

Child Care

Prepared by: Jessica Webster, Policy Advocate

651-222-3749, ext. 102

jlwebster@mnlisap.org

I. ABSENT-DAY LIMITS

Chapter 282, Article 2, Section 4

Amends Minn. Stat. § 119B.13, subd. 7

Effective July 1, 2006

A. Reimbursement

Allows reimbursement of partial absences without the absences counting toward the limit. Requires reimbursement of child care providers for up to 10 federal or state holidays, whether or not the child attends day care; however, missed days do not count toward the absent-day limits.

B. Overpayments

Prohibits assessment of families for absent-day overpayments unless: (1) the amount of care for the family was incorrectly authorized, (2) all of the allowed full-day absent payments for the child have been paid, or (3) the family or provider did not timely report a change as required under law. Requires that the provider and family must receive notification of the number of absent days used: (1) upon initial provider authorization for a family, and (2) when the family has used 15 cumulative absent days.

II. APPROPRIATIONS

Chapter 282, Article 2, Section 1

Effective July 1, 2006

Increases base appropriations by \$1.5 million in 2008 and \$1.7 million in 2009 for basic sliding fee child care assistance grants. Increases base appropriations for 2007 by \$3.8 million for families on the basic sliding fee waiting list.

III. CHILD CARE PROVIDER RATES

Chapter 282, Article 2, Section 2

Amends Minn. Stat. § 119B.13, subd. 1

Effective July 1, 2006

Partially lifts the rate freeze on child care providers. Beginning July 1, 2006, the maximum rate paid for child care assistance in any county or multi-county region must be 6% above the rate that was in effect on January 1, 2006 for like-care arrangements in the county.

IV. DATA PRACTICES

Chapter 264, Section 9

Amends Minn. Stat. § 245C.22, subd. 7

Effective August 1, 2006

Provides that the identity of a household member who is the subject of a disqualification-related set-aside or variance is not public data if the individual: (1) is under 18, (2) resides in the location where the family child care is provided, and (3) received a set aside or variance related to a disqualification for a misdemeanor level theft crime.

V. EARLY CHILDHOOD ACCREDITATION BONUS

Chapter 282, Article 2, Section 3

Adds Minn. Stat. § 119B.13, subd. 3a

Effective July 1, 2006

Requires payment of a 15% differential above the maximum rate for: (1) a family child care provider if the provider holds a current early childhood development credential or accreditation, and (2) a child care center if the center is accredited. Specifies credentialing and accreditation criteria.

VI. EARLY CHILDHOOD TRAINING REQUIREMENTS

Chapter 264, Sections 4, 5, and 6

Amends Minn. Stat. §§ 245A.023; and 245A.14, subd. 12

Adds Minn. Stat. § 245A.14, subd. 9a

Effective August 1, 2006

Imposes the following additional training requirements: (1) licensed family child care providers must complete eight hours of in-service training each year, (2) all staff hired after July 1, 2006 must complete at least two hours of early childhood development training within the first year of employment (a number of exemptions are available for individuals with educational degrees and certifications related to early childhood), and (3) all teachers and assistant teachers in a child care center, and at least one staff person during field trips or transport, must complete first aid training within 90 days of the start of work, unless the training has been completed within the previous three years.

VII. EXEMPTION OF NOTIFICATION OF SET-ASIDE OR VARIANCE

Chapter 264, Section 11

Amends Minn. Stat. § 245C.301

Effective August 1, 2006

Exempts family child care providers and child care centers from the requirement to disclose that the provider or center employs (or has living in the home) an individual with a set-

aside or variance if the individual: (1) is under 18, (2) resides in the location where the child care is provided, and (3) received a set-aside or variance related to a disqualification for a misdemeanor level theft crime.

VIII. PARENTAL EDUCATION

Chapter 282, Article 2, Section 6

Adds Minn. Stat. § 124D.129

Effective August 1, 2006

Provides that the state may partner with health care providers and community organizations to provide information to parents at the hospital following the birth of a baby. Allows the state to build a Web site offering information and links to resources on child development, parent education, child care, and consumer safety information.

IX. THIRD PARTY PAYMENTS

Chapter 191

Amends Minn. Stat. § 119B.12, subd. 2

Effective May 6, 2006

Allows payments to a child care provider from a source other than the family. Provides that the third party payment does not count as family income and will not affect a family's eligibility for child care assistance.

Consumer Law

Prepared by: Ron Elwood, Staff Attorney

651-222-3749, ext. 109

relwood@mnlsap.org

I. CREDIT CARD FRAUD

Chapter 233, Section 10

Adds Minn. Stat. § 325G.052

Effective August 1, 2006

A. Verification of Address in Response to Solicitation

Requires credit card issuers to verify the address of a consumer if the response to a mailing of an offer or solicitation lists an address different from the address to which the offer or solicitation was mailed. Releases the consumer from liability for unauthorized use of the card if the issuer fails to verify, unless the issuer can establish proof that the consumer incurred the charges.

- B. Verification of Change of Address
Requires credit card issuers to verify the address of a consumer who, whether orally or in writing, notifies the issuer of a change of address before mailing an additional card.

II. IDENTITY THEFT

Chapter 233, Sections 2-5, and 8
Amends Minn. Stat. § 325E.61, subd. 4
Adds Minn. Stat. §§ 13C.016 – 19
Effective August 1, 2006

- A. Health Plan Exemption from Notification Repealed
Removes the exemption, established last year, for health providers to notify consumers where compromising information is believed to be obtained by an unauthorized person. *Amends Minn. Stat. § 325E.61, subd. 4.*
- B. Consumer Credit Report Freeze
Establishes qualified right of consumers to place a freeze on their credit reports, and places obligations on consumer reporting agencies when a freeze is requested. Unless the consumer was a victim of identity theft, allows agencies to charge a \$5 fee to freeze a report. Authorizes consumers to unfreeze the data temporarily and for a specific purpose or party. Limits applicability to consumer reporting agencies who are primary gatherers of data (e.g., Equifax, Experian, and TransUnion). *Adds Minn. Stat. §§ 13C.016 – 19.*
- C. Evidentiary Proof of Identity Theft
Requests the Minnesota Supreme Court to consider amending its rules of evidence to permit admission of business records, at least in civil and criminal cases alleging identity theft, based upon an authenticating affidavit of the records custodian, rather than requiring the custodian to authenticate via in-person testimony.

III. ISSUANCE OF CREDIT CARDS TO MINORS

Chapter 233, Section 9
Adds Minn. Stat. § 325G.63
Effective August 1, 2006

Prohibits credit card issuers from issuing credit cards to minors absent a request by the minor's parent or guardian.

IV. REAL ESTATE APPRAISERS

Chapter 235

Amends Minn. Stat. §§ 82B.095, subd. 1; 82B.11, subds. 2 and 3; 82B.13, subds. 1, 4 and 5; and 82B.14

Adds Minn. Stat. §§ 82B.095, subd. 2; and 82B.13, subds. 6 and 7

Effective August 1, 2006

Raises the requirements to become a real estate appraiser and creates a new licensing category of “trainee.”

V. TELEPHONE RECORD PROTECTION

Chapter 253, Section 20

Effective August 1, 2006

Prohibits the knowing procurement, sale, or receipt of telephone records without customer consent. Makes the first violation a gross misdemeanor and subsequent violation a felony, and establishes criminal and civil penalties. Makes a violation an unfair or deceptive trade practice, and provides for enforcement under section 8.31.

VI. USE OF CREDIT CARDS TO PAY TAXES, PERMITS, FEES

Chapter 219

Effective May 22, 2006

Establishes a task force, to be convened by the Department of Public Safety, to study the advantages and disadvantages of the use of credit and debit cards for transactions with state and local governments where payment is for taxes, licenses, permits, and other fees. Requires the task force to report to the 2007 legislature.

Courts

Prepared by: Ron Elwood, Staff Attorney

651-222-3749, ext. 109

relwood@mnlsap.org

I. RECODIFICATIONS

Chapter 260, Article 5, Sections 26 and 27

Effective July 1, 2006

Recodifies the following Minnesota Statutes: (1) section 487.23 (location of trial courts) as section 484.80; (2) section 487.25 (pleading; practice; procedure) as section 484.81; and (3) sections 487.27 and 487.28 (court divisions) as section 484.86. Repeals original sections.

Disability Law

Prepared by: Anne Henry, Staff Attorney
MN Disability Law Center
612-746-3754; 1-800-292-4150, x. 254
ahenry@midmnlegal.org

Note: Some of the legislation found in this section may also be found in the Health Law Section.

I. EXPANSION OF MANAGED CARE FOR PERSONS WITH DISABILITIES

Chapter 282, Article 20, Sections 28, 29, 30

Amends Minn. Stat. §§ 256B.69, subds. 9, 23 and adds subd. 28

Effective July 1, 2006

The Legislature authorized a new type of managed care which will combine Medicare Special Needs Plans (SNPs) and Medical Assistance basic care into one health plan. This new option is currently under development at DHS with a legislatively required stakeholder group which is to consider needed consumer protections, contract specifications and other issues. Enrollment can begin after January 2007 (adds Minn. Stat. § 256B.69, subd. 28).

In addition, the Legislature delayed the expansion of the Minnesota disability health options (MnDHO) until after January 2008. The MnDHO program combines both basic health care and long-term care services into one plan which includes both Medicare and Medicaid coverage (amends Minn. Stat. § 256B.69, subd. 23).

Third, the Legislature has authorized the Department of Human Services to provide aggregate data on managed care health plan service provision (encounter data) and spending in various categories (amends Minn. Stat. § 256B.69, subd. 9).

