# STATE OF MINNESOTA
Executive Department

Governor Tim Walz

## Emergency Executive Order 20-12

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

**I, Tim Walz, Governor of the State of Minnesota,** by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety.

Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3(1), the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

Confirmed cases of COVID-19 in Minnesota are rapidly increasing. On March 15, 2020, Minnesota detected the first confirmed cases caused by "community spread"—infections not epidemiologically linked to overseas travel. This development requires Minnesota to take additional proactive measures, including enhanced community mitigation, to slow the spread of this pandemic. Slowing the spread of COVID-19 is critical to ensuring that our healthcare facilities remain able to accommodate those who require intensive medical intervention.

The Minnesota Department of Human Services ("DHS") serves Minnesotans across the state. DHS provides health care coverage, programs, and services for over 1 million Minnesotans, including groups likely to be significantly impacted by COVID-19 such as older adults, individuals who have disabilities, families with children, and individuals with mental illness.

Tribal Nations, counties, and Minnesotans served by DHS face many challenges due to COVID-19. The public good is promoted by timely and safe access to, and delivery of, programs and

services administered by DHS. Strict compliance with laws and regulations related to these programs and services during the peacetime emergency will limit the availability of essential programs and services for Minnesotans and increase the risk for spread of COVID-19. Providing for temporary waiver or modification of these requirements will allow DHS and its human services partners to continue to provide essential programs and services to Minnesotans safely and without undue delay during the peacetime emergency. Current law and regulations prevent the temporary modification or waiver of laws related to programs and services administered by DHS.

For these reasons, I order as follows:

1. Effective immediately, the Commissioner of the Department of Human Services may temporarily waive or modify any of the following provisions, and applicable rules:

    a. The Human Services Licensing Act in Minnesota Statutes 2019, chapter 245A, and accompanying program standards governed under Minnesota Statutes, chapters 245D through 245H;

    b. The Human Services Background Study Act in Minnesota Statutes 2019, chapter 245C, except that the commissioner shall not waive or modify:

        i. Disqualification standards in Minnesota Statutes 2019, section 245C.14 or 245C.15; or

        ii. Any provision regarding the scope of individuals required to be subject to a background study conducted under Minnesota Statutes 2019, chapter 245C;

    c. Provisions with respect to the use, licensing, certification, evaluation, or approval of facilities or programs within the commissioner's jurisdiction;

    d. Provisions related to appeals;

    e. Provisions with respect to background studies required to be conducted by the Department of Human Services; and

    f. Provisions relating to the Minnesota state-operated community services ("MSOCS") program in Minnesota Statutes 2019, chapters 245D, 246, and 252.

2. Effective immediately, the Commissioner of the Department of Human Services may, upon finding that waiver will not endanger the public health, welfare, or safety, temporarily waive or modify any provisions of Minnesota Statutes 2019, chapters 119B, 245, 245A, 245D, 245E, 245F, 245G, 245H, 246, 252, 253, 254A, 254B, 256, 256B, 256D, 256E, 256I, 256J, 256K, 256L, 256M, 256P, 256R, 256S, 260C, 260D, 518A, and 626, and applicable rules, that govern:

a. Requirement of in-person assessment, application for services, or case management;

b. Application for eligibility and eligibility renewal time frames, processes, and verification, except that the commissioner shall establish processes to verify a client's eligibility as soon as practicable;

c. Reporting and verification requirements;

d. Assessment renewal timeframes, verifications, and processes;

e. Work or community engagement activity requirements for eligibility;

f. Limits on the use of telehealth or other restrictions on electronic communication with providers;

g. Service delivery standards, locations, settings, or staff ratios;

h. Provider standards, including staffing ratios;

i. Timing of provider reporting requirements;

j. Payment procedures, including but not limited to the use of prepayments, partial payment for additional absent days, and payment for closed days;

k. Service agreement length; and

l. Provisions related to appeals.

3. Effective immediately, the Commissioner of the Department of Human Services may waive or modify any statutes or rules within the department's exclusive jurisdiction to comply with federal law, or obtain federal resources, related to the peacetime emergency.

4. This Executive Order suspends the requirements for the Commissioner of the Department of Human Services to comply with Minnesota Statutes 2019, Chapter 14.

5. The Commissioner of the Department of Human Services shall not issue any waiver or modification pursuant to paragraphs 1, 2, or 3 of this Executive Order that affects statutory provisions or requirements regarding matters outside the department's exclusive jurisdiction.

6. Any waiver or modification issued pursuant to paragraphs 1, 2, or 3 of this Executive Order shall be posted on the department's website within 48 hours and shall include a plain language description of the waiver or modifications made and the rationale for the action.

7. For any waiver or modification of Minnesota Statutes 2019, section 245D.04, or any other provision relating to long-term care services and supports under Minnesota

Statutes 2019, chapter 256B, the Commissioner of the Department of Human Services shall communicate the waiver or modification and the corresponding plain language description in writing to:

a. Any provider affected by the waiver or modification; and

b. Any individual whose rights under Minnesota Statutes 2019, section 245D.04, are affected by the waiver or modification, or their legal representative, if applicable.

8. No more than 48 hours after a waiver or modification under paragraphs 1, 2, or 3 of this Executive Order goes into effect, the Commissioner of the Department of Human Services shall provide written notice of the waiver or modification to the ombudsman for long-term care; the ombudsman for mental health and developmental disabilities; and the chairs and ranking minority members of the house of representatives and senate committees overseeing the Department of Human Services. If two or more of the chairs submit a written objection to a waiver or modification within seven days of receiving the notice, the Commissioner of the Department of Human Services shall cease all activities to implement the waiver or modification and it shall no longer be in effect. A chair submitting an objection under this paragraph may withdraw the objection.

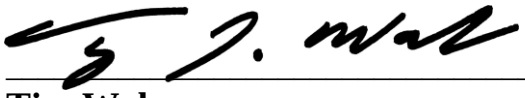
9. Beginning 60 days after the declaration of a peacetime emergency, and every 60 days thereafter while the peacetime emergency is in effect, the Commissioner of the Department of Human Services shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees overseeing the Department of Human Services describing the waivers and modifications made under this Executive Order.

10. The Commissioner of the Department of Human Services shall submit a final report to the chairs and ranking minority members of the house of representatives and senate committees overseeing the Department of Human Services by January 15, 2021, with specific details about state statutes and rules waived or modified as authorized in this Executive Order in response to a COVID-19 outbreak, and the cost to the Department of Human Services and to lead agencies to implement the waivers and modifications.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on March 20, 2020.

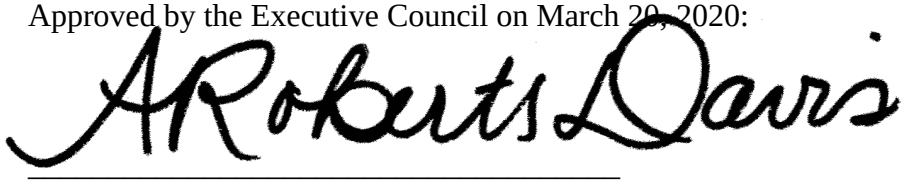


**Tim Walz**
Governor

Filed According to Law:

**Steve Simon**
Secretary of State

Approved by the Executive Council on March 20, 2020:



**Alice Roberts-Davis**
Secretary, Executive Council

Filed March 20, 2020
Office of the Minnesota
Secretary of State,
Steve Simon