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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 3819

May 3, 2010

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The bill was read for the first time and referred to the Committee on Finance

A bill for an act

relating to state government finance; appropriating money to the Department of Human Services contingent upon federal enactment of an extension of the enhanced federal medical assistance percentage; amending Minnesota Statutes 2008, sections 254B.03, by adding a subdivision; 256B.0625, subdivision 22; 256B.19, subdivision 1c; 256L.15, subdivision 1; Minnesota Statutes 2009 Supplement, sections 144.0724, subdivision 11; 256B.0911, subdivision 1a; Laws 2005, First Special Session chapter 4, article 8, section 66, as amended; Laws 2009, chapter 79, article 5, sections 17; 18; 22; Laws 2009, chapter 173, article 1, section 17.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. SUMMARY OF HUMAN SERVICES APPROPRIATIONS.

The amounts shown in this section summarize direct appropriations, by fund, made in this bill.

Table with 5 columns: Fund Name, 2010, 2011, Total. Rows include General, Health Care Access, and Total.

Sec. 2. HEALTH AND HUMAN SERVICES CONTINGENT APPROPRIATIONS.

(a) The sums shown in the columns marked "Appropriations" are added to the appropriations in Laws 2009, chapter 79, article 13, as amended by Laws 2009, chapter 173, article 2, to the agency and for the purposes specified in this bill. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this bill mean that the addition to or subtraction from the appropriation listed under them is available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively.

2.1 (b) Upon enactment of the extension of the enhanced federal medical assistance
 2.2 percentage (FMAP) under Public Law 111-5 to June 30, 2011, that is contained in the
 2.3 president's budget for federal fiscal year 2011 or contained in House Resolution 2847,
 2.4 the federal "Jobs for Main Street Act, 2010," or contained in House Resolution 4213,
 2.5 "American Workers, State, and Business Relief Act of 2010," or subsequent federal
 2.6 legislation, the appropriations identified in section 3 shall be made for fiscal year 2011.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 **2011**

2.11 **Sec. 3. COMMISSIONER OF HUMAN**
 2.12 **SERVICES**

2.13 **Subdivision 1. Total Appropriation** \$ **-0-** \$ **14,069,000**

2.14 **Appropriations by Fund**

	<u>2010</u>	<u>2011</u>
2.15 <u>General</u>	<u>-0-</u>	<u>13,383,000</u>
2.16 <u>Health Care Access</u>	<u>-0-</u>	<u>686,000</u>

2.18 The appropriations for each purpose are
 2.19 shown in the following subdivisions.

2.20 **Subd. 2. Basic Health Care Grants**

2.21 **(a) MinnesotaCare Grants** -0- 686,000

2.22 This appropriation is from the health care
 2.23 access fund.

2.24 **(b) Medical Assistance Basic Health Care**
 2.25 **Grants - Families and Children** -0- 6,297,000

2.26 **(c) Medical Assistance Basic Health Care**
 2.27 **Grants - Elderly and Disabled** -0- 3,697,000

2.28 **Subd. 3. Continuing Care Grants**

2.29 **(a) Medical Assistance - Long-Term Care**
 2.30 **Facilities Grants** -0- 2,486,000

2.31 **(b) Medical Assistance Grants - Long-Term**
 2.32 **Care Waivers and Home Care Grants** -0- 547,000

2.33 **(c) Chemical Dependency Entitlement Grants** -0- 356,000

3.1 Sec. 4. Minnesota Statutes 2009 Supplement, section 144.0724, subdivision 11,
3.2 is amended to read:

3.3 Subd. 11. **Nursing facility level of care.** (a) For purposes of medical assistance
3.4 payment of long-term care services, a recipient must be determined, using assessments
3.5 defined in subdivision 4, to meet one of the following nursing facility level of care criteria:

3.6 (1) the person needs the assistance of another person or constant supervision to begin
3.7 and complete at least four of the following activities of living: bathing, bed mobility,
3.8 dressing, eating, grooming, toileting, transferring, and walking;

3.9 (2) the person needs the assistance of another person or constant supervision to begin
3.10 and complete toileting, transferring, or positioning and the assistance cannot be scheduled;

3.11 (3) the person has significant difficulty with memory, using information, daily
3.12 decision making, or behavioral needs that require intervention;

3.13 (4) the person has had a qualifying nursing facility stay of at least 90 days; or

3.14 (5) the person is determined to be at risk for nursing facility admission or
3.15 readmission through a face-to-face long-term care consultation assessment as specified
3.16 in section 256B.0911, subdivision 3a, 3b, or 4d, by a county, tribe, or managed care
3.17 organization under contract with the Department of Human Services. The person is
3.18 considered at risk under this clause if the person currently lives alone or will live alone
3.19 upon discharge and also meets one of the following criteria:

3.20 (i) the person has experienced a fall resulting in a fracture;

3.21 (ii) the person has been determined to be at risk of maltreatment or neglect,
3.22 including self-neglect; or

3.23 (iii) the person has a sensory impairment that substantially impacts functional ability
3.24 and maintenance of a community residence.

