments to be \$65.331 million in state fiscal year 2020-2021 and a savings of \$16.127 million in fiscal years 2022-2023. Based on experience and a change to the projected length of the peacetime emergency this has been reduced to \$4.400 million in fiscal year 2020-21 with a savings of \$3.300 million in fiscal years 2022-2023.

Since March, Minnesota has adjusted measures taken to address COVID-19 to match the most up to date data and information. With some of these adjustments such as updated guidance on social distancing, and the statewide mask mandate, DHS has taken steps to transition some previously approved waivers to pre-pandemic operations. Some of these transitions adjust partially, while others are returning to pre-pandemic regulations. These changes are described in section VII. As the pandemic continues we will continue to assess the need for further transitions.

This report outlines the waivers and modifications approved or updated between September 11, 2020 and November 10, 2020. This is the fourth 60 day report on these waivers and modifications. Waivers approved prior to September 11, 2020 were documented in the [first](#), [second](#) and [third](#) 60 Day Reports. Additional reports will be provided every 60-days. We continue to assess our decisions to date and are committed to providing updates on our website and in detailed instructions to our partners.

[Department of Human Services COVID-19 Waivers and Modification](#)

## IV. Fiscal Impact Summary

The total fiscal impact of changes to date is \$378.09 million across fiscal years 2020 and 2021, with \$341.97 million of that occurring in the general fund, and an impact of \$41.08 million from 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 \$744.25 million in federal resources for Medical Assistance from January to December 2020.

On March 23, 2020, the Commissioner used her existing statutory authority under Minn. Stat. §12A.10 to offer expedited payments to nursing facilities for the additional costs of to COVID-19. Previously, the Department projected that the expedited payments would have a cost of \$65.331 million in fiscal years 2020-2021. The payments would result in forecasted savings of \$16.127 million in fiscal years 2022-2023 because the costs associated with the expedited payments would not be included in cost reports for the purpose of setting future reimbursement rates. Based on experience and changes in the projected length of the peacetime emergency, the Department projected cost of the expedited payment provision has been reduced to \$4.400 million in fiscal year 2020-2021 with a savings of \$3.300 million in FY 2022-2023.

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 September 11, 2020 and November 10, 2020. Section VII of this document reflects changes and amendments to waivers approved prior to September 11, 2020.*

## **CV.89 – Modifying requirements to maintain long-term services and supports**

### **Description**

The commissioner temporarily modified a requirement for long-term services and supports (LTSS) so that older people and people with disabilities can continue to receive LTSS without interruption during the COVID-19 peacetime emergency. The modification allows lead agencies, including counties, tribal nations and managed care organizations, to obtain verbal or expressed approval of documents that typically require in-person signatures. It also waives the requirement to provide assessment and support planning documents to people and providers.

Affects Minnesota Statutes, sections [256B.0911, Subd.2b \(5\)](#); [256B.0911, Subd. 3a \(e\)](#); [256B.0911, Subd. 3a \(f\)](#); [256B.0911, Subd. 3a \(5\)](#); [256B.092, Subd. 1b](#); [256B.0922, Subd. 1](#); [256B.0913, Subd. 8](#); [Chapter 256S.10, Subd. 1](#); [256B.49, Subd. 13](#); [256B.0659, Subd. 12](#); [256B.0625, Subd. 17b](#); and [256B.0652, Subd. 12](#).

### **Timeline**

These changes are effective retroactively to March 20, 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.94 – Modifying Individual Education Plan payment formula for store-and-forward telemedicine**

### **Description**

The commissioner allowed school districts to receive Medicaid payments for physical therapy, occupational therapy and speech language pathology services delivered via store-and-forward telemedicine to children with Individual Education Plans. Store-and-forward telemedicine means asynchronous, non-real-time communications between providers and patients to share health information.

The store-and-forward telemedicine:

1. May be used only for children engaged in distance learning (hybrid or ongoing). Services must be delivered face to face for children physically in school.
2. Requires some real-time, two-way interactive video to follow up on the store-and-forward component.
3. Is limited to physical therapy, occupational therapy and speech language pathology services. Nursing services, transportation, assistive technology and personal care assistants are ineligible.

Affects Minnesota statutes, [sections 256B.0625, subdivision 3b and subdivision 26](#).

### **Timeline**

This change is effective August 1, 2020, through the peacetime emergency or July 1, 2021, whichever is later.

