



Legislative Report

Emergency Executive Order 20-12

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

6th 60-day update

March 2021

For more information contact:

Minnesota Department of Human Services

PO Box 64998

St. Paul, MN 55164-0998

Phone: 651-431-2907

Fax: 651-431-7443



For accessible formats of this information or assistance with additional equal access to human services, write to dhs@state.mn.us, call 866-267-7655, or use your preferred relay service. ADA1 (2-18)

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

Printed with a minimum of 10 percent post-consumer material. Please recycle.

Contents

Emergency Executive Order 20-12	1
I. Executive summary.....	4
II. Executive Order	5
III. Introduction.....	9
IV. Fiscal Impact Summary.....	10
V. Waivers under peacetime emergency authority, Executive Order 20-12	11
VI. Federal waivers requested under peacetime emergency authority, Executive Order 20-11.....	12
VII. Updates to Previously Approved Waivers Under Peacetime Emergency Authority, Executive Order 20-12...	14
VIII. Appendix	21
Fiscal Estimates Department of Human Services COVID-19 Changes.....	21

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. 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 approved temporary changes every 60 days to the chairs and ranking minority members of the legislative committees that have jurisdiction over the human services. This is the sixth report to be issued and covers the time period of January 18 to March 8, 2021. Earlier reports are available online:

- [First Report March to May 2020](#)
- [Second Report May to July 2020](#)
- [Third Report July to September 2020](#)
- [Fourth Report September to November 2020](#)
- [Fifth Report November 2020 to January 2021](#)

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 January 18 and March 8, 2021. This is the sixth 60 day report on these waivers and modifications. Waivers approved prior to January 18, 2021 were documented in the earlier 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](#)

Earlier Reports

- [First Report March to May 2020](#)
- [Second Report May to July 2020](#)
- [Third Report July to September 2020](#)
- [Fourth Report September to November 2020](#)
- [Fifth Report November 2020 to January 2021](#)

IV. Fiscal Impact Summary

The total fiscal impact of changes to date is \$219.13 million across fiscal years 2020 and 2021, with \$171.91 million of that occurring in the general fund, and an impact of \$242.44 in fiscal years 2022 and 2023 with \$239.75 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 \$1.07 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 January 18 and March 8, 2021. Section VII of this document reflects changes and amendments to waivers approved prior to January 18.

CV 115 – Allowing verbal consent for individual treatment plans for certain behavioral health services

Description

The commissioner temporarily waived the requirement for written consent on individual treatment plans for certain mental health services to allow verbal consent when the provider is unable to obtain signatures due to the COVID-19 pandemic. Verbal consent from recipients or guardians must be documented consistent with applicable law. DHS will also issue guidance.

This waiver applies to the following services:

- Intensive Treatment in Foster Care (ITFC)
- Intensive Rehabilitative Mental Health Services (IRMHS/YouthACT)
- Adult Rehabilitative Mental Health Services (ARMHS)
- Children’s Therapeutic Services and Supports (CTSS)
- Adult and children’s mental health mobile crisis services
- Outpatient mental health services

Affects Minnesota Statutes, sections [256B.0623](#), [256B.0624](#), [256B.0943](#), [256B.0944](#), [256B.0946](#), [256B.0947](#) and Minnesota Rule [9505.0371](#).

Timeline

This waiver is effective for the duration of the peacetime emergency and is retroactive to March 20, 2020.

Fiscal Impact

There is no fiscal impact for this change.

VI. Changes under existing authority to respond to COVID-19

Items in this section were approved between January 18 and March 11, 2021. Section VII of this document reflects changes and amendments to waivers approved prior to January 18.

CV.109 — Providing 15% increase for Minnesota Food Assistance Program and Minnesota Family Investment Program maximum food benefits

Description

The commissioner used existing authority to approve a 15% increase in maximum benefits for the Minnesota Food Assistance Program, and for the food portion of the Minnesota Family Investment Program, to align with the recent federal changes to the Supplemental Nutrition Assistance Program.

The Consolidated Appropriations Act of 2021 increased maximum SNAP benefits by 15% for Jan. 1 through June 30, 2021. In addition to the federally funded SNAP, Minnesota provides state-funded food benefits through the Minnesota Food Assistance Program to legal non-citizens age 50 and older who do not qualify for SNAP because of their citizenship status. The state also provides a food benefit as part of the Minnesota Family Investment Program, the state's cash benefit program for families.