3.25 (b) The assessment used to establish medical assistance payment for nursing facility
3.26 services must be the most recent assessment performed under subdivision 4, paragraph
3.27 (b), that occurred no more than 90 calendar days before the effective date of medical
3.28 assistance eligibility for payment of long-term care services. In no case shall medical
3.29 assistance payment for long-term care services occur prior to the date of the determination
3.30 of nursing facility level of care.

3.31 (c) The assessment used to establish medical assistance payment for long-term care
3.32 services provided under sections 256B.0915 and 256B.49 and alternative care payment
3.33 for services provided under section 256B.0913 must be the most recent face-to-face
3.34 assessment performed under section 256B.0911, subdivision 3a, 3b, or 4d, that occurred
3.35 no more than 60 calendar days before the effective date of medical assistance eligibility
3.36 for payment of long-term care services.

4.1 **EFFECTIVE DATE.** This section is effective July 1, 2011.

4.2 Sec. 5. Minnesota Statutes 2008, section 254B.03, is amended by adding a subdivision
4.3 to read:

4.4 **Subd. 4a. Division of costs for medical assistance services.** Notwithstanding
4.5 subdivision 4, for chemical dependency services provided on or after October 1, 2008, and
4.6 reimbursed by medical assistance, the county share is 30 percent of the nonfederal share.

4.7 Sec. 6. Minnesota Statutes 2008, section 256B.0625, subdivision 22, is amended to
4.8 read:

4.9 **Subd. 22. Hospice care.** Medical assistance covers hospice care services under
4.10 Public Law 99-272, section 9505, to the extent authorized by rule, except that a recipient
4.11 age 21 or under who elects to receive hospice services does not waive coverage for
4.12 services that are related to the treatment of the condition for which a diagnosis of terminal
4.13 illness has been made.

4.14 **EFFECTIVE DATE.** This section is effective retroactive from March 23, 2010.

4.15 Sec. 7. Minnesota Statutes 2009 Supplement, section 256B.0911, subdivision 1a,
4.16 is amended to read:

4.17 **Subd. 1a. Definitions.** For purposes of this section, the following definitions apply:

4.18 (a) "Long-term care consultation services" means:

4.19 (1) assistance in identifying services needed to maintain an individual in the most
4.20 inclusive environment;

4.21 (2) providing recommendations on cost-effective community services that are
4.22 available to the individual;

4.23 (3) development of an individual's person-centered community support plan;

4.24 (4) providing information regarding eligibility for Minnesota health care programs;

4.25 (5) face-to-face long-term care consultation assessments, which may be completed
4.26 in a hospital, nursing facility, intermediate care facility for persons with developmental
4.27 disabilities (ICF/DDs), regional treatment centers, or the person's current or planned
4.28 residence;

4.29 (6) federally mandated screening to determine the need for a institutional level of
4.30 care under section 256B.0911, ~~subdivision 4, paragraph (a)~~ subdivision 4a;

4.31 (7) determination of home and community-based waiver service eligibility including
4.32 level of care determination for individuals who need an institutional level of care as
4.33 defined under section 144.0724, subdivision 11, or 256B.092, service eligibility including

5.1 state plan home care services identified in section 256B.0625, subdivisions 6, 7, and
 5.2 19, paragraphs (a) and (c), based on assessment and support plan development with
 5.3 appropriate referrals;

5.4 (8) providing recommendations for nursing facility placement when there are no
 5.5 cost-effective community services available; and

5.6 (9) assistance to transition people back to community settings after facility
 5.7 admission.

5.8 (b) "Long-term care options counseling" means the services provided by the linkage
 5.9 lines as mandated by sections 256.01 and 256.975, subdivision 7, and also includes
 5.10 telephone assistance and follow up once a long-term care consultation assessment has
 5.11 been completed.

5.12 (c) "Minnesota health care programs" means the medical assistance program under
 5.13 chapter 256B and the alternative care program under section 256B.0913.

5.14 (d) "Lead agencies" means counties or a collaboration of counties, tribes, and health
 5.15 plans administering long-term care consultation assessment and support planning services.

5.16 Sec. 8. Minnesota Statutes 2008, section 256B.19, subdivision 1c, is amended to read:

5.17 Subd. 1c. **Additional portion of nonfederal share.** (a) Hennepin County shall
 5.18 be responsible for a monthly transfer payment of \$1,500,000, due before noon on the
 5.19 15th of each month and the University of Minnesota shall be responsible for a monthly
 5.20 transfer payment of \$500,000 due before noon on the 15th of each month, beginning July
 5.21 15, 1995. These sums shall be part of the designated governmental unit's portion of the
 5.22 nonfederal share of medical assistance costs.

5.23 (b) Beginning July 1, 2001, Hennepin County's payment under paragraph (a) shall
 5.24 be \$2,066,000 each month.

5.25 (c) Beginning July 1, 2001, the commissioner shall increase annual capitation
 5.26 payments to the metropolitan health plan under section 256B.69 for the prepaid medical
 5.27 assistance program by approximately ~~\$3,400,000, plus any available federal matching~~
 5.28 ~~funds, \$6,800,000~~ to recognize higher than average medical education costs.