II. MENTAL HEALTH PROFESSIONAL RATE INCREASE

Chapter 282, Article 16, Section 10

Adds a new section Minn. Stat. § 256B.763

Effective July 1, 2007

Rate increases averaging 23.7 percent were enacted for psychiatrists and other critical mental health professionals for Medical Assistance, MinnesotaCare and General Assistance Medical Care.

The increase is required to be paid to prepaid health plans under contract with DHS, and those plans are required to pass the rate increase to the identified mental health providers.

III. CRISIS SERVICES ADDED TO CHILDREN'S MENTAL HEALTH BENEFITS

Chapter 282, Article 16, Section 8
Amends Minn. Stat. § 256B.0946, subd. 1
Effective July 1, 2006

Crisis services, funded for one million dollars per year for two years, were added to children's mental health treatment foster care services.

IV. MENTAL HEALTH, OPEN HOSPITAL BED TRACKING SYSTEM

Chapter 282, Article 22, Section 2
Effective July 1, 2006

A new online bed tracking system funding was approved for \$336,000 for the next two years.

V. MENTAL HEALTH OUTCOME MEASUREMENT

Chapter 282, Article 22, Section 2
Effective July 1, 2006

The Legislature approved the development of outcome measures for mental health services and funded the effort for \$436,000 for the next two years.

VI. COUNTY MAINTENANCE OF EFFORT FOR MENTAL HEALTH SERVICES

Chapter 282, Article 16, Section 4
Adds Minn. Stat. § 245.4835
Effective July 1, 2006

Counties are required to maintain a level of expenditures for mental health services at least equal to the average of their expenditures in 2004 and 2005. The Commissioner has authority to adjust county minimum expenditures due to variations in state and federal income. Former county maintenance of effort provisions for children's and adult mental health services were repealed, Minn. Stat. §§ 256B.0945, subds. 5, 6, 7, 8 and 9; 256B.0625, subd. 20i. and Minn. Stat. § 256B.83.

VII. MENTAL HEALTH PILOT PROGRAM FOR UNSHELTERED INDIVIDUALS

Chapter 282, Article 16, Section 16
Uncodified
Effective July 1, 2006 through June 30, 2008

Hennepin and Ramsey Counties will each be allowed to create a 10-bed program to provide shelter and on-site mental health services to homeless adults. An enhanced group residential housing rate of \$700 per month is allowed for these programs.

VIII. RELEASE OF MENTAL HEALTH RECORDS TO FAMILY OR CAREGIVER

Chapter 253, Section 10

Amends Minn. Stat. § 141.335, subd. 3D

Effective August 1, 2006

The statute regarding mental health records was changed to allow mental health providers to release information to a family member or caregiver under certain circumstances: 1) The request must be in writing; 2) A family member, other person who lives with, provides care, or is directly involved with monitoring the treatment must request the record; 3) The level of involvement of the family member or caregiver must be verified by the mental health provider, the attending physician or person other than the person requesting the information and documented in the patient's medical record; 4) Before disclosure of the information, the patient must be informed in writing of the request, the name of the person requesting and the reason; 5) the patient must agree to the disclosure or not object or be unable to consent or object and their inability to make a decision must be documented in the record; and 6) The disclosure must be necessary to assist in the provision of care or monitoring of their treatment.

Information to be released is limited to diagnosis, admission or discharge from treatment, name and dosage of medication, side effects, consequences of failure to take medication and a summary of the discharge plan.

IX. MANAGED CARE SOLE SOURCE CONTRACT OR SINGLE PLAN

Chapter 264, Section 15

Uncodified

Effective August 1, 2006

The Commissioner of Human Services is required to approve a county-based purchasing plan for five counties: Cass, Crow Wing, Morrison, Todd and Wadena. Contract approval is contingent upon implementation, which will not limit the enrollees' choice of provider or access to services and all other health plan purchasing requirements applicable must be met.

The Commissioner is also required to consider contracting with a county-based purchasing plan for a sole source contract or other qualified health plans that are coordinating with counties to serve persons with disabilities who voluntarily enroll in the plan. The purpose of the plan is better coordination and integration of services while meeting all other applicable health plan purchasing requirements. The Commissioner is allowed to approve either a county-based or health plan-based plan which has coordination arrangements with counties.

Third, the Commissioner is required to report to the Legislature on an analysis of the advantages and disadvantages of using single health plan purchasing to serve persons with disabilities eligible for health care programs. The report is due January 15, 2007 to the chairs of the relevant committees.

X. COMMUNITY SERVICES PROVIDER RATE INCREASES

Chapter 282, Article 20, Sections 27 & 31

Section 27 amends Minn. Stat. § 256B.5012, subd. 6, and Section 31 is uncodified

Effective June 4, 2006

The cost of living (COLA) increases adopted during the 2005 session were clarified to include consumer-directed community supports for the home and community waiver programs, Minnesota Disability Health Option Managed Care programs. Also language was added to allow the wage adjustment COLA to be provided to eligible employees on a variable basis based on merit, seniority or other factors.

XI. GENERAL ASSISTANCE MEDICAL CARE ELIGIBILITY

Chapter 282, Article 16, Section 11

Amends Minn. Stat. § 256D.03, subd. 3

Effective July 1, 2006

Persons who are otherwise eligible for Medical Assistance but have not verified their assets are not eligible for General Assistance Medical Care (GAMC). Anyone using GAMC who becomes eligible for Medical Assistance (MA) shall be terminated and transferred to MA.

Four groups of General Assistance Medical Care enrollees are exempt from transferring over to MinnesotaCare with the rest of the GAMC population, beginning September 1, 2006.

XII. ICF/MR PLAN

Chapter 282, Article 20, Section 34

Uncodified

Effective June 4, 2006

The Department of Human Services is required to consult with ICF/MR providers and other stakeholders to develop a plan and legislation on the future of ICF/MR services. The plan is to be provided to appropriate legislative committees by December 15, 2008.

XIII. STAKEHOLDER PARTICIPATION FOR FEDERAL DEFICIT REDUCTION ACT CHANGES

Chapter 282, Article 20, Section 33

Uncodified

Effective June 4, 2006

The Department of Human Services is required to confer with one or more stakeholder groups regarding changes to the Medical Assistance program authorized by the Federal Deficit Reduction Act.

XIV. ADDITIONAL WAIVER ALLOCATIONS FOR PCA HOMES

Chapter 282, Article20, Section 35

Uncodified

Effective June 4, 2006

The Legislature adopted rider language to allow DHS to use funding for personal assistance services provided in group homes to transfer additional home and community waiver-funded slots for residents affected by a prohibition on PCA services in a pooled hour group setting. The opportunity to transfer to waiver services is limited to individuals living in a provider setting using PCA services, other than individual or shared care, on March 1, 2006.

XV. WAIVER FOR PERSONS WITH DEVELOPMENTAL DISABILITIES REPAYMENT DELAY

Chapter 282, Article20, Section 27

Uncodified

Effective July 1, 2006

Three counties which overspent their DD allocation during 2004 or 2005 will have their repayment delayed until May 31, 2007. The repayment delay was authorized in hopes that a more permanent solution to this problem will be adopted by the 2007 session of the Minnesota Legislature. This provision affects Fillmore, St. Louis and Carver Counties.

XVI. RATE INCREASE FOR CRITICAL ACCESS DENTAL PROVIDERS UNDER MEDICAL ASSISTANCE

Chapter 282, Article22, Section 2, subd. 2

Amends Minn. Stat. § 256B.76 and uncodified rider language

Effective July 1, 2006

The Legislature authorized a 38 percent increase in reimbursement for critical access dental providers beginning October 1, 2006 through June 30, 2007. The Department is required to report to the Legislature by February 15, 2007, on the results of the rate increase to critical access dental providers and recommendations on funding sources to continue higher payments after June 30, 2007.

XVII. CRITICAL ACCESS, DENTAL RATES INCREASED FOR MINNESOTACARE

Chapter 282, Article16, Section 13

Amends Section 256L.11, by adding a new subd. 7

Effective July 1, 2006

Critical access dental providers will be paid at a rate 50 percent for MinnesotaCare above what they otherwise would have been paid. The rate increase begins January 1, 2007, and includes adjustments to prepaid health plan contracts. Prepaid health plans are required to pass the increase along to dental providers.

XVIII. DAY TRAINING AND HABILITATION PROGRAMS

Chapter 282, Article 22, Section 2, subd. 4

Uncodified rider language

Effective July 1, 2006

DHS is required to review per diem rates for DT&H services, including the reasonableness of rates paid to lower costs providers and reports the results to the Legislature by January 15, 2007. In addition, Meeker County DT&H was provided a temporary rate increase of 6 percent for one year, ending June 30, 2007.

XIX. PHARMACY PAYMENT REFORM ADVISORY COMMITTEE

Chapter 282, Article 16, Section 15

Uncodified

Effective June 4, 2006

A pharmacy payment reform advisory committee is established at the Department of Human Services to make recommendations on the implementation of pharmacy reforms contained in the Federal Deficit Reduction Act of 2005, as well as on other issues, including the dispensing fee. The findings of the advisory committee shall be reported to the Legislature by February 1, 2007.

XX. ALTERNATIVE AND COMPLIMENTARY HEALTH CARE AND ACCESS TO CARE FOR RACIAL AND ETHNIC GROUPS

Chapter 267, Section 1

Adds Minn. Stat. § 256B.043

The Department of Human Services Commissioner is directed to consider whether cost savings can be increased through greater use of alternative and complimentary health care services in Minnesota's public programs. Also, DHS is required to examine access to care, including for racial and ethnic groups and to make appropriate changes and develop proposals based on the findings.

