



Legislative Report

Emergency Executive Order 20-12

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

5th 60-day update

January 29, 2021

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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 fifth report to be issued and covers the time period of November 10, 2020 to January 18, 2021. The [first](#), [second](#), [third](#) and [fourth](#) 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. As described in this report, this fall, DHS began transitioning some waivers and modifications back to pre-pandemic regulations, including certain licensing requirements.

This report outlines the waivers and modifications approved or updated between November 10, 2020 and January 18, 2021. This is the fifth 60 day report on these waivers and modifications. Waivers approved prior November 10, 2020 were documented in the [first](#), [second](#), [third](#) and [fourth](#) 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 \$216 million across fiscal years 2020 and 2021, with \$168.82 million of that occurring in the general fund, and an impact of \$64.07 in fiscal years 2022 and 2023 with \$63.91 occurring in the general fund.

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 \$1.65 billion in federal resources for Medical Assistance from January 2020 through June 2021.

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 November 10 and January 18, 2020. Section VII of this document reflects changes and amendments to waivers approved prior to November 10, 2020.

CV.99 – Modifying requirements for private rooms for certain Medical Assistance enrollees in skilled nursing facilities

Description

The commissioner temporarily waived the rule requiring a doctor’s order to provide a resident on Medical Assistance in a skilled nursing facility a private room for up to 14 days if there is a documented COVID infection control risk. This change is in line with guidelines on infection control risk factors from both the Minnesota Department of Health and the U.S. Centers for Disease Control.

The commissioner also waived the requirement that written notice of rate increases be given to residents 30 days prior to any rate change when a private room is needed for COVID infection control risk. Facilities will still be required to provide written notice to the resident of any increased cost associated with the private room, but only as soon as is feasible.

Affects Minnesota Statutes, [section 256R.06, subd. 5](#) and [section 256R.44](#).

Timeline

This waiver is effective Nov. 26, 2020, and will remain in effect until the end of the governor’s peacetime emergency.

Fiscal Impact

This proposal is expected to increase state spending by \$1,273,000 in FY 2021 assuming it is effective through June 30, 2021.

CV.100 - Modifying requirements to support family caregivers and distance learning

Description

The commissioner temporarily modified two requirements to support family caregivers of people with disabilities and older adults.

The first modification lifts the 40-hour per week limit for eligible workers in home care nursing (HCN), consumer directed community supports (CDCS) and the Consumer Support Grant (CSG).

The second modification allows students to use IEP personal care assistance (PCA) services for health-related supports, as identified in their individual education plans (IEPs) or individualized family service plans (IFSPs), in their home to support their access to education and distance learning.

These modifications will allow flexibility to mitigate workforce shortages, prevent service disruptions and reduce the amount of in-person contact from non-family members.

Affects [Minnesota Statutes, section 256B.0654, subd. 4\(b\)](#).

Timeline

Changes are effective November 12, 2020, and may last up to 60 days after the end of the state's COVID-19 peacetime emergency. The department will seek federal approval for the modifications to HCN and CDCS services.

Fiscal Impact

This proposal is expected to increase state spending by \$31 thousand in FY 2021 assuming it is effective through June 30, 2021.

CV.102 – Allowing Medical Assistance and MinnesotaCare coverage of investigational drugs, vaccines, devices and associated services when they are approved under a federal Emergency Use Authorization to treat or prevent COVID-19

Description

Effective Nov. 11, 2020, the commissioner temporarily allowed Medical Assistance and MinnesotaCare enrollees to receive coverage for investigational drugs, vaccines, devices and associated services that receive federal approval under an Emergency Use Authorization (EUA) to treat or prevent COVID-19. Current state law prohibits Medical Assistance and MinnesotaCare coverage for investigational drugs, vaccines, devices and associated services.