The 15% increase in maximum SNAP benefits automatically impacts the Minnesota Food Assistance Program because state law mandates that benefit calculations for the two programs align. The increase also affects the Minnesota Family Investment Program because the food benefit that Minnesota provides through the program is, in almost all cases, federal SNAP benefits. Aligning the benefits for these programs will make sure Minnesotans in need receive their food benefits without delay.

Affects Minnesota statutes, sections [256D.053](#), [256J.24, subd. 5a](#), [256D.053, subd. 3\(a\)](#) and [256D.053, subd. 3\(b\)](#).

Timeline

Effective January 1, 2021 through June 30, 2021

Fiscal Impact

This change has a General Fund cost of \$18,000 and TANF impact of \$36,000 in FY 2021.

CV.113 – Temporarily suspending aging out of foster care

Description

The commissioner temporarily suspended requirements for youth to age out of foster care.

The federal Consolidated Appropriations Act (CAA) passed in December 2020 temporarily suspends requirements for youth to age out of foster care before October 1, 2021, solely due to age. If youth already left foster care during the pandemic, they have the option to voluntarily re-enter foster care up to a certain point. Additionally, youth may not lose foster care eligibility for failure to meet education, training or work requirements before October 1, 2021. These changes will support youth age 18 and older who are in foster care, and also support youth who aged out of foster care during the COVID-19 pandemic and who choose to re-enter foster care.

Affects Minnesota Statutes, [section 260C.451](#).

Timeline

This temporary suspension of terminating foster care due to age or inability to meet education, training or work requirements is effective through September 30, 2021.

Fiscal Impact

This has a one-time cost to the state General Fund of \$1.883 million.

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

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

Description

The commissioner amended her previous decisions that temporarily modified certain requirements under the Child Care Assistance Program (CCAP). Under those decisions, the commissioner: (1) permitted CCAP to pay a second provider when a child’s regular provider is temporarily closed due to the COVID-19 pandemic and the child is attending a new program; (2) waived the standard 15-day notice period required when a family changes providers; and (3) allowed CCAP to pay for more than the usual maximum of 120 hours of care per child every two weeks.

Under a decision made February 4, 2021, the commissioner made the following change:

- Beginning February 1, 2021, allow up to six weeks, or an additional six weeks if the provider was paid under prior waivers, of paying a second child care provider when the child’s usual provider is closed due to the COVID-19 pandemic. This waiver will continue through June 27, 2021, or for three CCAP biweekly billing periods after the end of the peacetime emergency, whichever is earlier.

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

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

Timeline

This waiver into effect February 1, 2021 and will continue through June 27, 2021, or for three CCAP biweekly billing periods after the end of the peacetime emergency, whichever is earlier.

Fiscal Impact

These changes do not have a fiscal impact.

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

Description

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

Under a decision made February 4, 2021, the commissioner made the following changes:

- Beginning February 1, 2021, allow up to six weeks of child care to be paid if a provider temporarily closes due to COVID-19. The six-week payment policy modification also applies to providers who were temporarily closed and were paid under prior waivers. This waiver will continue through June 27, 2021, or for three CCAP biweekly billing periods after the end of the peacetime emergency, whichever is earlier.
- Beginning April 5, 2021, modify existing absent day medical exemption waivers to allow local agencies to close service authorizations if data indicates that a child has not attended care for two consecutive biweekly periods. This waiver will continue through June 27, 2021, or for three CCAP biweekly billing periods after the end of the peacetime emergency, whichever is earlier.

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

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

Timeline

Payments to providers for temporary closures begin February 1, 2021, and the modifications for absent days begins April 5, 2021. This waiver will continue through June 27, 2021, or for three CCAP biweekly billing periods after the end of the peacetime emergency, whichever is earlier.

Fiscal Impact

These changes do not have a fiscal impact.

CV.17 – Preserving health care coverage for Medical Assistance and MinnesotaCare

Description

In March 2020, the commissioner continued enrollment in public health care programs to ensure that no one enrolled in Medical Assistance, including Medical Assistance for Employed Persons with Disabilities or

MinnesotaCare, loses coverage during the pandemic, unless an enrollee requests that their coverage ends or moves out of Minnesota.