XXI. LONG-TERM CARE INSURANCE CHANGES

Chapter 282, Article 17, Sections 22 to 22

Amends Chapter 62F

Effective July 1, 2006

The Deficit Reduction Act of 2005 required a number of changes in long-term care insurance.

XXII. LONG-TERM CARE PARTNERSHIP PROGRAM

Chapter 282, Article 17, Section 28

Amends Minn. Stat. § 256B.0571

Effective July 1, 2006

The long-term care partnership program was modified to comply with the Deficit Reduction Act of 2005.

The long-term care partnership program allows individuals who purchased long-term care insurance to cover their long-term care needs and exhaust their long-term care insurance benefits under a qualified policy, to apply for Medical Assistance and have assets disregarded for eligibility purposes up to the amount covered by the long-term care insurance policy. In other words, the long-term care partnership program allows people to protect their assets (for Medical Assistance purposes) to the extent their personally purchased long-term care policies cover long-term care costs.

XXIII. CHANGES IN ASSET TRANSFER RULES FOR MEDICAL ASSISTANCE ELIGIBILITY

Chapter 282, Article 17, Sections 30, 31, 32

Amends Minn. Stat. § 256B.0595, subs. 1, 2 and 3

Effective July 1, 2006

The Federal Deficit Reduction Act of 2005 made changes to Medicaid eligibility with regard to uncompensated transfers. The penalty period for uncompensated transfers made after February 8, 2006, has been changed from beginning the month following the month of the transfer to the first month in which the individual applies for and is otherwise eligible for payment of long-term care services through MA. Hardship waivers are allowed. The look-back period for uncompensated transfers is 60 months.

XXIV. ASSISTED LIVING CHANGES

Chapter 282, Article 19, Sections 1-20

Adds new sections, Minn. Stat. § 144A.441, 442; Minn. Stat. § 144G.01-.06

Effective January 1, 2007

New standards for assisted living will take effect January 1, 2007, and cover practices of any building or program marketed as “assisted living.” Various requirements include: specified health services to be offered, assistance with daily living for at least three areas, safety and response systems on a 24-hour basis, supportive services including at least two meals per day, weekly housekeeping and laundry.

XXV. NURSING FACILITY RESIDENT ASSESSMENT SCHEDULE

Chapter 282, Article 20, Section 2

Amends Minn. Stat. § 144.0724, subd. 4 and Minn. Stat. § 256B.438, subd. 4

Effective July 1, 2006

Quarterly resident assessments beginning October 1, 2006, will be used to adjust rates for nursing facilities rather than semi-annual.

XXVI. CHANGES IN RATE ADJUSTMENTS FOR NURSING FACILITIES CLOSURE

*Chapter 282, Article 20, Section 25
Amends Minn. Stat. § 256B.437, subd. 6
Effective retroactive to March 1, 2006*

The rate adjustment limit of \$2,080 does not apply after March 1, 2006. There are other changes, including negotiation regarding nursing facility closure.

XXVII. LONG-TERM CARE, HOME CARE EMPLOYEE SCHOLARSHIP PROGRAM

*Chapter 282, Article 20, Section 19
Amends Minn. Stat. § 256B.0918, subd. 1
Effective July 1, 2006*

Home and community waiver providers eligible for employee scholarship programs will receive up to 3/10 of 1 percent increase.

XXVIII. ASSET LIMITATION FOR FOOD STAMP HOUSEHOLDS

*Chapter 282, Article 22, Section 8
Amends Minn. Stat. § 256D.0515
Effective upon federal approval*

Food stamp asset limit was raised to the federal limit of “assets less than \$7,000.”

XXIX. ADULT FOSTER CARE HOMEOWNER’S INSURANCE COVERAGE

*Chapter 215
Adds Minn. Stat. § 65A.301
Effective August 1, 2006*

This new law prohibits the refusal of homeowner’s insurance on the basis that a homeowner provides adult foster care services in their own home.

XXX. TORT CLAIMS AGAINST GOVERNMENT JOINT VENTURES OR PARTNERSHIPS

*Chapter 232, Section 3
Amends Minn. Stat. §§ 3.763, subd. 4; 466.047, subd. 1, and § 471.59, subd. 1A
Effective May 25, 2006*

Changes were made to liability of counties engaged in joint action or joint ventures. The language limits the stacking of claims for injuries or punitive damages when the incident arose from the action taken by a joint venture of government entities.

XXXI. RUNAWAY AND HOMELESS YOUTH ACT

Chapter 264, Section 13

Adds Minn. Stat. § 256K.60

Effective August 1, 2006

Defines a homeless youth, youth at risk of homelessness and “runaway.” Standards are established for drop-in centers, community outreach, emergency shelters and supportive and transitional housing programs that serve homeless youth and runaways.

XXXII. FUNDING FOR SELF-ADVOCACY, ADVOCATING CHANGE TOGETHER (ACT)

Chapter 282, Article 11, Section 2, subd. 7

Effective July 1, 2006

ACT received \$150,000 per year in the base budget of the Department of Employment and Economic Development to provide training and technical assistance for persons with mental health and developmental disabilities.

XXXIII. MINNESOTA COUNCIL FOR DEAF AND HARD OF HEARING INCREASED FUNDING

Chapter 282, Article 11, Section 4

Effective July 1, 2006

The Minnesota Council for Deaf and Hard of Hearing got an additional \$200,000 in funding, up from \$95,000 per year in the base budget.

XXXIV. ELECTION CHANGES FOR DEAF VOTERS AND GROUP HOME RESIDENTS

Chapter 242, Section 15

Amends Minn. Stat. § 202A.155; § 203B.06, subd. 3 and § 203B.11, subd. 4

Effective August 1, 2006

Deaf people can contact central party headquarters to attend precinct caucuses and request interpreters. The 30-day advance request for interpreters has been removed and the request for interpreters can be made by email.

In addition, the absentee voter ballot delivery provisions and the circumstances under which an agent can pick up an absentee ballot have been changed to add licensed group homes and battered women’s shelters to health care facilities.

XXXV. REPORT ON AGENCY BEST SUITED TO INVESTIGATE MALTREATMENT IN FACILITIES REPORT

Chapter 264, Section 14

Amends Minn. Stat. § 626.556, subd. 3c

Effective August 1, 2006

The Departments of Public Safety, Human Services and Education must jointly submit a report to the education committees by January 15, 2007 on the most efficient and effective allocation of responsibility for investigations under the Maltreatment of Minors Act.

XXXVI. SUPPORTIVE HOUSING

Chapter 258, Section 22

Effective June 2, 2006

The bonding bill contains an authorization for the Minnesota Housing Finance Agency of \$17.5 million for permanent supportive housing for those who have been or are at significant risk of being homeless at least 12 months or 4 times in the last 3 years and \$2 million for temporary or transitional housing.

XXXVII. OCCUPATIONAL DEVELOPMENT CENTER, THIEF RIVER PILOT PROJECT

Chapter 275

Effective August 1, 2006

The Employment Development Center in Thief River Falls, Minnesota, had their pilot project extended one year until June 30, 2007. The project involves an extended employment program qualifying as community employment for an in-house setting where 60 percent of the workers are people without disabilities, and everyone is paid minimum wage or more. The underlying effort is to change the definition of community employment to include such settings.

XXXVIII. RENOVATION OF RESIDENTIAL BUILDING AT THE MINNESOTA ACADEMY FOR THE DEAF

Chapter, 258, Section 5, subd. 3

Effective June 2, 2006

The bonding bill also provided \$25,000 to design renovation of a residential building at the Minnesota Academy for the Deaf, which could be used, if additional funding is provided in the future, for a children's mental health residential treatment facility specializing in serving children who are deaf .

XXXIX. CENTER FOR HEALTH CARE PURCHASING IMPROVEMENT

Chapter 282, Article 14, Section 10

Adds Minn. Stat. § 43A.312

Effective July 1, 2006

The Department of Employee Relations (DOER) received funding to establish and operate the Center of Health Care Purchasing Improvement. The purpose of the Center is to develop common strategies for health care performance measurement, greater accountability and transparency of health care costs and quality. The Center is to work with the Departments of Human Services, Health, Commerce, Minnesota Comprehensive Health Association and report annually to the Legislature.

Domestic Abuse

Prepared by: Melinda Hugdahl, Staff Attorney

651-222-3749, ext. 107

mthugdahl@mnlisap.org

and

Ron Elwood, Staff Attorney

651-222-3749, ext. 109

relwood@mnlisap.org

I. DOMESTIC FATALITY REVIEW TEAM PILOT PROJECT

Chapter 260, Section 53

Amends Laws 2002, Chapter 266, Section 1, as amended by Laws 2004, Chapter 290, Section 38

Effective June 2, 2006

Extends pilot project – authorized in 1999 in Hennepin County to examine domestic violence fatality and make recommendations to the legislature – until December 31, 2008. Requires a report to the legislature by January 15, 2009.