### **Fiscal Impact**

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

## **CV.95 – Processing Health Care Applications for Incarcerated Individuals Who Are Conditionally Released**

### **Description**

The commissioner temporarily modified certain requirements for county staff to process Medical Assistance applications for low-level offenders conditionally released from a correctional facility. During the peacetime emergency, the applications will instead be processed by Minnesota Department of Human Services employees.

During the COVID-19 peacetime emergency, the Department of Corrections will release certain low-level offenders who are at a high risk of contracting COVID-19 while in a correctional facility. These offenders will be released on a conditional medical release, which requires access to health care coverage before the person leaves the correctional facility.

Affects Minnesota Statutes, sections 256B.05 and 256B.08.

### **Timeline**

This change is effective retroactive to May 1, 2020, and may last up to 60 days after the end of the state's COVID-19 peacetime emergency.

### **Fiscal Impact**

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

# VI. Changes under Existing Authority to Respond to COVID-19

## CV.91 – Child Care Assistance Program (CCAP) guidance related to school-age child care

### Description

In response to the COVID-19 pandemic, on July 30, 2020, Governor Walz issued [Executive Order 20-82](#), allowing school districts and charter schools to offer in-person, distance or hybrid learning models for the 2020-2021 school year. As part of the order, a district or charter school that reduces in-person instruction must provide child care for children of “Tier 1” workers as defined by [the Minnesota Department of Education Guidance for Minnesota Public Schools 2020-21 School Year Planning](#).

Under previous policy, CCAP did not cover hours of education based services or hours during a typical school day for school-aged children because school instruction hours are not allowed to be considered for child care purposes. However, CCAP does allow for increased hours to be authorized if a school day is condensed to less than a typical day. Additionally, federal guidance issued in response to COVID-19 provides the option to pay for school-age children for time in child care when the children are completing remote, virtual or online schoolwork.

Therefore, to allow families needed flexibility and to support parental choice, the commissioner used existing authority to make the following changes for authorization and payment for school-aged care for children in families in the 2020-2021 school year to accommodate for distance learning, hybrid learning and in-person learning models throughout Minnesota:

- For distance learning hours, CCAP families may choose whether to send their child to a child care provider or to care provided by schools, such as the free care offered to Tier 1 families. If the provider meets CCAP requirements, CCAP will pay the child care provider and adjust the number of hours authorized to reflect parent needs.
- For distance learning hours, CCAP will allow child care hours and payments to be authorized for families if in-person school is in place and a parent chooses to keep the child in distance learning with the child care provider due to COVID-19 needs and concerns.

The commissioner used existing authority under Minnesota Statutes, section [119B.095, subds. 1 and 2\(b\)](#); Minn. Rules [3400.0110, subp. 3](#) and the Department of Health and Human Services Office of Child Care. For more information, see [CCDF Frequently Asked Questions in Response to COVID-19](#).

### Timeline

This change was approved September 21, 2020 and are approved for the 2020-2021 school year.

## **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.14 – Waiving recertification process for HIV/AIDS services and drug assistance program

### Description

On March 27, 2020, the commissioner temporarily suspended the six-month and annual recertification processes for Minnesota’s HIV/AIDS program, Program HH. Program HH includes the AIDS Drug Assistance Program as well as insurance, dental, mental health, nutrition, and medication therapy management programs.

The commissioner later amended her decision, resulting in Program HH resuming recertification requests to ensure people currently enrolled are assessed for and connected to the right services. To support ongoing access to these vital services during the peacetime emergency, people currently enrolled will not be closed to the program if they are unable to complete the recertification process. They will only be closed to the program if they report ineligibility due to income or residency changes.

Affects Minnesota Statutes, section [256.9365](#).

### Timeline

Program HH resumed recertification requests in October 2020. Requests for recertification will continue monthly, following the regular program schedule. 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.

### Fiscal Impact

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

## CV.23 – Modifying certain background study requirements

### Description

The commissioner amended her previous decisions, which temporarily modified certain statutory background study requirements, to return background studies to fully compliant pre-COVID requirements and fees for all new applicants. This change is necessary to protect children and vulnerable adults and ease the transition back to full compliance with federal and state requirements.

On April 6, 2020, the commissioner modified background studies to assist health and human service providers to quickly respond to their changing workforce needs and continue to serve clients. A flat fee of flat \$20 was instituted for all DHS statutory background study applications.

The commissioner previously amended the April 6, 2020 modifications for background study applicants for foster care, adoption, legal guardianship and children's residential facilities who live outside of Minnesota now or have within the past five years. These changes required child abuse and neglect registry checks to be conducted in other states (non-Minnesota) for these background study applicants, and to require FBI fingerprint-based checks for county and private agency adoptions. The fees for these studies were reinstated to previous levels (\$51 for children's residential facilities and \$70 for private agency adoptions).