These conditions are required for the State of Minnesota to receive a 6.2-percent increase to its Federal Medical Assistance Percentage under the Families First Coronavirus Response Act. The Centers for Medicare and Medicaid Services (CMS) updated those requirements with further limitations issued Oct. 28, 2020, and the Commissioner adjusted Minnesota’s temporary policy accordingly. The original interpretation prevented states from implementing reasonable changes to effectively manage their programs. The updated federal guidance reinterprets the continued enrollment condition and, effective November 2, 2020, provides guidance to the states about what steps are required to maintain continuous coverage. See the [updated CMS guidelines here](#).

The updated CMS guidance requires a state to act on changes in circumstances, even if this increases an enrollee’s costs via post-eligibility treatment of income for enrollees receiving MA payment of long-term care services. Absent the COVID-19 emergency, an enrollee in the Elderly Waiver Program that qualified because of Special Income Standards (SIS-EW) who transitions into a Nursing Facility (NF) would be required to pay a higher personal obligation if transferred to a Nursing Facility.

The CMS guidance also adds flexibility to how states maintain coverage for individuals who have experienced a change in circumstance. The CMS guidance outlines three tiers of coverage and permits the movement of enrollees within the tier they were already in or into a higher tier. This change most directly impacts how DHS treats eligibility for one group of enrollees – formerly pregnant women.

Affects Minnesota Statutes, sections [256B.056, subd. 7a](#); [256B.0913](#); [256B.092](#); [256B.093](#); [256B.49](#); [256L.05, subd.3a](#); [256L.06, subd.3](#); [256L.07, subd. 1](#); [256L.15](#); and [256S](#); Minnesota Rule part [9505.0115, subpart2](#); part [9506.0040](#).

Timeline

All changes are retroactive to March 18, 2020, and will remain in effect through the last day of the month in which the national public health emergency ends.

Fiscal Impact

These changes expect to result in state budget savings of \$2.635 million in FY 2021 and \$3.534 million in FY 2022.

CV.44 – Allowing remote delivery of adult day services

Description

The commissioner amended her previous temporary modification authorizing licensed adult day service providers who were directed to close on March 29, 2020, to provide services remotely or in person to one individual at a time.

The previous change means:

- Adult day services can be delivered remotely, via 2-way interactive video or audio communication.
- Providers may deliver in-person services to people in their own homes or residences.
- Providers may deliver in-person services to one person at a time in their licensed setting, such as to receive a bath.

Providers may deliver the following services in alternative ways:

- Wellness checks and health-related services, including medication set-up and administration overseen by a nurse
- Socialization and companionship
- Activities
- Meals, delivered to participants' homes
- Assistance with Activities of Daily Living (ADLs), including bathing
- Individual support to family caregivers

Federal approval for these changes was received on April 29, 2020. Implementation of the changes coincides with DHS licensing modifications in CV49.

On Feb. 17, 2021, the commissioner approved further modifications:

- The maximum length of adult day services provided remotely or in person to one individual at a time will increase from four hours to six hours per day.
- The number of Elderly Waiver participants receiving remote adult day services during an online event will increase from six people to 18 people, while maintaining a staff ratio of 1:6.
- For people on disability waivers, the current policy for remote alternative day services continues; it does not cap the number of people for online events.

Affects Minnesota Statutes, section [245A](#) and Minnesota Rules sections [9555.9600](#) to [9555.9730](#).

Timeline

Under state law, the changes remain in effect until June 30, 2021, unless necessary federal approval is not received at any time for a waiver or modification.

Fiscal Impact

These changes have a cost of \$44,000 in FY 2021 and \$16,000 in FY 2022.

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 safely provide in-person group services, and highlighted the ongoing right of each person to make an informed choice of participation and access to facility-based services.

The current amendment:

- Lifts the current licensing capacity limitation of 50%, allowing adult day centers to resume operations at 100% of their license capacity if the provider can maintain cohorts, social distancing, face covering, infection control and other elements of their COVID-19 Preparedness Plan and licensing requirements.
- Allows a provider to operate up to 8 hours total per day, or two shifts of up to 4 hours each, while adhering to other existing requirements.
- Removes staff from the 10 person cohort limit.
- Reduces amount of time that a congregate setting must be free from any COVID-19 exposure before a person can attend an adult day center from 28 days to 14 days.

All other previously amended requirements approved by the Commissioner and set forth below remain unchanged. The modifications required 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 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 [21-01](#). 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 Feb. 17, 2021, and remain in effect through the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

These changes have a cost of \$130,256 in FY 2021 and \$3,617,611 in FY 2022.

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 safely provide services at their facilities, and highlighted the ongoing right of each person to make an informed choice of participation and access to facility-based services.

