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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1964

03/17/2015 Authored by Newton

The bill was read for the first time and referred to the Committee on Aging and Long-Term Care Policy

1.1 A bill for an act
1.2 relating to human services; modifying nursing facility operating payment rates
1.3 for certain facilities; amending Minnesota Statutes 2014, section 256B.431, by
1.4 adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2014, section 256B.431, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 46. **Rate increase for nursing facilities.** (a) Effective October 1, 2015,
1.9 the operating payment rates of nursing facilities that are reimbursed under this section,
1.10 section 256B.434, or section 256B.441, shall be increased to be equal, for a resource
1.11 utilization group rate with a weight of 1.00, to the geographic group III median rate for
1.12 the same resource utilization group weight. This subdivision shall only apply to an
1.13 individual facility if it results in a rate increase for that facility. The calculations under
1.14 this subdivision shall be added to the rates before any other operating payment rate
1.15 adjustments effective on October 1, 2015, are computed. The percentage of the operating
1.16 payment rates to be case-mix adjusted shall be equal to the percentage that is case-mix
1.17 adjusted in the September 30, 2015, operating payment rates.

1.18 (b) One hundred percent of the money resulting from the rate adjustment under
1.19 paragraph (a) must be used for increases in compensation-related costs for employees
1.20 directly employed by the nursing facility on or after the effective date of the rate
1.21 adjustment, except:

1.22 (1) the administrator;

1.23 (2) persons employed in the central office of a corporation that has an ownership
1.24 interest in the nursing facility or exercises control over the nursing facility; and

2.1 (3) persons paid by the nursing facility under a management contract.

2.2 (c) The commissioner shall allow as compensation-related costs all costs for:

2.3 (1) wage and salary increases effective after May 25, 2015;

2.4 (2) the employer's share of FICA taxes, Medicare taxes, state and federal
2.5 unemployment taxes, and workers' compensation;

2.6 (3) the employer's share of health and dental insurance, life insurance, disability
2.7 insurance, long-term care insurance, uniform allowance, and pensions; and

2.8 (4) other benefits provided and workforce needs, including the recruiting and
2.9 training of employees, subject to the approval of the commissioner.

2.10 (d) Nursing facilities must submit an application to the commissioner to receive
2.11 a rate adjustment under paragraph (a). The application must be submitted to the
2.12 commissioner within six months of the effective date of the rate adjustment, and the
2.13 nursing facility must provide additional information required by the commissioner within
2.14 nine months of the effective date of the rate adjustment. The commissioner must respond
2.15 to all applications within three weeks of receipt. The commissioner may waive the
2.16 deadlines in this paragraph under extraordinary circumstances, to be determined at the
2.17 sole discretion of the commissioner. The application must contain:

2.18 (1) a detailed distribution plan specifying the allowable compensation-related
2.19 increases the nursing facility will implement to use the funds available in paragraph (b);

2.20 (2) a description of how the nursing facility will notify eligible employees of
2.21 the contents of the approved application, which must provide for giving each eligible
2.22 employee a copy of the approved application, excluding the information required in clause
2.23 (1), or posting a copy of the approved application, excluding the information required in
2.24 clause (1), for a period of at least six weeks in an area of the nursing facility to which all
2.25 eligible employees have access; and

2.26 (3) instructions for employees who believe they have not received the
2.27 compensation-related increases specified in clause (1), as approved by the commissioner,
2.28 and which must include a mailing address, an e-mail address, and a telephone number
2.29 that may be used by the employee to contact the commissioner or the commissioner's
2.30 representative.

2.31 (e) The commissioner shall ensure that cost increases in distribution plans under
2.32 paragraph (d), clause (2), that may be included in approved applications comply with the
2.33 following requirements:

2.34 (1) a portion of the costs resulting from tenure-related wage or salary increases
2.35 may be considered to be allowable wage increases, according to formulas that the

3.1 commissioner shall provide, where employee retention is above the average statewide
3.2 rate of retention of direct-care employees;

3.3 (2) the annualized amount of increases in costs for the employer's share of health
3.4 and dental insurance, life insurance, disability insurance, and workers' compensation
3.5 shall be allowable compensation-related increases if they are effective on or after April
3.6 1, 2015, and prior to April 1, 2016; and

3.7 (3) for nursing facilities in which employees are represented by an exclusive
3.8 bargaining representative, the commissioner shall approve the application only upon
3.9 receipt of a letter of acceptance of the distribution plan, in regard to members of the
3.10 bargaining unit, signed by the exclusive bargaining agent and dated after May 25, 2015.
3.11 Upon receipt of the letter of acceptance, the commissioner shall deem all requirements of
3.12 this subdivision as having been met in regard to the members of the bargaining unit.

3.13 (f) The commissioner shall review applications received under paragraph (d)
3.14 and shall provide the rate adjustment under paragraph (a) if the requirements of this
3.15 subdivision have been met. The rate adjustment shall be effective October 1, 2015.
3.16 Notwithstanding paragraph (a), if the approved application distributes less money than is
3.17 available, the amount of the rate adjustment shall be reduced so that the amount of money
3.18 made available is equal to the amount to be distributed.

3.19 (g) The increase in this subdivision shall be applied to operating payment rates
3.20 in effect on September 30, 2015. For each facility, the commissioner shall determine
3.21 the operating payment rate, not including any rate components resulting from equitable
3.22 cost-sharing for publicly owned nursing facility program participation under section
3.23 256B.441, subdivision 55a, or performance-based incentive payment program
3.24 participation under section 256B.434, subdivision 4, paragraph (d), for a resource
3.25 utilization group class with a weight of 1.00 in effect on September 30, 2015.