II. ENHANCED PENALTIES

Chapter 260, Sections 10-12, 16-19, 28, and 29

Amends Minn. Stat. §§ 518B.01, subds. 14 and 22; 609.02, subd. 16; 609.224, subds. 2 and 4; 609.2242, subds. 2 and 4; 609.748, subd. 6; and 609.749, subd. 4

Effective August 1, 2006 for crimes committed on or after that date

Amends the statutes for orders for protection, restraining orders, no-contact orders, fifth degree assault (felony and gross misdemeanor), and domestic assault (felony and gross misdemeanor) to more consistently enhance penalties for subsequent violations. Adds violations of no-contact orders and interference with a 911 call to the definition of a “qualified domestic-violence-related offense.” Increases to 10 years the look-back period for certain previous

qualified domestic-violence-related offenses as a basis for enhancement. Eliminates the requirement in felony domestic assault cases that the prior conviction or adjudication must be against the same victim.

III. FOREIGN PROTECTIVE ORDERS

Chapter 260, Section 48 (substantive provisions) and Chapter 280, Section 45 (effective date)
Adds Minn. Stat. § 518B.01, subd. 19a
Effective August 1, 2006 for tribal orders and August 1, 2007 for all other foreign protective orders

Provides that a valid foreign protective order, including a tribal protective order, has the same effect as an order for protection issued in Minnesota, whether or not the order is entered in the state's order-for-protection database. Provides that a foreign protection order is valid if it: (1) identifies both parties, (2) has not expired, (3) was issued by a court with both personal and subject matter jurisdiction, and (4) was issued in accordance with the respondent's due process rights. Waives filing and service costs.

IV. PROTECTION OF VICTIM LOCATION

Chapter 242, Sections 1-8
Adds Minn. Stat. §§ 5B.01 - .08
Effective September 1, 2007

Creates an "Address Confidentiality Program," under which victims of domestic violence may: (1) be certified to receive mail at the Secretary of State's Office, and (2) register as an ongoing absentee voter. Requires applicants seeking certification to provide, among other things, a statement that the applicant: (1) is a victim of domestic violence, sexual assault, or stalking; (2) fears for his or her safety or the safety of others; and (3) is not applying to avoid persecution for a crime. Provides that certifications are valid for four years, and directs the Secretary of State to enact rules to establish procedures for renewal.

Employment Law

Prepared by: Jessica Webster, Policy Advocate
651-222-3749, ext. 102
jwebster@mnlisap.org

I. SET-ASIDES FOR DISQUALIFICATIONS

Chapter 264, Section 10
Amends Minn. Stat. § 245C.24, subd. 2
Effective August 1, 2006

Requires the Department of Human Services – following a request for reconsideration and receipt of a letter of recommendation from the license holder addressing the individual's

quality of care to children or vulnerable adults – to consider granting a variance to persons working in the adult chemical dependency field who received a permanent employment disqualification set-aside prior to July 1, 2005.

Family Law

Prepared by: Melinda Hugdahl, Staff Attorney
651-222-3749, ext. 107
mthugdahl@mnl.sap.org

and

Ron Elwood, Staff Attorney
651-222-3749, ext. 109
relwood@mnl.sap.org

I. ADOPTION COMMUNICATION OR CONTACT AGREEMENT

Chapter 280, Section 7

Amends Minn. Stat. § 259.58

Effective August 1, 2006

Provides that any agreement entered into between prospective adoptive parents and birth relatives (other than birth parents) regarding communication or contact with a child under state guardianship must be included in the final adoption decree, unless all the parties agree to omit it. Directs the court to determine the terms of a communication or contact agreement upon the noncompliance by the adoptive parents or birth relatives with the initial agreement.

II. CHILD SUPPORT GUIDELINES

Chapter 280

Effective January 1, 2007 for actions/motions filed after January 1, 2007

(See below for further explanation)

NOTE: *The 2005 legislation instructed the Revisor of Statutes to create a new chapter for child support provisions. The recodification will likely be completed in Fall 2006.*

This Act made several changes and clarifications to the Child Support Guidelines Reform Act passed in the 2005 session. Many of the provisions were technical. For example, provisions erroneously repealed were reinstated, and inaccurate statutory references were corrected. For descriptions of the key provisions of the underlying 2005 Act, please see the 2005 Session Summaries (www.lsapmn.org, click on Publications, then **2005 Regular Session Summaries**).

The key substantive provisions of the 2006 legislation are summarized below.

A. Ability to Pay/Self-Support Adjustment

Chapter 280, Section 41

Amends Laws 2005, Chapter 164, Section 25

Clarifies the process for applicability of the self-support reserve and minimum order provisions. Essentially, the minimum order provisions apply if an obligor's income is less than 120% of the Federal Poverty Guidelines. If the obligor's income above the self-support reserve is more than the minimum order but less than the guidelines amount, the obligor's child support obligation is adjusted. If the obligor's income above the self-support reserve is higher than the guidelines amount, the guidelines amount is ordered as the child support obligation.

B. Basic Support Guidelines

Chapter 280, Section 42

Amends Laws 2005, Chapter 164, Section 26, as amended by Laws 2005, First Special Session Chapter 7, Section 27

Amends the basic support guidelines chart consistent with the guidelines study results. Generally adjusts upward amounts on the basic support guidelines chart for parents with combined gross incomes of \$3,300-\$7,299 and one child, and adjusts downward amounts for parents with: (1) combined gross incomes above \$6,800 and six children, and (2) combined gross incomes above \$9,400 with more than one child (changes start at varying levels above \$9,400 depending upon the number of children).

C. Calculation of "Gross Income"

Chapter 280, Sections 25 and 47

Amends Laws 2005, Chapter 164, Section 14; Repeals Minn. Stat. § 518.54, subd. 6

Incorporates the definition of "income" within "gross income," including the exclusion of public benefits from the definition of "gross income." (The definition of "income" is found in current law at Minn. Stat. §518.54, Subd. 6.) Repeals the definition of "income." Clarifies that "gross income" means income before any pre-tax deductions, eliminating the reference to "Medicare gross income" passed in 2005. Clarifies that spousal maintenance obligations ordered in the same proceeding are deducted from gross income.

D. Effective Date

Chapter 280, Section 44

Amends Laws 2005, Chapter 164, Section 32

The 2005 Act applied the new law to orders adopted or modified after January 1, 2007. The 2006 legislation changes the effective date for provisions to calculate child support to actions or motions filed after January 1, 2007, including actions or motions for past support and reimbursement filed after January 1, 2007. Other provisions of the Act related to child support (such as new provisions for collection of arrears) apply to orders in effect prior to January 1, 2007.

- E. Income from Self-Employment
Chapter 280, Section 26
Amends Laws 2005, Chapter 164, Section 15
Reinstates current law establishing that, if challenged, the party claiming deductions for business expenses has the burden of proof of establishing that the expenses are ordinary and necessary.
- F. Medical Support
Chapter 280, Sections 32-37
Amends Laws 2005, Chapter 164, Section 22 (various subdivisions)
Reinstates current law so that cost-of-living adjustments will not apply to medical support obligations. Clarifies and streamlines provisions related to collection and enforcement of medical support arrears.
- G. Modification of Child Support Orders
Chapter 280, Section 23
Amends Laws 2005 Chapter 164, Section 10
1. **Orders of Less than \$75**
Presumes that there is a substantial change in circumstances if the calculation of the new order would be 20% higher or lower than the existing order. In other words, only a change of 20%, rather than the 20% and \$75 standard, would apply in circumstances where your order is less than \$75.
 2. **Bases to Modify Child Support Order**
Expands bases to modify a child support order from January 1, 2007 until January 1, 2008. New bases for modification include: (1) receipt of public assistance, (2) additional cost or substantial increase or decrease in child care expenses, or (3) a change in the availability – or a substantial increase or decrease in the cost – of health care coverage. Changes in child care or medical support will only result in a modification to that portion of the order.
- NOTE:** *The 2005 Act placed limitations on modifications of child support orders from January 1, 2007 until January 1, 2008. For a detailed description of these provisions, please see the 2005 Session Summaries (www.lsapmn.org, click on Publications, then **2005 Regular Session Summaries**).*
- H. Parenting Expense Adjustment
Chapter 280, Sections 12 and 40
Amends Laws 2005, Chapter 164, Section 24
Clarifies that the parenting expense adjustment does not apply if there is no underlying parenting time order, unless parenting time is granted in the same or subsequent proceeding. Amends presumption established in the 2005 legislation that each parent has 25% parenting time (totaling only 50%) to establish a

presumption that a parent has at least 25% parenting time. Clarifies computation of parenting time, including clarifying “significant parenting time,” if parenting time other than overnights is considered. Modifies the calculation in cases where there: (1) is equal parenting time, and (2) are expenses; under the new law, instead of multiplying the figure from the basic support guidelines chart by 1.5 and dividing the prorated offset by two, the figure from the guidelines chart will only be multiplied by .75. The prorated obligations will still be offset as under current law, but not then divided by two.

I. Potential Income

Chapter 280, Section 19

Amends Laws 2005, First Regular Session, Chapter 164, Section 5

Moves provisions regarding “potential income” from a definition to a substantive section. Limits one basis for prohibiting a finding of voluntary unemployment or underemployment from persons who receive public assistance or are mentally or physically disabled to those who receive TANF cash grants. *See Minn. Stat. §518.551, Subd. 5b(e)*. Requires a self-employed party attempting to show s/he is not voluntarily unemployed or underemployed due to lowered economic conditions to relate the lowered economic conditions directly to the person’s source or sources of income.

J. Providing Financial Information

Chapter 280, Section 22

Amends Laws 2005, Chapter 164, Section 8

Clarifies that the court may accept testimony from a party regarding his or her income if the court finds that the party does not have access to financial information required with initial pleadings or motion documents. Clarifies that the court may consider credible evidence, which includes testimony of a party, that the other party’s financial information is false or inaccurate.