Effective October 7, 2020, background studies under the pre-COVID requirements are required for all new applicants and the remaining modified provisions are returned to the following pre-COVID requirements:

- Requiring fingerprint-based background studies for criminal history checks for all provider types
- Requiring checks of out-of-state registries and databases for subjects who have lived outside of Minnesota in the last five years
- Returning to the regular fee schedule for each study type
- Reinstating the mandatory direct contact supervision requirements for specific provider types.

The return to pre-COVID fully compliant background studies is possible because public fingerprinting locations throughout the state are beginning to reopen. This change will allow providers more time to transition back into full compliance.

Affects Minnesota Statutes, [Chapter 245C](#).

### **Timeline**

Effective October 7, 2020, background studies under the pre-COVID requirements are required for all new applicants and the remaining modified provisions are returned to the following pre-COVID requirements. DHS is no longer accepting new submissions of emergency background study applications as of October 6, 2020. Emergency studies will continue to be valid until 60 days after the end of the peacetime emergency. Providers must submit a new background study application and fee for individuals who received an emergency study under the April 6, 2020, modifications and will be required to be fully compliant by 60 days after the end of the peacetime emergency.

### **Fiscal Impact**

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



## CV.29 – Waiving in-person requirement to allow fair hearings to take place by telephone or video

### Description

The commissioner amended her previous temporary suspension of in-person fair hearings to allow some participants to appear for hearings in person when other hearing formats would not be effective due to a disability or technology barrier. All hearings that can be held by telephone or videoconference will still proceed using those methods. This temporary change aligns with guidance to limit in-person contact as much as possible.

Affects Minnesota Statutes, sections [256.045](#), subdivision 4(a); [256.0451](#), subdivision 1

### Timeline

This change is effective Nov. 2, 2020, and modifies the previous April 3, 2020, waiver. It 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.49 – Modifying certain license requirements for adult day services

### 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 modification on October 16, 2020, increases the maximum duration that a person can receive in-person, group-based services in one day from four hours to six hours and increases providers' flexibility in providing these services.** Providers can now choose whether to deliver services in one continuous shift not to exceed six hours or two shifts not to exceed four hours for each shift. A person receiving services can only attend one shift.

Previous modifications allowed 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; increased the maximum duration that a person can receive in-person, group-based services in one day from three hours to four hours; increased the maximum cohort size from 8 to 10 people; and removed 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 Oct.16, 2020, and may remain in effect through 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.

**The additional modification on October 16, 2020, increases the maximum duration that a person can receive in-person, facility-based services in one day from four hours to six hours and increases providers' flexibility in providing these services.** Providers can now choose whether to deliver services in one continuous shift not to exceed six hours or two shifts not to exceed four hours for each shift. A person receiving services can only attend one shift.

The previous modifications: increased the maximum duration that a person can receive in-person, facility-based services in one day from three hours to four hours; allowed 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 removed 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 Order20-74, 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 Oct. 16 2020, and may remain in effect until 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. Appendix

## Fiscal Estimates Department of Human Services COVID-19 Changes

Reflects items approved as of 11/9/2020; (\$ in thousands). Enhanced Federal Matching funds (line 71) assumes implementation through 12/31/2020.

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	291,439 36,118	44,381 -
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	4,400	(3,300)
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	(5,453)	-

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	496	-
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	CV.95	10/8/2020	EO	DHS to Process Health Care Applications for Incarcerated Individuals Who are Receiving a Conditional Medical Release	GF	-	-
66	CV.91	9/15/2020	CA	CCAP School-Age Child Care	GF	-	-
67	CV.94	9/16/2020	CA	Modifying the IEP cost-based payment formula to account for IEP services via telemedicine using store-and-forward	GF	-	-
68	CV.97	9/23/2020	EO	Seeking federal waiver for Legal Nonlicensed Child Care Provider Requirements	GF	-	-
68				<b>Total Forecast Costs Approved</b>	<b>GF</b>	<b>341,974</b>	<b>41,081</b>
					<b>HCAF</b>	<b>36,118</b>	<b>-</b>

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
70				<b>Additional Forecast Changes to DHS Program</b>			
71				Enhanced Federal Matching Funds: January through December 2020	GF	(744,254)	
72				<b>FY 2020-21 General Fund Forecast Costs of Program Waivers After Enhanced Federal Match</b>		<b>(402,280)</b>	