Through an Emergency Use Authorization, the federal government approved the use of bamlanivimab in outpatient settings for patients experiencing mild to moderate COVID-19 symptoms. The federal government will purchase and distribute bamlanivimab, however this change allows the state to reimburse health care providers for the associated services of administering the drug, including the office visit and monitoring time. This change also ensures coverage for any COVID-19 vaccines, which will likely receive approval under a federal Emergency Use Authorization. Medical Assistance and MinnesotaCare enrollees already receive coverage for remdesivir, which was granted an Emergency Use Authorization, as remdesivir administration is restricted to inpatient settings, and providers receive bundled reimbursement payments to cover inpatient hospitalizations.

This temporary change ensures Minnesota receives the enhanced federal funding available under the Families First Coronavirus Act by meeting the requirement for Medicaid agencies to cover all COVID-19 treatments. Affects Minnesota Statute [256B.0625, subd. 64](#).

Timeline

Effective Nov. 11, 2020, the change will continue through the end of the quarter in which the federal public health emergency ends.

Fiscal Impact

This proposal is expected to increase state spending by \$7 thousand in FY 2021 assuming it is effective through June 30, 2021.

CV.103 – Expanding transportation of Medical Assistance and MinnesotaCare enrollees between health care facilities

Description

The commissioner temporarily allowed ambulance services to receive reimbursement for transferring Medical Assistance and MinnesotaCare enrollees between hospitals in order for the hospitals to balance their patient loads. Under current state law, interfacility transfers may be reimbursed only when the first facility lacks the ability to provide medically necessary treatment to an enrollee. This change helps health care facilities safely maintain patient care capacity and manage staffing while experiencing increased demand for services during the pandemic by giving them more ability to balance their patient loads.

Upon federal approval, the change will be effective retroactively to Sept. 1, 2020, and will remain in effect until the end of the COVID-19 peacetime emergency declared by the governor.

Affects [Minnesota Statute 256B.0625](#) and Minnesota Rule [9505.0315 subpart 3, paragraph B](#).

Timeline

Upon federal approval, the change will be effective retroactively to Sept. 1, 2020, and will remain in effect until the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

This proposal is expected to increase state spending by \$124 thousand in FY 2021 assuming it is effective through June 30, 2021.

CV.107 – Extending cost reporting deadlines for nursing facilities

Description

The commissioner extended the statutory cost reporting deadline for nursing facilities from February 1, 2021, to April 1, 2021. Due to the COVID-19 outbreak and complications involved with different federal and state cost reporting deadlines, this extension provides additional time for nursing facilities to file their state cost report after filing their federal cost report (which accounts for their CARES Act expenditures). Having this information completed for federal cost reporting will result in more complete state cost reports and reduce the need to file amended cost reports.

Affects Minnesota Statutes, section [256R.09, subds. 1, 2.](#)

Timeline

The commissioner extended the statutory cost reporting deadline for nursing facilities from February 1, 2021, to April 1, 2021.

Fiscal Impact

This proposal has no fiscal impact relative to the November forecast.

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

Items in this section were approved between November 10 and January 18, 2020. Section VII of this document reflects changes and amendments to waivers approved prior to November 10, 2020.

CV.105 – Modifying requirements for certain evaluation reports prior to admission to a nursing facility

Description

The commissioner will seek federal approval to temporarily waive the requirement that an OBRA Level II evaluation must be completed before a person is admitted to a nursing facility. This change allows the evaluation to be completed either before or after admission to the nursing facility as long as it is within nine business days of a preadmission screening.

The OBRA Level II evaluation is critical to ensure continuity of care for persons with disabilities, older adults, and others in institutional settings. Requiring the OBRA Level II evaluation prior to admission can hinder timely admissions during the COVID-19 peacetime emergency. Waiving this requirement allows hospitals to discharge people at faster rates and free up needed hospital beds and staffing.

Timeline

The change will take effect upon federal approval, and will remain in effect until the end of the governor's peacetime emergency.

Fiscal Impact

This proposal has no fiscal impact relative to the November forecast.