K. Written Findings/Deviation

Chapter 280, Section 29

Amends Laws 2005, Chapter 164, Section 18

Clarifies that the court order must make additional findings regarding each parent’s gross income and parental income for determining child support (PICS) in each case, including cases where deviations are granted. Cases granting deviations must also include findings regarding the presumptive guidelines amount.

III. FEE FOR CHILD SUPPORT SERVICES

Chapter 282

Amends Minn. Stat. § 518.551, Subd. 7

Effective October 1, 2006 (unless the Department of Human Services determines that later implementation will not result in federal financial penalties)

Adds a \$25 annual fee for child support services as required by the federal 2006 federal Deficit Reduction Act. Imposes the fee on each child support case where: (1) an individual has never received assistance under a state program funded under Title IV-A of the Social Security Act, (2) the public authority is providing child support services, and (3) the public authority has collected at least \$500 of support.

IV. FILING FEE

Chapter 280, Section 9

Amends Minn. Stat. § 518.005, subd. 6

Effective July 1, 2006

Changes applicability for \$50 filing fee from “initial pleading” filed to “first paper” filed by a party. Provides that the \$50 fee is in addition to any other applicable fees.

V. FOURTH JUDICIAL DISTRICT REFEREE APPEAL

Chapter 280, Section 8

Amends Minn. Stat. § 484.65, subd. 9

Effective June 1, 2006

Provides that orders from referees in the Fourth Judicial District (Hennepin County) may be appealed directly to the Court of Appeals (making consistent practice the practices in Hennepin and Ramsey counties). Specifies that the time for appeal runs from the service of the filing of the order confirmed by a district court judge.

VII. MOVING A CHILD TO ANOTHER STATE

Chapter 280, Sections 10, 13 and 14

Amends Minn. Stat. §§ 518.1705, subd. 7; 518.175, subd. 3; and 518.18

Effective August 1, 2006

A. Presumption

Reverses the ruling in Auge v. Auge, 334 N.W.2d 393 (Minn. 1983), which established a presumption in favor of a custodial parent moving a child to another state. Establishes a presumption against a move, and shifts the burden of proof to the parent requesting the move. Excepts domestic violence cases. Requires the court to now consider all best interests factors enumerated in section 518.175.

Amends Minn. Stat. § 518.175, subd. 3.

B. Parenting Plans

Provides that, in parenting plan cases, the parties may now agree on the legal standard to govern moving the child. *Amends Minn. Stat. § 518.1705, subd. 7.*

C. Modification

Establishes a new basis for modification if a parent is denied permission to move the child to another state, but relocated despite the order.
Amends Minn. Stat. § 518.18.

VIII. NOTICE OF MARRIAGE TO OR RESIDENCE WITH OFFENDERS

Chapter 280, Section 1

Adds Minn. Stat. § 257.026

Effective August 1, 2006

Requires a person with court-ordered custody or parenting time under Chapter 257 (paternity) or Chapter 518 (dissolution) who knowingly marries or resides with someone convicted of certain crimes enumerated in Minn. Stat. §518.179, subd. 2 – which include murder, assault, kidnapping, prostitution with a minor, criminal sexual conduct, malicious punishment or neglect of a child, terroristic threats, or felony harassment or stalking – to notify the other parent, the county social services agency, and the court that granted the custody or parenting time of the marriage or the living arrangement.

IX. PATERNITY PRESUMPTIONS – GENETIC TESTING

Chapter 280, Sections 2-4

Amends Minn. Stat. §§ 257.55, subd.1; 257.57, subd. 2; and 257.62, subd. 5

Effective August 1, 2006

Removes from section 257.55, subd. 1 the reference regarding the presumption of paternity based upon genetic testing results from the general list of paternity presumptions, and establishes testing results as an “evidentiary presumption” that the man is the biological father of the child in section 257.62, subd. 5. Clarifies that genetic testing presumptions do not preclude adjudication of another man as the father by balancing presumptions, and that donors of genetic material for assisted reproduction cannot claim to be a child’s biological or legal parent.

X. TECHNICAL MATTERS

One duplicative provision was adopted and one inaccurate reference was made in the Family Law Omnibus Bill this session. The duplicative provision does not add new law and the inaccurate reference results in a provision of law that is inapplicable. Corrections to these errors will likely be made in a technical bill introduced at the beginning of next year’s session. The following details the two provisions:

- A. Consent to Adopt
Chapter 280, Section 6
Amends Minn. Stat. § 259.24, subd. 6a
Effective August 1, 2006
 Repassed language enacted in 2005 related to adoption consents in placement proceedings, resulting in the same sentence appearing twice in identical form.
- B. Third Party Custody
Chapter 280, Section 5
Amends Minn. Stat. § 257C.03, subd. 7
Effective August 1, 2006
 Adds a requirement to third party custody petitions that a petitioner must make a showing that granting the petition would not violate Minn. Stat. § 517.179, subd. 1a. However, this subdivision, which was created in previous versions of the bill, was omitted from the bill as enacted. The provision would have prohibited granting third party custody to a person who has been convicted of a crime under section 518.179, subd. 2.

Health Law

Prepared by: Lisa Fink, Staff Attorney
 651-222-3749, ext. 103
lmfink@mnlsap.org

NOTE: The following abbreviations apply throughout this section:

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|--------------------------------|--|
| Deficit Reduction Act of 2005: | DRA |
| DHS: | Minnesota Department of Human Services |
| MDH: | Minnesota Department of Health |
| MnDHO | Minnesota Disability Health Options |
| GAMC: | General Assistance Medical Care |
| MA: | Medical Assistance |

Assisted Living

I. ARRANGED HOME CARE PROVIDER

Chapter 282, Article 19, Section 4
Adds Minn. Stat. § 144D.01, subd. 2a
Effective January 1, 2007

Defines “arranged home care provider” as a licensed home care provider that: (1) provides services to some or all residents of a housing-with-services establishment, and (2) is either the establishment itself or another entity with which the establishment has an arrangement.

II. ASSISTED LIVING BILL OF RIGHTS ADDENDUM

Chapter 282, Article 19, Section 1

Adds Minn. Stat. § 144A.441

Effective January 1, 2007

Requires assisted living clients to be provided with the home care bill of rights, and requires at least 30 days' notice of service termination by a provider (compared with 10 days' notice under the standard home care bill of rights), except that 10 days' notice is required if services are terminated due to nonpayment.

III. ASSISTED LIVING FACILITY OR ASSISTED LIVING RESIDENCE DEFINITION FOR PURPOSES OF LONG-TERM CARE INSURANCE

Chapter 282, Article 19, Section 5

Amends Minn. Stat. § 144D.015

Effective January 1, 2007

Clarifies that the provisions of new Chapter 144G (see below) have no effect on the definition of the terms "assisted living facility" and "assisted living residence" for purposes of long-term care insurance.

IV. CLASS F PROVIDER

Chapter 282, Article 19, Section 3

Amends Minn. Stat. § 144A.4605

Effective January 1, 2007

Replaces references to "assisted living home care provider" with the term "class F home care provider." Replaces references to "class E" provider with the term "class B" provider. Eliminates obsolete language related to adult foster care providers.

V. INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS

Chapter 282, Article 19, Section 10

Adds Minn. Stat. § 144D.045

Effective January 1, 2007

Requires housing-with-services establishments with one or more arranged home care providers to have those providers deliver to prospective residents: (1) contact information; (2) a description of the process by which the home care service agreement or plan can be modified, amended, or terminated; (3) information on billing; and (4) information on payment procedures and service limits.

VI. ESTABLISHMENT OF NEW ASSISTED LIVING CONSUMER PROTECTION CHAPTER

Chapter 282, Article 19, Sections 13-18

Adds Chapter 144G

Effective January 1, 2007

Creates standards and requirements for a housing-with-services establishment or persons/entities providing assisted living services.

A. Definitions

Defines terms, including “assisted living” and “assisted living client.”

Section 13; Adds Minn. Stat. § 144G.01.

B. Restriction on Use of the Phrase “Assisted Living”

Restricts the use of the phrase “assisted living” to: (1) a housing-with-services establishment that meets the requirements of this chapter, or (2) a person or entity that provides some or all of the components of assisted living. Limits use of the phrase to the context of participation in assisted living that meets the requirements of this chapter. Requires a housing-with-services establishment that offers or provides assisted living that is not made available to residents in all units to identify the number or location of the units in which assisted living is available, and prohibits the establishment from using the term “assisted living” in its name.

Section 14; Adds Minn. Stat. § 144G.02, subd. 1.

C. Authority of MDH

Authorizes MDH, upon receipt of information related to noncompliance with legal requirements, to make appropriate referrals to other entities. Grants MDH standing to bring actions in district court against housing-with-services establishments and arranged home care providers for injunctive relief to compel compliance. Clarifies that authority granted under this chapter is in addition to MDH’s existing regulatory authority with respect to licensed home care providers and housing-with-services establishments, and that other sanctions are available.

Section 14; Adds Minn. Stat. § 144G.02, subd. 2.

D. Assisted Living Provider Requirements

- ❖ Requires a registered housing-with-services establishment using the phrase “assisted living” to verify compliance with the provisions of chapter 144G in its annual registration.
- ❖ Restricts provision of assisted living to individuals residing in a housing-with-services establishment.
- ❖ Allows the person or entity offering assisted living to define the available services and offer assisted living to all or some residents.
- ❖ Allows services to be provided directly by a housing-with-services establishment or under arrangement.
- ❖ Limits use of the phrase “assisted living” to: (1) a housing-with-services establishment, or (2) a service, service package, or program available within an establishment.