5.29 (d) Effective August 1, 2005, Hennepin County's payment under paragraphs (a)
 5.30 and (b) shall be reduced to \$566,000, and the University of Minnesota's payment under
 5.31 paragraph (a) shall be reduced to zero. Effective October 1, 2008, to December 31, 2010,
 5.32 Hennepin County's payment under paragraphs (a) and (b) shall be \$434,688. Effective
 5.33 January 1, 2011, Hennepin County's payment under paragraphs (a) and (b) shall be
 5.34 \$566,000.

6.1 (e) Notwithstanding paragraph (d), upon federal enactment of an extension to June
 6.2 30, 2011, of the enhanced federal medical assistance percentage (FMAP) originally
 6.3 provided under Public Law 111-5, for the six-month period from January 1, 2011, to June
 6.4 30, 2011, Hennepin County's payment under paragraphs (a) and (b) shall be \$434,688.

6.5 Sec. 9. Minnesota Statutes 2008, section 256L.15, subdivision 1, is amended to read:

6.6 Subdivision 1. **Premium determination.** (a) Families with children and individuals
 6.7 shall pay a premium determined according to subdivision 2.

6.8 (b) Pregnant women and children under age two are exempt from the provisions
 6.9 of section 256L.06, subdivision 3, paragraph (b), clause (3), requiring disenrollment
 6.10 for failure to pay premiums. For pregnant women, this exemption continues until the
 6.11 first day of the month following the 60th day postpartum. Women who remain enrolled
 6.12 during pregnancy or the postpartum period, despite nonpayment of premiums, shall be
 6.13 disenrolled on the first of the month following the 60th day postpartum for the penalty
 6.14 period that otherwise applies under section 256L.06, unless they begin paying premiums.

6.15 (c) Members of the military and their families who meet the eligibility criteria
 6.16 for MinnesotaCare upon eligibility approval made within 24 months following the end
 6.17 of the member's tour of active duty shall have their premiums paid by the commissioner.
 6.18 The effective date of coverage for an individual or family who meets the criteria of this
 6.19 paragraph shall be the first day of the month following the month in which eligibility is
 6.20 approved. This exemption applies for 12 months. This paragraph expires June 30, 2010.
 6.21 If the expiration of this provision is in violation of section 5001 of Public Law 111-5, this
 6.22 provision will expire on the date when it is no longer subject to section 5001 of Public Law
 6.23 111-5. The commissioner of human services shall notify the revisor of statutes of that date.

6.24 Sec. 10. Laws 2005, First Special Session chapter 4, article 8, section 66, as amended
 6.25 by Laws 2009, chapter 173, article 3, section 24, the effective date, is amended to read:

6.26 **EFFECTIVE DATE.** Paragraph (a) is effective August 1, 2009, ~~and~~ upon federal
 6.27 approval and on the date when it is no longer subject to the maintenance of effort
 6.28 requirements of section 5001 of Public Law 111-5. The commissioner of human services
 6.29 shall notify the revisor of statutes of that date. Paragraph (e) is effective September 1,
 6.30 2006.

6.31 Sec. 11. Laws 2009, chapter 79, article 5, section 17, the effective date, is amended to
 6.32 read:

7.1 **EFFECTIVE DATE.** This section is effective January 1, 2011, or upon federal
7.2 approval, ~~whichever is later~~ and on the date when it is no longer subject to the maintenance
7.3 of effort requirements of section 5001 of Public Law 111-5. The commissioner of human
7.4 services shall notify the revisor of statutes of that date.

7.5 Sec. 12. Laws 2009, chapter 79, article 5, section 18, the effective date, is amended to
7.6 read:

7.7 **EFFECTIVE DATE.** This section is effective ~~January 1, 2011~~ upon federal
7.8 approval and on the date when it is no longer subject to the maintenance of effort
7.9 requirements of section 5001 of Public Law 111-5. The commissioner of human services
7.10 shall notify the revisor of statutes when federal approval is obtained.

7.11 Sec. 13. Laws 2009, chapter 79, article 5, section 22, the effective date, is amended to
7.12 read:

7.13 **EFFECTIVE DATE.** This section is effective for periods of ineligibility established
7.14 on or after January 1, 2011, unless it is in violation of section 5001 of Public Law 111-5.
7.15 If it is in violation of that section, then it shall be effective on the date when it is no longer
7.16 subject to maintenance of effort requirements of section 5001 of Public Law 111-5. The
7.17 commissioner of human services shall notify the revisor of statutes of that date.

7.18 Sec. 14. Laws 2009, chapter 173, article 1, section 17, the effective date, is amended to
7.19 read:

7.20 **EFFECTIVE DATE.** This section is effective for pooled trust accounts established
7.21 on or after January 1, 2011, unless it is in violation of section 5001 of Public Law 111-5.
7.22 If it is in violation of that section, then it shall be effective on the date when it is no longer
7.23 subject to maintenance of effort requirements of section 5001 of Public Law 111-5. The
7.24 commissioner of human services shall notify the revisor of statutes of that date.