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

CV.02 – Modifying certain licensing enforcement requirements and extending licenses for family child care, child and adult foster care, and community residential and treatment settings

Description

The commissioner further amended her previous decision, which suspended or modified specific routine enforcement actions by DHS Licensing, to require license and certification holders to resume some ongoing training requirements. The commissioner continued the following modifications to increase flexibility for providers:

- DHS, county and private agency licensors may conduct licensing activities using remote technologies when necessary to support social distancing and community mitigation. Routine licensing and certification by OIG Licensing, county licensors and private placing agencies may continue to waive the statutory requirement to conduct unannounced annual licensing visits for licensed child care programs that are not in response to complaint investigations. Minn. Stat. §§ 245A.04, 245A.16.
- DHS, county and private agency licensors will continue to communicate with and provide technical assistance to providers to the greatest extent possible using remote technologies that support social distancing and community mitigation. Minn. Stat. §§ 245A.04, 245A.16.
- DHS, county, and private licensors will continue to provide corrective action that reflects the provider's current operation during the pandemic. Minn. Stat. §§ 245A.06, 245A.07.
- Family child care, child and adult foster care, and community residential settings licenses expiring through the peacetime emergency will automatically be extended for 3 additional months. Minn. Stat. §§ 245A.04, subdivision 7(a); 245A.16.
- Training timelines for existing staff and license holders that expire during the declared peacetime emergency and cannot be met are extended through the end of the state peacetime emergency. Minn. Stat. Ch. 245A.

Timeline

Beginning on Jan. 1, 2021, licensed and certified providers must resume completion of most annual and ongoing training requirements on the applicable timelines required in Chapter 245A. These modifications 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 the November forecast.

Affects Minnesota Statutes, Chapters [245A](#), [245D](#), [245G](#) and [245H](#).

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, subs. 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](#).

Timeline

The waiver of the requirement to conduct program recertifications is in effect through May 2021. 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 is expected to increase state General Fund spending by \$3,066,000 and TANF spending by \$1,420,000 in FY 2021 assuming it is effective through June 30, 2021.

CV.23 – Modifying Background Studies Requirements for Health and Human Service Providers – Emergency COVID Background Studies

Description

The commissioner temporarily modified certain statutory background study requirements for workers who serve vulnerable Minnesotans. Since the return to fingerprint-based studies on Oct. 21, 2020, many applicants have been unable to complete studies due to limited access to fingerprint sites. The department recognizes that the rapid increase of COVID-19 cases is causing significant staffing challenges for providers across Minnesota. The modifications assist health and human service providers to quickly respond to their changing workforce needs while maintaining the health and safety of the clients they serve. Modifications include:

- Waived the requirements for fingerprint-based background studies for all provider types except adoptions, guardian/conservator, and tribal foster care. DHS reserves the right to perform a fingerprint identity check with the BCA to determine if the study subject matches the record received, in accordance with 245C.08 subd. 1(d).
- Instituted a “Minnesota only” background study using the individual’s name and date of birth for maltreatment and criminal history for all provider types except adoptions, guardian/conservator, and tribal foster care.
- Limited required maltreatment checks to Minnesota registries and databases by waiving required Child Abuse and Neglect Registry (CANR) checks, except for foster care, adoption, legal guardianship and children’s residential facilities.
- Instituted a flat \$20 fee for all DHS statutory background study applications, except for foster care, adoptions, legal guardianship, and children’s residential facilities.

Waived the mandatory direct contact supervision requirements to permit most individuals to work without supervision while their background study is being processed. DHS maintains the ability to require supervision on a case-by-case basis.

These modifications permit the completion of a temporary emergency background study while still applying the same standards that would disqualify someone from passing a background study, including previous disqualification decisions.

The temporary modifications offers providers the flexibility they need to address workforce changes and affords optimal access to qualified and available direct care workers while still protecting the safety of clients.

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

Timeline

The modifications are effective beginning Nov. 19, 2020. The modified background studies will end after the Governor of Minnesota declares that the peacetime state of emergency is over. After that time, all study subjects who received a modified background study will need to submit a new background study with fingerprints to ensure full compliance with state and federal background check requirements.