- ❖ Delineates the minimum requirement for offered services.
- ❖ Provides an exemption from the 24-hour-awake staff requirement for housing-with-services establishments with a maximum capacity of 12 or fewer clients that meet other specified requirements.
- ❖ Specifies requirements related to nursing assessments of prospective residents by registered nurses.
- ❖ Requires housing-with-services establishments to provide assisted living clients with information and assistance related to services provided by arranged home care providers.
- ❖ Specifies information that a housing-with-services establishment that terminates a contract must provide to an assisted living client
Section 15; Adds Minn. Stat. § 144G.03

E. Reservation of Rights

Provides that nothing in the chapter requires:

- ❖ an assisted living client to utilize any service provided or made available in assisted living;
- ❖ a housing-with-services establishment to execute or refrain from terminating a contract with a prospective or current resident who is unable or unwilling to meet the requirements of residency;
- ❖ an arranged home care provider to offer or continue to provide services to a prospective or current resident whose needs cannot be met; or
- ❖ a housing-with-services establishment or arranged home care provider offering assisted living to: (1) fundamentally alter the nature of its operations to accommodate a client's need for facilities or services, or (2) refrain from requiring, as a condition of residency, that a client pay for a package of assisted living services even if the client does not utilize all or some of the services.

Section 16; Adds Minn. Stat. § 144G.04

F. Reimbursement Under Assisted Living Service Packages

Provides that the requirements for the Elderly Waiver Program's assisted living payment rates (under section 256B.0915, subd. 3e) will continue to remain effective. Allows providers who do not meet the requirements of this chapter to continue to receive MA payments as long as they meet federal requirements for assisted living plus, per the Elderly Home and Community Based Services Waiver Program. Allows providers of assisted living services under the Community Alternatives for Disabled Individuals and Traumatic Brain Injury waivers to continue to receive payment as long as they continue to meet the definitions and standards for assisted living and assisted living plus in the federally approved waiver plan.

Section 17; Adds Minn. Stat. § 144G.05

G. Uniform Consumer Information Guide

NOTE: Effective August 1, 2006

Requires MDH, after reviewing the recommendations of the advisory committee it is directed to establish, to adopt: (1) a uniform guide format to be used by

individual providers of assisted living, and (2) required components of materials to be used by providers to inform clients of their legal rights. Requires MDH to make the format and components available to providers.

Section 18; Adds Minn. Stat. § 144G.06

VII. TERMINATION OF HOME CARE SERVICES FOR ASSISTED LIVING CLIENTS

Chapter 282, Article 19, Section 2

Adds Minn. Stat § 144A.442

Effective January 1, 2007

Specifies the information that an arranged home care provider that is not also Medicare-certified must provide to an assisted living client and any legal or designated representative in connection with written termination of a service agreement or service plan.

Federal Compliance

The following provisions were enacted to assure state compliance with the Deficit Reduction Act of 2005.

I. CITIZENSHIP REQUIREMENTS

Chapter 282, Article 17, Sections 34 and 35

Amends Minn. Stat. §§ 256B.06, subd. 4; and 256L.04, subd. 10

Effective July 1, 2006

Requires cooperation in obtaining satisfactory documentary evidence of citizenship or nationality. Applicable to citizens or nationals of the U.S. for purposes of MA, and families with children who are citizens or nationals of the U.S. for the purposes of MinnesotaCare.

II. EXCEPTIONS TO TRANSFER PROHIBITION

Chapter 282, Article 17, Sections 32 and 33

Amends Minn. Stat. § 256B.0595, subds. 3 and 4

Effective July 1, 2006

A. Homestead Exception

Allows a long-term care facility, with the written consent of the individual or a personal representative, to file an undue hardship waiver request on behalf of an applicant who is denied eligibility for long-term care services on or after July 1, 2006 due to a period of ineligibility resulting from a transfer of a homestead on or after February 8, 2006. When a waiver is granted, allows a cause of action against the person to whom a homestead was transferred for that portion of long-

term care services provided within 60 months, if the homestead was transferred on or after February 8, 2006.

Section 32; Amends Minn. Stat. § 256B.0595, subd. 3.

B. Other Exceptions

Allows a long-term care facility, with the written consent of the individual or a personal representative, to file an undue hardship waiver request on behalf of an applicant who is denied eligibility for long-term care services on or after July 1, 2006, due to a period of ineligibility resulting from a transfer made on or after February 8, 2006. Requires the local agency, in evaluating the waiver request, to consider whether the individual has taken any action to prevent designation of the department as a remainder beneficiary on an annuity. When a waiver is granted, allows a cause of action against the person to whom assets were transferred for that portion of long-term care services provided within 60 months, if the assets were transferred on or after February 8, 2006.

Section 33; Amends Minn. Stat. § 256B.0595, subd. 4

III. PERIOD OF INELIGIBILITY

Chapter 282, Article 17, Section 31

Amends Minn. Stat. § 256B.0595, subd. 2

Effective for applications, renewals, and reports of transfers on or after July 1, 2006.

- ❖ For uncompensated transfers made on or after February 8, 2006, provides that the period of ineligibility begins on the first day of the month in which advance notice can be given following the month in which the transfer occurred, or the date on which the individual is eligible for MA and would otherwise be receiving long-term care services, whichever is later, and which does not occur during any other period of ineligibility.
- ❖ In the calculation of the fractional penalty period, eliminates the disregard of an uncompensated transfer of \$200 or less not made during the penalty period.
- ❖ In the case of multiple fractional transfers in more than one month for less than fair market value on or after February 8, 2006, provides that the period of ineligibility is determined by treating the total, cumulative uncompensated value as one transfer.

IV. PROHIBITED TRANSFERS

Chapter 282, Article 17, Section 30

Amends Minn. Stat. § 256B.0595, subd. 1

Effective July 1, 2006

- ❖ For any disposal of assets made on or after February 8, 2006, extends the look-back period from 36 to 60 months.
- ❖ Provides that the purchase of an annuity on or after February 8, 2006, made either by an individual who has applied for long-term care services or the individual's spouse, shall be treated as a disposal of an asset for less than fair market value, unless DHS is

named as a beneficiary for an amount at least equal to the amount of MA paid for the individual or the individual's spouse.

- ❖ Provides that the purchase of an annuity on or after February 8, 2006, made either by or on behalf of an individual applying for or receiving long-term care services, shall be treated as a disposal of an asset for less than market value, unless the annuity meets specified standards.
- ❖ Provides that any change in the designation of DHS as remainder beneficiary shall result in the annuity being treated as a disposal of assets for less than fair market value.
- ❖ Classifies any change in the amount of income or principal being withdrawn as a transfer for less than fair market value, unless the individual or individual's spouse demonstrates that the transaction was for fair market value.
- ❖ Provides that the prohibition on transfers for less than fair market value applies to the funds used to purchase a promissory note, loan, or mortgage, unless the instrument purchased: (1) has a repayment term that is actuarially sound, (2) provides for payments to be made in equal amounts with no deferral or balloon payments, and (3) prohibits cancellation of the balance upon the death of the lender.
- ❖ Provides that the prohibition on transfers for less than fair market value applies to the purchase of a life estate in another's home, unless the purchaser resides in the home for a period of at least one year after the date of purchase.

V. HOMESTEAD EQUITY LIMIT FOR INSTITUTIONALIZED PERSONS

Chapter 282, Article 17, Section 25

Amends Minn. Stat. § 256B.056, subd. 2

Effective July 1, 2006

Limits to \$500,000 the equity interest in the homestead of an individual whose eligibility for long-term care services is determined on or after January 1, 2006, unless the homestead is the lawful residence of the individual's spouse or child who is under age 21, blind, or disabled. Requires this amount to be annually increased, beginning in 2011, by the change in the Consumer Price Index, rounded to the nearest \$1,000. Allows waiver for demonstrated hardship under a process to be determined by the U.S. Department of Health and Human Services.

VI. MEDICAL ASSISTANCE PAYMENT

Chapter 282, Article 17, Section 23

Amends Minn. Stat. § 144.6501, subd. 6

Effective July 1, 2006

Under state law, a nursing facility must state in its admission contract that the facility does not require, as a condition of admission, that a resident remain in private pay status for any period of time. To comply with DRA, the legislature permits a nursing facility to ignore the requirement if the conditions of the federal law are met.

VII. PRIVATE HEALTH COVERAGE

Chapter 282, Article 17, Section 24
Amends Minn. Stat. § 256B.02, subd. 9
Effective July 1, 2006

Expands the definition of “private health coverage” to include any self-insured plan, pharmacy benefit manager, service benefit plan, managed care organization, and other parties that, by contract, are legally responsible for payment of a health care claim for an MA, GAMC, or MinnesotaCare enrollee.

VIII. STAKEHOLDER PARTICIPATION

Chapter 282, Article 20, Section 33
Effective June 3, 2006

Requires DHS to confer with one or more stakeholder groups to obtain information and advice on the development of any substantial proposals for changes in the MA program authorized by DRA. Requires DHS to convene a stakeholder meeting and provide a 30-day comment period before any substantial DRA-related MA change that affects recipients and that is proposed outside of the legislative or rulemaking process becomes effective. Requires notice to the stakeholder group as soon as possible if the time frame required to comply with a federal mandate precludes the 30-day advance notice.