The current amendment:

- Removes the current licensing capacity limitation of 50%, allowing day service facilities to resume operations at 100% of their license capacity if the provider can maintain cohorts, social distancing, face covering, infection control and other elements of their COVID-19 Preparedness Plan and licensing requirements.
- Removes limits on hours that services may be delivered each day.
- Removes staff from the 10 person cohort limit.

All other previously amended requirements approved by the Commissioner and set forth below remain unchanged.

Previous amendments extended 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.

As of May 30, 2020, the commissioner allowed day service facilities to only serve individuals who lived on their own or with their families. As of July 13, 2020, 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 [21-01](#)

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 Feb. 17, 2021, and may remain in effect through the end of the COVID-19 peacetime emergency declared by the governor.

Fiscal Impact

These changes have a cost of \$4,458,944 in FY 2021 and \$7,904,720 in FY 2022.

VIII. Appendix

Fiscal Estimates Department of Human Services COVID-19 Changes

Reflects items approved as of 3/8/21; (\$ in thousands). Enhanced Federal Matching funds (line 95) assumes implementation through June 30, 2021.

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
1	CV.02	3/20/2020; 5/1/2020	EO	Suspension or Modification of Licensing Requirements	GF	10	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.08A5	2/4/2021	EO	Pay Child Care Assistance Program Providers While Children Not Attending Care	GF	-	-	-	-
7	CV.10	3/20/2020	EO	Child Care Assistance Program Provider Registration Renewals	GF	-	-	-	-
8	CV.11	3/20/2020	EO	Monthly Foster Care Caseworker Visits Videoconferencing	GF	-	-	-	-
9	CV.12	3/20/2020	EO	Waiving Prospective Mandatory Child Support Enforcement Remedies	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	3,563 5,927	119,758 30,191	230,900 7,999
11	CV.17A3	1/27/2021	EO	Ensuring uninterrupted coverage and services for MA enrollees	GF	(2,635)	-	(2,635)	(3,534)
12	CV.18	3/20/2020	7 CFR 273.7(i)	Good Cause Exemption for Able-Bodied Adults without Dependents SNAP Participants	GF	-	-	-	-

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
13	CV.16	3/23/2020	EO	Increasing Access to Services via Telemedicine	GF	-	-	-	-
14	CV.01	3/23/2020	MS 12A.10	Expedited Reimbursement to Nursing Facilities under M.S. 12A.10	GF	4,400	234	4,166	(3,300)
15	CV.04	3/20/2020	EO	Economic Assistance Program Renewals and Recertifications (4/20 to 2/21)	GF	26,520	4,928	21,592	184
16	CV.04	3/20/2020	EO	Economic Assistance Program Renewals and Recertifications (4/20 to 2/21)	TANF	9,639	1,656	7,983	80
17	CV.04A	1/11/2021	EO	Economic Assistance Program Renewals and Recertifications (3/21 to 5/21)	GF	3,066	-	3,066	180
18	CV.04A	1/11/2021	EO	Economic Assistance Program Renewals and Recertifications (3/21 to 5/21)	TANF	1,420	-	1,420	84
19	CV.19	3/23/2020	EO	Allow 90 Day Refill Limits for Prescription Maintenance Medications	GF	(4,711)	(540)	(4,171)	(2,496)
20	CV.22	3/23/2020	EO	Suspend Provider Revalidation	GF	-	-	-	-
21	CV.14	3/23/2020	EO	Waiver Recertification for AIDS Drug Assistance Program	GF	-	-	-	-
22	CV.07	3/24/2020	EO	Paying Second Child Care Assistance Providers if One Provider is Closed or Unavailable	GF	2,630	2,630	-	-
23	CV.07A2	5/26/2020	EO	Paying Second Child Care Assistance Provider if One Provider is Closed or Unavailable - Extension	CCDBG	[4,948]	[4,948]	-	-
24	CV.07A5	2/4/2021	EO	Paying Second Child Care Assistance Providers if One Provider is Closed or Unavailable	GF	-	-	-	-
25	CV.09	3/24/2020	EO	Waiving, Modifying and Suspending Certain Requirements for Child Care Assistance Redetermination	GF	472	388	84	-
26	CV.21	3/24/2020	EO	Continuation of School-Linked and Intermediate School District Mental Health Services	GF	-	-	-	-
27	CV.24	3/27/2020	EO	Removal of Face-to-Face Requirements for MN Medicaid Targeted Case Management	GF	-	-	-	-
28	CV.20	3/23/2020	EO	Eliminating Cost Sharing for COVID-19 Testing and Treatment	GF	-	-	-	-