Fiscal Impact

This proposal has no fiscal impact relative to the November forecast.

CV.45 – Modifying certain licensing requirements for substance use disorder treatment

Description

The commissioner amended her previous temporary modification of certain licensing requirements for substance use disorder treatment to require license holders to resume most trainings and annual staff performance evaluations.

The amendment eliminates the extension of deadlines to meet training and evaluation requirements under Chapter 245G and requires providers to resume completion of orientation training, annual and biennial training, and annual staff performance evaluations effective Jan. 1, 2021, on the applicable timelines required in Chapter 245G. The existing ongoing modification to first aid and CPR training requirements remains unchanged.

Additionally, all other modifications, including modifications to treatment delivery, including by telehealth; ancillary services; documentation; and personnel requirements remains unchanged. These modifications are necessary to provide additional flexibility to providers to allow continuity of services, mitigate the spread of the COVID-19, and protect the health and safety of service recipients and providers.

If the peacetime emergency expires prior to June 30, 2021, [Minnesota Session Laws](#) extends the following modifications until June 30, 2021:

- Programs must become and remain familiar with COVID-19 guidance from the Minnesota Department of Health and Centers for Disease Control and Prevention.
- If a person receiving services or a staff person tests positive for COVID-19, programs must follow guidance from the Minnesota Department of Health and Centers for Disease Control and Prevention specific to the situation and program capabilities.
- Programs may temporarily suspend group counseling or limit attendance to accommodate social distancing and community mitigation.
- Programs may complete comprehensive assessments by phone or video.
- A counselor, recovery peer or treatment coordinator may provide treatment services from their home by phone or video to a client in their home.

- Programs may follow the Substance Abuse and Mental Health Services Administration guidelines, as directed by the State Opioid Treatment Authority within the Department of Human Services' Behavioral Health division, to allow for increased take-home doses in accordance with an assessment conducted under Minnesota Statutes, section 245G.22, subd. 6.
- Opioid treatment programs do not have to meet a requirement requiring them to conduct outreach activities in the community.
- Programs may document a client's verbal approval of a treatment plan, instead of requiring the client's signature.

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

Timeline

The changes are effective retroactive to March 13, 2020. If the peacetime emergency expires prior to June 30, 2021, [Minnesota Session Laws](#) extends these modifications until June 30, 2021. The other remaining modified requirements 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 the November forecast.

CV.46 – Modifying certain licensing requirements for Children's Residential Facilities

Description

The commissioner amended her previous temporary modification of certain licensing requirements for children's residential facilities to require license holders to resume orientation trainings, annual trainings, annual staff development and evaluation plans, and the annual staff training plan effective Jan. 1, 2021. All other modifications remain unchanged.

The ongoing modifications are necessary to provide additional flexibility to providers, mitigate the spread of COVID-19, and protect the health and safety of service recipients and providers. They apply to service delivery, documentation, and personnel requirements.

Affects Minnesota Rules, [Chapter 2960](#).

Timeline

The modifications to regulations for children's residential facilities were effective March 13, 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 the November forecast.

CV.47 – Modifying certain licensing requirements for intensive residential treatment service providers

Description

The commissioner amended her previous temporary modification of certain licensing requirements for intensive residential treatment service providers to require license holders to resume orientation trainings, annual performance evaluations, annual employee training reviews, and annual training schedule updates effective Jan. 1, 2021. All other modifications remain unchanged.

The ongoing modifications apply to treatment delivery, documentation, and personnel requirements. They are necessary to provide additional flexibility to providers to allow continuity of services, mitigate the spread of COVID-19, and protect the health and safety of service recipients and providers. Affects [Variance to Minnesota Rules, parts 9520.0500 to 9520.0690 \(Rule 36\) for Intensive Residential Treatment Services \(IRTS\)](#).

Timeline

These changes were retroactive to March 13, 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 the November forecast.