IX. TREATMENT OF CONTINUING CARE RETIREMENT AND LIFE CARE COMMUNITY ENTRANCE FEES

Chapter 282, Article 17, Section 26
Adds Minn. Stat § 256B.056, subd. 3e
Effective July 1, 2006

Provides that an entrance fee paid to a continuing care retirement or life care community shall be treated as an available asset to the extent that: (1) the individual has the ability to use the fee, or the contract allows the fee to be used, to pay for care should other resources or income be insufficient, (2) the individual is eligible for a refund of remaining fees when the individual dies or terminates the contract, and (3) the entrance fee does not confer an ownership interest.

X. OTHER DRA-RELATED CHANGES

The following sections implement multiple changes required by DRA in the areas of:

- A. Long-Term Care Partnership Program
Chapter 282, Article 17, Section 28
Amends Minn. Stat § 256B.0571
Effective July 1, 2006

- B. Payment of Benefits from an Annuity
Chapter 282, Article 17, Section 29
Adds Minn. Stat § 256B.0594
Effective July 1, 2006

- C. Treatment of Annuities
Chapter 282, Article 17, Section 27
Adds Minn. Stat § 256B.056, subd. 11
Effective July 1, 2006

Long-Term Care

I. ALTERNATIVE SERVICES FOR ELDERLY AND DISABLED PERSONS

Chapter 282, Article 20, Section 29
Amends Minn. Stat. § 256B.69, subd. 23
Effective June 3, 2006

Allows DHS to contract with Medicare-approved special needs plans to provide Medicaid services. Limits expansion for MnDHO projects that include home and community-based services until January 1, 2008. Mandates that enrollment in integrated MnDHO programs that include home and community-based services remain voluntary. Prohibits costs for home and community-based services included under MnDHO from exceeding costs that would have been incurred under the fee-for-service program. Requires DHS to involve and consult with certain groups in developing program specifications for expansion of integrated programs. Requires plans for further expansion of the MnDHO program to be presented to the legislature by February 1, 2007.

II. COMMUNITY SERVICES PROVIDER RATE INCREASES

Chapter 282, Article 20, Section 31
Amends Laws 2005, First Special Session, Chapter 4, Article 7, Section 55
Effective June 3, 2006

Clarifies that the rate increase provided for MR/RC, CADI, and TBI services includes consumer directed community supports. For services funded through MnDHO, clarifies that the rate increase applies to all MA payments, including former Group Residential Housing supplementary rates. Clarifies that the wage adjustment eligible employees may receive may vary based on merit, seniority, or other factors determined by the provider.

III. RESIDENT RELOCATION

The following sections specify facility and county social service agency requirements related to notice, planning process efforts, and resident relocation when there is any change in the operations of a nursing home or boarding care home facility.

- A. Definitions
Chapter 282, Article 20, Section 7
Amends Minn. Stat. § 144A.161, subd. 1
Effective August 1, 2006

- B. Scope
Chapter 282, Article 20, Section 8
Adds Minn. Stat. § 144A.161, subd. 1a
Effective August 1, 2006

- C. County Social Services Agency Responsibility
Chapter 282, Article 20, Section 16
Amends Minn. Stat § 144A.161, subd. 8
Effective August 1, 2006

- D. Initial Notice from Licensee
Chapter 282, Article 20, Section 9
Amends Minn. Stat. § 144A.161, subd. 2
Effective August 1, 2006

- E. Licensee Responsibility for Resident Relocations
Chapter 282, Article 20, Section 11
Amends Minn. Stat. § 144A.161, subd. 4
Effective August 1, 2006

- F. Licensee Responsibility Prior to Relocation
Chapter 282, Article 20, Section 12
Amends Minn. Stat. § 144A.161, subd. 5
Effective August 1, 2006

- G. Licensee Responsibility During Relocation
Chapter 282, Article 20, Section 15
Amends Minn. Stat § 144A.161, subd. 6
Effective August 1, 2006

- H. Licensee Responsibility to Provide Notice
Chapter 282, Article 20, Section 13
Amends Minn. Stat § 144A.161, subd. 5a
Effective August 1, 2006

I. Licensee Responsibility Regarding Placement Information
Chapter 282, Article 20, Section 14
Amends Minn. Stat § 144A.161, subd. 5c
Effective August 1, 2006

J. Planning Process
Chapter 282, Article 20, Section 10
Amends Minn. Stat. § 144A.161, subd. 3
Effective August 1, 2006

IV. INTERMEDIATE CARE FACILITY FOR PERSONS WITH MENTAL RETARDATION (ICF/MR) PLAN

Chapter 282, Article 20, Section 34
Effective June 3, 2006

Requires DHS to consult with ICF/MR providers, advocates, counties, and consumer families to develop a stakeholder plan and legislation concerning future services that will be provided. Requires reporting of the plan to the legislature by December 15, 2008. Lists several items DHS must consider in preparing the plan.

V. MEDICARE SPECIAL NEEDS PLANS AND MA BASIC HEALTH CARE FOR PERSONS WITH DISABILITIES

Chapter 282, Article 20, Section 30
Adds Minn. Stat. § 256B.69, subd. 28
Effective June 3, 2006

- ❖ Allows DHS to contract with qualified Medicare-approved special needs plans to provide MA basic health care services to persons with disabilities. Lists components of basic health care services. Specifies that enrollment in these plans for MA services must be voluntary, unless a person is otherwise required to enroll in managed care.
- ❖ Beginning January 1, 2007, allows DHS to contract with qualified Medicare special needs plans to provide basic health care services under MA to: (1) persons who are dually eligible for both MA and Medicare, and (2) Social Security beneficiaries eligible for MA but who are in the waiting period for Medicare.
- ❖ Requires DHS to report to legislature by February 1, 2007 on: (1) program implementation, (2) the need for increased funding for the ombudsman for managed care, and (3) other consumer assistance and protections needed due to enrollment in managed care of persons with disabilities.
- ❖ Specifies when payment for MA services provided under this subdivision shall be made.
- ❖ Allows DHS to expand contracting under this subdivision to all persons with disabilities not otherwise required to enroll in managed care beginning January 1, 2008.

- ❖ Requires DHS to establish a state-level stakeholder group to provide advice on managed care programs for persons with disabilities.
- ❖ Requires each plan under contract to provide MA basic health care services to establish a local or regional stakeholder group for advice on issues that arise in the local or regional area.

VI. REPORTING

Chapter 282, Article 20, Section 28
Amends Minn. Stat. § 256B.69, subd. 9
Effective August 1, 2006

Requires DHS to develop data reporting methods to provide aggregate enrollee information on encounters and outcomes. Specifies that certain health plan data reported to the commissioners of health and commerce are public data that DHS shall make available and use in public reports. Specifies certain information that each health plan and county-based purchasing plan must provide to DHS.

Mental Health

I. CASE MANAGEMENT

Chapter 282, Article 16, Section 6
Amends Minn. Stat. § 256B.0625, subd. 20
Effective August 1, 2006

Deletes language related to calculations of county and state funds used to pay for mental health case management.

II. COUNTY MAINTENANCE OF EFFORT

Chapter 282, Article 16, Section 4
Adds Minn. Stat. § 245.4835, subds.1 and 2
Effective July 1, 2006

Provides that counties must maintain a level of expenditures for mental health services under the Adult Mental Health and the Children’s Mental Health Acts at least equal to the average expenditures for those services for calendar years 2004 and 2005. Directs DHS to adjust each county’s base level for minimum expenditures by the amount of any increase or decrease in the county’s state grants or other noncounty revenues for mental health services. Directs DHS to require a county to develop an action plan to correct noncompliance. Eliminates protections against the filing of claims provided by section 245.485 where the county fails to file or DHS rejects a plan.

III. CRITICAL ACCESS MENTAL HEALTH RATE INCREASE

Chapter 282, Article 16, Section 10

Adds Minn. Stat. § 256B.763

Effective July 1, 2006

Increases payment rates for listed services rendered on or after July 1, 2007 by 23.7% over the rates in effect on January 1, 2006. The increase applies to: (1) psychiatrists and advanced practice registered nurses with a psychiatric specialty, (2) community mental health centers, and (3) centers certified under Minnesota Rules, parts 9520.0750 to 9520.0870, or hospital outpatient psychiatric departments designated as essential community providers. Directs DHS to adjust rates to prepaid health plans to reflect the rate increases, and directs the health plans to pass on the increase to identified providers.

IV. PILOT PROGRAM FOR UNSHELTERED INDIVIDUALS

Chapter 282, Article 16, Section 16

Effective July 1, 2006 - June 30, 2008

Instructs DHS to establish two 10-bed group residential pilot projects, one in Ramsey County and the other in Hennepin County, offering on-site mental health services, 24-hour supervision, and community support to homeless individuals. Requires a county agency to negotiate a supplemental rate not to exceed \$700 per month for the group residential and independent living programs. Continues eligibility for the negotiated group residential housing rate for an individual who has lived in the group residential housing program and is being transitioned to independent living.

V. REPEALER

Effective August 1, 2006

Repeals the following sections and subdivisions of 2004 Minnesota Statutes:

- ❖ Section 245.465, subdivision 2 (residential and community support programs; 1992 salary increase);
- ❖ Section 256B.0945 (residential services for children with severe emotional disturbance)
 - subdivision 5 (quality measures),
 - subdivision 6 (federal earnings),
 - subdivision 7 (maintenance of effort),
 - subdivision 8 (reports), and
 - subdivision 9 (sanctions);
- ❖ Section 256B.83 (maintenance of effort for certain mental health services).

Public Health Care Programs

I. CO-PAYMENTS AND COINSURANCE

Chapter 282, Article 16, Section 12
Amends Minn. Stat. § 256L.03, subd. 5
Effective July 1, 2007

Eliminates the 50% coinsurance requirement for non-preventive dental services under MinnesotaCare for adults with income at or below 175% of the Federal Poverty Guidelines.