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
29	CV.23	3/27/2020	EO	Modify Certain Background Study Requirements	GF	-	-	-	-
30	CV.23A5	11/18/2020	EO	Adaptive Response to Background Studies Requirements for Health and Human Service Providers – Emergency COVID Background Studies		-	-	-	-
31	CV.26	4/3/2020	EO	Modify Certain Requirements for Licensed Child Care Centers & Certified Child Care Centers	GF	-	-	-	-
32	CV.25	4/3/2020	EO	Modify Certain License Requirements for Family Child Care	GF	-	-	-	-
33	CV.27	3/30/2020	EO	Allowing Exemption for Temporary Absence Policy in Housing Support	GF	207	207	-	-
34		6/24/2020	Ch. 7		CRF	1,135	-	1,135	-
35	CV.29	3/31/2020	EO	Waiving In-person Requirement to Allow Fair Hearings to Take Place by Telephone or Video	GF	-	-	-	-
36	CV.30	4/6/2020	EO	Expanding Telemedicine in Health Care, Mental Health, and Substance Use Disorder Settings	GF	-	-	-	-
37	CV.33	4/3/2020	EO	Modify Timelines & Face to Face Requirements for Certain Child Protection Responses to Alleged Maltreatment	GF	-	-	-	-
38	CV.35	4/8/2020	EO	Modifying Requirements for Physical Examinations of Foster Children	GF	-	-	-	-
39	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	-	-	-	-
40	CV.38	4/15/2020	EO	Allowing Flexibility in Housing Licensing Requirements	GF	-	-	-	-
41	CV.37	4/15/2020	CA	Extending Recertification Dates for SNAP and MFAP	GF	-	-	-	-
42	CV.35	4/17/2020	CA	Providing emergency increases of SNAP and MFAP benefits	GF	60	36	24	-
43	CV.42	4/17/2020	CA	Streamlining the SNAP waiver process	GF	-	-	-	-

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
44	CV.40	4/17/2020	EO	Waiving Signature Requirements for Medical Equipment and Transportation	GF	-	-	-	-
45	CV.31	4/27/2020	EO	Allowing Waiver of County Cost When COVID-19 Delays Discharges from DHS-operated Psychiatric Hospitals	GF	-	-	-	-
46	CV.44	4/23/2020	EO	Allowing Remote Delivery of Adult Day Services	GF	-	-	-	-
47	CV.44A1	2/17/2021	EO	Allowing Remote Delivery of Adult Day Services	GF	44	-	44	16
48	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	1,351	743	-
49	CV.45	4/23/2020	EO	Modifying certain licensing requirements for substance use disorder treatment	GF	-	-	-	-
50	CV.46	4/23/2020	EO	Modifying Certain Licensing Requirements for Children's Residential Facilities	GF	-	-	-	-
51	CV.47	4/23/2020	EO	Modifying Certain Licensing Requirements for Intensive Residential Treatment Service Providers	GF	-	-	-	-
52	CV.48	4/22/2020	EO	Modifying Requirements for Child Protection New Worker Training	GF	-	-	-	-
53	CV.49	4/23/2020; 6/15/2020	EO	Modifying Certain License Requirements for Adult Day Services	GF	-	-	-	-
54	CV.49A5	2/17/2021	EO	Modifying Certain License Requirements for Adult Day Services	GF	130	-	130	3,617
55	CV.50	4/23/2020	EO	Modifying Certain Requirements for Early Intensive Developmental and Behavioral Intervention (EIDBI) Services	GF	-	-	-	-
56	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	-	-	-	-
57	CV.54	4/29/2020	EO	Modifying certain licensing requirements for detoxification programs	GF	-	-	-	-