CV.49 – Modifying certain license requirements for adult day services

Description

The commissioner amended her previous temporary modification of certain licensing requirements that allowed providers of adult day centers to provide in-person group services by adding additional requirements for how license holders must respond when there is a confirmed case at the facility.

The amendment extends most provisions of the waiver while also requiring providers to follow new guidance issued by MDH for responding to a confirmed case of COVID-19 at the facility and to update their COVID-19 Preparedness Plan to include policies for responding to confirmed COVID cases and temporary voluntary facility closure. The amendment highlights the ongoing right of each person to make an informed choice of participation and access to facility-based services.

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 continuous shift not to exceed six hours or two shifts not to exceed four hours for each shift; 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 20-99](#). 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 Dec. 2, 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 the November forecast.

CV.54 – Modifying certain licensing requirements for detoxification programs

Description

The commissioner amended her previous temporary modification to certain licensing requirements for detoxification programs to require license holders to resume orientation trainings, annual trainings, biennial trainings, and annual staff performance evaluations effective Jan. 1, 2021. All other modifications remain unchanged.

The ongoing modifications are necessary to provide additional flexibility to providers, mitigate the spread of COVID-19, and protect the health and safety of service recipients and providers. They apply to staff ratios and personnel requirements.

Affects Minnesota Rules, [Chapter 9530](#).

Timeline

These changes are retroactive to March 13, 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 the November forecast.

CV.65 – Modifying certain licensing requirements for Children’s Psychiatric Residential Treatment Facilities

Description

The commissioner amended her previous temporary modification of certain licensing requirements for psychiatric residential treatment facilities (PRTF) to require license holders to resume orientation trainings, annual staff trainings, annual staff training plans, and annual staff performance evaluations effective Jan. 1, 2021. All other modifications remain unchanged.

The ongoing modifications are necessary to provide additional flexibility to providers, mitigate the spread of COVID-19, and protect the health and safety of service recipients and providers. They apply to treatment delivery and documentation.

Affects [Variance to Minnesota Rules, Chapter 2960 for Children’s Psychiatric Residential Treatment Facilities](#).

Timeline

The modifications were retroactive to March 13, 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 the November forecast.

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

Description

The commissioner amended her previous temporary modification of certain licensing requirements that allowed day service providers for adults with disabilities to reopen by adding additional requirements for license holders to respond when there is a confirmed COVID case at the facility.

The amendment extends most provisions of the waiver while also requiring providers to follow new guidance issued by MDH for responding to a confirmed case of COVID-19 at the facility and to update their COVID-19 Preparedness Plan to include policies for responding to confirmed COVID cases and temporary voluntary facility closure. The amendment highlights the ongoing right of each person to make an informed choice of participation and access to facility-based services.

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. On

Oct. 16, 2020, the commissioner increased the maximum duration that a person can receive in-person, facility-based services to allow one continuous shift not to exceed six hours or two shifts not to exceed four hours for each shift and increased providers' flexibility in providing these services by increasing the maximum cohort size from 8 to 10 people and removing the 50-person maximum limit 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 20-99](#).

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

Timeline

The changes are effective Dec. 2, 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 the November forecast.

VIII. Appendix

Fiscal Estimates Department of Human Services COVID-19 Changes

Reflects items approved as of 1/18/21; (\$ in thousands). Enhanced Federal Matching funds (line 82) assumes implementation through June 30, 2021.

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	123,321 36,118	67,539 -
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 (4/20 to 2/21)	GF	26,520	184
15	CV.04	3/20/2020	EO	Economic Assistance Program Renewals and Recertifications (4/20 to 2/21)	TANF	9,639	80