II. COVERED SERVICE

Chapter 282, Article 16, Section 8
Amends Minn. Stat. § 256B.0946, subd. 1
Effective July 1, 2006

Adds crisis assistance to the list of medically necessary services that MA covers for children with severe emotional disturbance who are residing in foster care treatment settings.

III. CRITICAL ACCESS DENTAL PROVIDERS

Chapter 282, Article 16, Section 13
Adds Minn. Stat. § 256L.11, subd. 7
Effective July 1, 2006

For services provided on or after January 1, 2007, requires DHS to increase MinnesotaCare payment rates to dentists and dental clinics deemed to be critical access providers by 50% above the payment that would otherwise be paid. Requires DHS to adjust prepaid health plan rates to reflect this increase, and requires the plans to pass this rate increase on to critical access dental providers.

IV. ELIGIBILITY FOR GAMC

Chapter 282, Article 16, Section 11
Amends Minn. Stat. § 256D.03, subd. 3
Effective September 1, 2006

Restricts eligibility to GAMC for applicants or enrollees who are otherwise eligible for MA, but who fail to verify their assets. Requires termination and transfer to MA of GAMC enrollees who become MA-eligible. Exempts the following additional GAMC applicants and recipients from the MinnesotaCare enrollment requirement: (1) those classified as end-stage renal disease beneficiaries in the Medicare program, (2) persons enrolled in private health coverage, (3) certain persons detained by law for less than one year in a county correctional or detention facility or admitted to a hospital on a criminal hold order, and (4) persons who receive treatment funded through the Consolidated Chemical Dependency Treatment Fund.

V. PERFORMANCE PAYMENTS

Chapter 282, Article 16, Section 5
Adds Minn. Stat. § 256.01, subd. 2b
Effective July 1, 2006

Requires DHS to develop and implement a pay-for-performance system for medical groups that demonstrate optimum care in serving individuals with chronic diseases enrolled in GAMC, MA, and MinnesotaCare.

VI. PHYSICIAN AND DENTIST REIMBURSEMENT

Chapter 282, Article 16, Section 9
Amends Minn. Stat. § 256B.0946
Effective July 1, 2006

Requires DHS to annually establish a reimbursement schedule under MA for critical access dental providers and provider-specific limits on total reimbursement received under the reimbursement schedule. Requires DHS to notify each critical access dental provider of the schedule and limit.

VII. VERIFICATION OF ASSETS AND ELIGIBILITY FOR MINNESOTACARE

Chapter 282, Article 16, Section 14
Amends Minn. Stat. § 256L.17, subd. 2
Effective July 1, 2006

Eliminates eligibility for state-funded MinnesotaCare for applicants or enrollees who are otherwise eligible for MA, but who fail to verify assets. Requires enrollees who become eligible for federally-funded MA to be terminated from state-funded MinnesotaCare and transferred to MA.

Housing Law

Prepared by: Ron Elwood, Staff Attorney
651-222-3749, ext. 109
relwood@mnlsap.org

I. CONDOMINIUM CONVERSIONS

Chapter 221
Amends Minn. Stat. § 515B.1-106(f)
Effective August 1, 2006

Eliminates the 18-month sunset on ordinances or regulations imposing requirements on common interest ownership communities (e.g., condominiums), except those imposing a moratorium.

II. MANUFACTURED HOME PARK NOTICES

Chapter 200

Amends Minn. Stat. § 327C.095, subds. 1 and 5

Effective August 1, 2006

A. Additional Notice

Requires a manufactured home park owner to send notice of closing or conversion to the Minnesota Department of Health and the Minnesota Housing Finance Agency. Currently, notices are only required to be sent to residents and local units of government. *Amends Minn. Stat. § 327C.095, subd. 1.*

B. Notice Exemption

Exempts manufactured home park owners from sending closing/conversion notices to residents where the residents are purchasing the park for cooperative conversion, provided that: (1) the cooperative is incorporated under Chapter 308A or 308B, (2) at least 90% of the existing residents join the co-op, and (3) the terms of the conversion do not require any existing resident to join the co-op. *Amends Minn. Stat. § 327C.095, subd. 5.*

III. RUNAWAY AND HOMELESS YOUTH ACT

Chapter 264, Section 13

Adds Minn. Stat. § 256K.60

Effective August 1, 2006

Requires the Department of Human Services to develop a comprehensive report about runaway and homeless youth, and youth at risk of homelessness, which must include a coordinated plan for street and community outreach, and supportive housing programs.

IV. STATUTORY HOME WARRANTIES

Chapter 202

Amends Minn. Stat. § 60A.08, subd. 6

Adds Minn. Stat. §§ 302A.781, subd. 4; 322B.863, subd. 4; and 327A.02, subds. 2a and 4

Effective May 27, 2006 for actions pending or commencing on or after that date

A. Effect of Business Dissolution on Homeowner Claims

Provides that a homeowner's ability to bring an action is unaffected by the voluntary dissolution of a contractor's business, and such dissolution does not relieve an insurer of its obligations to handle warranty claims. Overturns Camacho v. Todd and Leiser Homes, 706 N.W.2d 49 (Minn. 2005), which held that contractors and their insurers were immune from claims brought after the statutory period of repose under the corporate dissolution law (even though that period predates the end of the statutory warranty period). *Adds Minn. Stat. §§ 302A.781, subd. 4; 322B.863, subd. 4; and 327A.02, subd. 2a.*

B. Opportunity to Repair

Provides that, following notice of claim from a homeowner, a contractor has the opportunity to inspect and to make an offer to repair within 30 days of receipt of the notice. Tolls the warranty period until the earlier of: (1) the homeowner's rejection of an offer to repair, (2) the contractor's rejection of a homeowner's claim, 3) the failure of the contractor to make an offer to repair within the 30 days, or (4) 180 days. *Adds Minn. Stat. § 327A.02, subd. 4.*

Immigration Law

Prepared by: Jessica Webster, Policy Advocate
651-222-3749, ext. 102
jlwebster@mnlisap.org

I. LITERACY GRANTS FOR NEW IMMIGRANTS

Chapter 282, Article 2, Section 26
Effective July 1, 2006

Appropriates \$1.2 million for organizational grants to provide adult literacy services to recent refugees and immigrants to Minnesota.

Landlord-Tenant Law

Prepared by: Ron Elwood, Staff Attorney
651-222-3749, ext. 109
relwood@mnlisap.org

I. SHARED METERS

Chapter 138
Adds Minn. Stat. § 504B.215, subd. 2a
Effective August 1, 2006

Provides that the Public Utilities Commission shall include a “de minimis exception” in any tariff filed by a regulated electric utility (i.e., Xcel Energy, Minnesota Power, Otter Tail Power, Interstate Power, or Dakota Electric). Does not require a tariff filing. Defines “de minimis usage” as no more than 1,752 kilowatt-hours per year – approximately equivalent to two 100-watt light bulbs burning continuously for one year. Provides that usage within the de minimis limit: (1) does not create a shared meter condition and, (2) retains billing and payment responsibility with the tenant. Places the burden on the landlord to prove that usage outside the unit falls within the exception.

Public Benefits Law

Prepared by: Jessica Webster, Policy Advocate

651-222-3749, ext. 102

jlwebster@mnlisap.org

I. FOOD SUPPORT ASSET LIMIT

Chapter 282, Article 22, Sections 7 and 8

Adds Minn. Stat. §§ 256.029 and 256D.0515

Effective upon federal approval

Increases the asset limit for the federally-funded Food Support Program from \$2,000/individuals and \$3,000/seniors to \$7,000 for all households, and includes a full vehicle exclusion. Requires the state to provide a TANF-funded domestic violence brochure to all food support applicants. Provides that the provision of the brochure confers categorical eligibility on these households.

II. LEGISLATIVE COMMISSION TO END POVERTY

Chapter 282, Article 2, Section 27

Effective August 1, 2006, with appointments to the commission to be made by the next legislature no later than February 15, 2007

Creates a commission to prepare recommendations on ending poverty in Minnesota by 2020, consisting of nine senators, nine representatives, and two non-voting members appointed by the governor. Directs the commission to report its findings to the legislature by December 15, 2008.

III. MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP)

A. Employment Programs

Chapter 282, Article 18, Section 2

Amends Minn. Stat. § 256J.626, subd. 2

Effective October 1, 2006

Allows the Department of Human Services (DHS) to waive the cap on administrative costs for a county or tribe that provides an approved employment, volunteer, or community work experience program for a significant number of MFIP families. Requires the county or tribe to apply for the waiver, and caps the total administrative costs at federal Temporary Assistance for Needy Families (TANF) limits.

- B. Two-Parent Families
Chapter 282, Article 18, Section 1
Amends Minn. Stat. § 256J.021
Effective October 1, 2006

Requires DHS to use separate state funds for two-parent families in MFIP, helping the state avoid federal TANF funding penalties if too few two-parent families are meeting the hourly work requirements.

IV. RAMSEY COUNTY PILOT TEEN PARENT PROGRAM

Chapter 264, Section 16
Effective August 1, 2006

Authorizes a pilot project in Ramsey County to coordinate services for teen parents. Streamlines the process for sharing information among the school, MFIP, and child care assistance programs. Provides that eligibility for child care assistance is determined using the teen parent's eligibility for reduced-cost or free school lunches in place of income verification. Waives the child care parent fee for teen parents whose income is below poverty level and whose children attend school-based child care centers.