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
58	CV.32	5/1/2020	MS 12A.10	Allowing additional reimbursement to Customized Living providers	GF	8,169	2,066	6,103	-
59	CV.53	5/6/2020	EO	Allowing Flexibility for Personal Care Assistance (PCA) Service Oversight and Hours	GF	496	60	436	-
60	CV.58	5/6/2020	EO	Authorizing federal waiver request & modifying certain requirements for legal nonlicensed provider registration for CCAP	GF	-	-	-	-
61	CV.63	5/6/2020	EO	Modify Certain Licensing Requirements for the Residential Facilities: Forensic Mental Health Program	GF	-	-	-	-
62	CV.61	5/7/2020	EO	Modifying Certain Requirements for the Minnesota Sex Offender Program	GF	-	-	-	-
63	CV.62	5/7/2020	EO	Waiving Vendor Payment Requirement for Certain MFIP Participants	GF	-	-	-	-
64	CV.64	5/12/2020	EO	Modifying Certain Certification Requirements for Mental Health Centers (Rule 29)	GF	-	-	-	-
65	CV.65	5/12/2020	EO	Modify Certain Licensing Requirements for Psychiatric Residential Treatment Facilities	GF	-	-	-	-
66	CV.70	5/28/2020	EO	Waiving the County Child Support Agency In-Person Payment Location Requirement	GF	-	-	-	-
67	CV.73	5/26/2020	EO	Modifying Certain Licensing Requirements for Providers of Day Services for Adults with Disabilities	GF	654	-	654	-
68	CV.73A5	2/17/2021	EO	Modifying Certain Licensing Requirements for Providers of Day Services for Adults with Disabilities	GF	4,459	-	4,459	7,905
69	CV.80	6/15/2020	EO	Modifying Licensing Requirements for Licensed and Certified Providers to require COVID-19 Plan	GF	-	-	-	-
70	CV.78	6/10/2020	EO	Extending Recertification Timelines for Community Mental Health Service Providers	GF	-	-	-	-
71	CV.83	7/16/2020	EO	Modifying certain licensing standards for DHS licensed & certified services	GF	-	-	-	-

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
72	CV.88	8/14/2020	EO	Waive Non-Electronic Public Notice for Elderly Waiver Amendments	GF	-	-	-	-
73	CV.89	9/10/2020	EO	Modifications to assessment and support planning requirements to ensure people's LTSS is maintained.	GF	-	-	-	-
74	CV.90	8/28/2020	EO	Modifying Certain Licensing Standards for Child Care Centers to Operate at an Additional Location	GF	-	-	-	-
75	CV.92	8/28/2020	EO	Temporary Child Care Licensing Exclusion	GF	-	-	-	-
76	CV.91	9/15/2020	CA	CCAP School-Age Child Care	GF	-	-	-	-
77	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	-	-	-	-
78	CV.97	9/23/2020	EO	Seeking federal waiver for Legal Nonlicensed Child Care Provider Requirements	GF	-	-	-	-
79	CV.95	10/8/2020	EO	DHS to Process Health Care Applications for Incarcerated Individuals Who are Receiving a Conditional Medical Release	GF	-	-	-	-
80	CV.99	11/24/2020	EO	Waiver of Medical Necessity Requirement for Nursing Facility Private Rooms	GF	1,273	-	1,273	-
81	CV.100	12/1/2020	EO	Support for family caregivers and distance learning	GF	31	-	31	-
82	CV.102	12/1/2020	EO	Coverage of Administration of Investigational Drugs	GF	7	-	7	-
83	CV.103	12/1/2020	EO	Coverage of Interfacility Transfers for Load Balancing	GF	124	-	124	-
84	CV.105	12/21/2020	EO	Performing OBRA Level II evaluation post admission instead of prior to nursing facility admission	GF	-	-	-	-
85	CV.107	12/21/2020	EO	Extending the statutory cost reporting deadline for SNFs for 60 days	GF	-	-	-	-
86	CV.109	1/27/2021	CA	Increase to MFAP and MFIP food to align with SNAP.	GF	18	-	18	-

Line	Tracking #	Internal Approval Date	Authority	Title	Fund	FY 2020-21	FY 2020	FY 2021	FY 2022-23
87	CV.109	1/27/2021	CA	Increase to MFAP and MFIP food to align with SNAP.	TANF	36	-	36	-
88	CV.113	2/26/2021	Federal Supremacy	Changes to state law related to extended foster care	GF	1,076	-	1,076	807
89	CV.115	3/4/2021	EO	Allowing verbal consent for individual treatment plans for certain behavioral health services	GF	-	-	-	-
90				Total Forecast Costs Approved	GF HCAF TANF	171,915 36,118 11,095	14,933 5,927 1,656	156,982 30,191 30,191	234,279 7,999 164
94				Additional Forecast Changes to DHS Programs					
95				Enhanced Federal Matching Funds: January 2020 through June 2021	(1,065,247)	(330,143)	(735,104)	(467,271)	
96				FY 2020-21 General Fund Forecast Costs of Program Waivers After Enhanced Federal Match	(893,332)			(232,992)	