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
16	CV.19	3/23/2020	EO	Allow 90 Day Refill Limits for Prescription Maintenance Medications	GF	(4,711)	(695)
17	CV.22	3/23/2020	EO	Suspend Provider Revalidation	GF	-	-
18	CV.14	3/23/2020	EO	Waiver Recertification for AIDS Drug Assistance Program	GF	-	-
19	CV.07	3/24/2020	EO	Paying Second Child Care Assistance Providers if One Provider is Closed or Unavailable	GF	2,630	-
20	CV.07A2	5/26/2020	EO	Paying Second Child Care Assistance Provider if One Provider is Closed or Unavailable - Extension	CCDBG	[4,948]	-
21	CV.09	3/24/2020	EO	Waiving, Modifying and Suspending Certain Requirements for Child Care Assistance Redetermination	GF	472	-
22	CV.21	3/24/2020	EO	Continuation of School-Linked and Intermediate School District Mental Health Services	GF	-	-
23	CV.24	3/27/2020	EO	Removal of Face-to-Face Requirements for MN Medicaid Targeted Case Management	GF	-	-
24	CV.20	3/23/2020	EO	Eliminating Cost Sharing for COVID-19 Testing and Treatment	GF	-	-
25	CV.23	3/27/2020	EO	Modify Certain Background Study Requirements	GF	-	-
26	CV.26	4/3/2020	EO	Modify Certain Requirements for Licensed Child Care Centers & Certified Child Care Centers	GF	-	-
27	CV.25	4/3/2020	EO	Modify Certain License Requirements for Family Child Care	GF	-	-
28	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	- -
29	CV.29	3/31/2020	EO	Waiving In-person Requirement to Allow Fair Hearings to Take Place by Telephone or Video	GF	-	-
30	CV.30	4/6/2020	EO	Expanding Telemedicine in Health Care, Mental Health, and Substance Use Disorder Settings	GF	-	-
31	CV.33	4/3/2020	EO	Modify Timelines & Face to Face Requirements for Certain Child Protection Responses to Alleged Maltreatment	GF	-	-
32	CV.35	4/8/2020	EO	Modifying Requirements for Physical Examinations of Foster Children	GF	-	-

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
33	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	-	-
34	CV.38	4/15/2020	EO	Allowing Flexibility in Housing Licensing Requirements	GF	-	-
35	CV.37	4/15/2020	CA	Extending Recertification Dates for SNAP and MFAP	GF	-	-
36	CV.35	4/17/2020	CA	Providing emergency increases of SNAP and MFAP benefits	GF	60	-
37	CV.42	4/17/2020	CA	Streamlining the SNAP waiver process	GF	-	-
38	CV.40	4/17/2020	EO	Waiving Signature Requirements for Medical Equipment and Transportation	GF	-	-
39	CV.31	4/27/2020	EO	Allowing Waiver of County Cost When COVID-19 Delays Discharges from DHS-operated Psychiatric Hospitals	GF	-	-
40	CV.44	4/23/2020	EO	Allowing Remote Delivery of Adult Day Services	GF	-	-
41	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	-
42	CV.45	4/23/2020	EO	Modifying certain licensing requirements for substance use disorder treatment	GF	-	-
43	CV.46	4/23/2020	EO	Modifying Certain Licensing Requirements for Children's Residential Facilities	GF	-	-
44	CV.47	4/23/2020	EO	Modifying Certain Licensing Requirements for Intensive Residential Treatment Service Providers	GF	-	-
45	CV.48	4/22/2020	EO	Modifying Requirements for Child Protection New Worker Training	GF	-	-
46	CV.49	4/23/2020; 6/15/2020	EO	Modifying Certain License Requirements for Adult Day Services	GF	-	-
47	CV.50	4/23/2020	EO	Modifying Certain Requirements for Early Intensive Developmental and Behavioral Intervention (EIDBI) Services	GF	-	-
48	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	-	-
49	CV.54	4/29/2020	EO	Modifying certain licensing requirements for detoxification programs	GF	-	-

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
50	CV.32	5/1/2020	MS 12A.10	Allowing additional reimbursement to Customized Living providers	GF	8,169	-
51	CV.53	5/6/2020	EO	Allowing Flexibility for Personal Care Assistance (PCA) Service Oversight and Hours	GF	496	-
52	CV.58	5/6/2020	EO	Authorizing federal waiver request & modifying certain requirements for legal nonlicensed provider registration for CCAP	GF	-	-
53	CV.63	5/6/2020	EO	Modify Certain Licensing Requirements for the Residential Facilities: Forensic Mental Health Program	GF	-	-
54	CV.61	5/7/2020	EO	Modifying Certain Requirements for the Minnesota Sex Offender Program	GF	-	-
55	CV.62	5/7/2020	EO	Waiving Vendor Payment Requirement for Certain MFIP Participants	GF	-	-
56	CV.64	5/12/2020	EO	Modifying Certain Certification Requirements for Mental Health Centers (Rule 29)	GF	-	-
57	CV.65	5/12/2020	EO	Modify Certain Licensing Requirements for Psychiatric Residential Treatment Facilities	GF	-	-
58	CV.70	5/28/2020	EO	Waiving the County Child Support Agency In-Person Payment Location Requirement	GF	-	-
59	CV.73	5/26/2020	EO	Modifying Certain Licensing Requirements for Providers of Day Services for Adults with Disabilities	GF	654	-
60	CV.80	6/15/2020	EO	Modifying Licensing Requirements for Licensed and Certified Providers to require COVID-19 Plan	GF	-	-
61	CV.78	6/10/2020	EO	Extending Recertification Timelines for Community Mental Health Service Providers	GF	-	-
62	CV.83	7/16/2020	EO	Modifying certain licensing standards for DHS licensed & certified services	GF	-	-
63	CV.88	8/14/2020	EO	Waive Non-Electronic Public Notice for Elderly Waiver Amendments	GF	-	-
64	CV.89	9/10/2020	EO	Modifications to assessment and support planning requirements to ensure people's LTSS is maintained.	GF	-	-
65	CV.90	8/28/2020	EO	Modifying Certain Licensing Standards for Child Care Centers to Operate at an Additional Location	GF	-	-
66	CV.92	8/28/2020	EO	Temporary Child Care Licensing Exclusion	GF	-	-

Line	Tracking #	Internal Approval Date	Authority	Title		FY 2020-21	FY 2022-23
67	CV.91	9/15/2020	CA	CCAP School-Age Child Care	GF	-	-
68	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	-	-
70	CV.95	10/8/2020	EO	DHS to Process Health Care Applications for Incarcerated Individuals Who are Receiving a Conditional Medical Release	GF	-	
71	CV.23A5	11/18/2020	EO	Adaptive Response to Background Studies Requirements for Health and Human Service Providers – Emergency COVID Background Studies		-	-
72	CV.99	11/24/2020	EO	Waiver of Medical Necessity Requirement for Nursing Facility Private Rooms	GF	1,273	-
73	CV.100	12/1/2020	EO	Support for family caregivers and distance learning	GF	31	-
74	CV.102	12/1/2020	EO	Coverage of Administration of Investigational Drugs	GF	7	-
75	CV.103	12/1/2020	EO	Coverage of Interfacility Transfers for Load Balancing	GF	124	-
76	CV.105	12/21/2020	EO	Performing OBRA Level II evaluation post admission instead of prior to nursing facility admission	GF	-	-
77	CV.107	12/21/2020	EO	Extending the statutory cost reporting deadline for SNFs for 60 days	GF	-	-
78	CV.04A	1/11/2021	EO	Economic Assistance Program Renewals and Recertifications (3/21 to 5/21)	GF	3,066	180
79	CV.04A	1/11/2021	EO	Economic Assistance Program Renewals and Recertifications (3/21 to 5/21)	TANF	1,420	84
80				Total Forecast Costs Approved	GF	168,823	63,908
					HCAF	36,118	-
					TANF	11,059	164
81				Additional Forecast Changes to DHS Program			
82				Enhanced Federal Matching Funds: January 2020 through June 2021	GF	(1,065,247)	
83				FY 2020-21 General Fund Forecast Costs of Program Waivers After Enhanced Federal Match		(896,424)	