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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1239

02/14/2017 Authored by Albright and Halverson
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/15/2017 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance

A bill for an act

relating to human services; establishing new employment services under the home and community-based services waivers; amending Minnesota Statutes 2016, sections 245D.03, subdivision 1; 252.41, subdivision 3; 252.42; 252.451, subdivisions 2, 3, 5; 256B.4913, by adding a subdivision; 256B.4914, subdivisions 3, 5, 8, 16; repealing Minnesota Statutes 2016, section 252.41, subdivision 8.

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

Section 1. Minnesota Statutes 2016, section 245D.03, subdivision 1, is amended to read:

Subdivision 1. Applicability. (a) The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of basic support services and intensive support services.

(b) Basic support services provide the level of assistance, supervision, and care that is necessary to ensure the health and welfare of the person and do not include services that are specifically directed toward the training, treatment, habilitation, or rehabilitation of the person. Basic support services include:

(1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, developmental disability, and elderly waiver plans, excluding out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be

2.1 stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000,
2.2 subpart 4;

2.3 (2) adult companion services as defined under the brain injury, community access for
2.4 disability inclusion, and elderly waiver plans, excluding adult companion services provided
2.5 under the Corporation for National and Community Services Senior Companion Program
2.6 established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

2.7 (3) personal support as defined under the developmental disability waiver plan;

2.8 (4) 24-hour emergency assistance, personal emergency response as defined under the
2.9 community access for disability inclusion and developmental disability waiver plans;

2.10 (5) night supervision services as defined under the brain injury waiver plan; and

2.11 (6) homemaker services as defined under the community access for disability inclusion,
2.12 brain injury, community alternative care, developmental disability, and elderly waiver plans,
2.13 excluding providers licensed by the Department of Health under chapter 144A and those
2.14 providers providing cleaning services only.

2.15 (c) Intensive support services provide assistance, supervision, and care that is necessary
2.16 to ensure the health and welfare of the person and services specifically directed toward the
2.17 training, habilitation, or rehabilitation of the person. Intensive support services include:

2.18 (1) intervention services, including:

2.19 (i) behavioral support services as defined under the brain injury and community access
2.20 for disability inclusion waiver plans;

2.21 (ii) in-home or out-of-home crisis respite services as defined under the developmental
2.22 disability waiver plan; and

2.23 (iii) specialist services as defined under the current developmental disability waiver
2.24 plan;

2.25 (2) in-home support services, including:

2.26 (i) in-home family support and supported living services as defined under the
2.27 developmental disability waiver plan;

2.28 (ii) independent living services training as defined under the brain injury and community
2.29 access for disability inclusion waiver plans; and

2.30 (iii) semi-independent living services;

2.31 (3) residential supports and services, including:

3.1 (i) supported living services as defined under the developmental disability waiver plan
 3.2 provided in a family or corporate child foster care residence, a family adult foster care
 3.3 residence, a community residential setting, or a supervised living facility;

3.4 (ii) foster care services as defined in the brain injury, community alternative care, and
 3.5 community access for disability inclusion waiver plans provided in a family or corporate
 3.6 child foster care residence, a family adult foster care residence, or a community residential
 3.7 setting; and

3.8 (iii) residential services provided to more than four persons with developmental
 3.9 disabilities in a supervised living facility, including ICFs/DD;

3.10 (4) day services, including:

3.11 (i) structured day services as defined under the brain injury waiver plan;

3.12 (ii) day training and habilitation services under sections 252.41 to 252.46, and as defined
 3.13 under the developmental disability waiver plan; and

3.14 (iii) prevocational services as defined under the brain injury and community access for
 3.15 disability inclusion waiver plans; ~~and~~

3.16 (5) ~~supported~~ employment exploration services as defined under the brain injury,
 3.17 developmental disability, ~~and~~ community access for disability inclusion, and community
 3.18 alternative care waiver plans;

3.19 (6) employment development services as defined under the brain injury, developmental
 3.20 disability, community access for disability inclusion, and community alternative care waiver
 3.21 plans; and

3.22 (7) employment support services as defined under the brain injury, developmental
 3.23 disability, community access for disability inclusion, and community alternative care waiver
 3.24 plans.

3.25 Sec. 2. Minnesota Statutes 2016, section 252.41, subdivision 3, is amended to read:

3.26 Subd. 3. **Day training and habilitation services for adults with developmental**
 3.27 **disabilities.** (a) "Day training and habilitation services for adults with developmental
 3.28 disabilities" means services that:

3.29 (1) include supervision, training, assistance, and ~~supported employment,~~ center-based
 3.30 work-related activities, or other community-integrated activities designed and implemented
 3.31 in accordance with the individual service and individual habilitation plans required under
 3.32 Minnesota Rules, parts 9525.0004 to 9525.0036, to help an adult reach and maintain the

4.1 highest possible level of independence, productivity, and integration into the community;
 4.2 and

4.3 (2) are provided by a vendor licensed under sections 245A.01 to 245A.16 and 252.28,
 4.4 subdivision 2, to provide day training and habilitation services.

4.5 (b) Day training and habilitation services reimbursable under this section do not include
 4.6 special education and related services as defined in the Education of the Individuals with
 4.7 Disabilities Act, United States Code, title 20, chapter 33, section 1401, clauses (6) and (17),
 4.8 or vocational services funded under section 110 of the Rehabilitation Act of 1973, United
 4.9 States Code, title 29, section 720, as amended.

4.10 (c) Day training and habilitation services do not include employment exploration,
 4.11 employment development, and employment supports services as defined in the home and
 4.12 community-based waivers for people with disabilities authorized under sections 256B.092
 4.13 and 256B.49.

4.14 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
 4.15 of human services shall notify the revisor of statutes when federal approval is obtained.

4.16 Sec. 3. Minnesota Statutes 2016, section 252.42, is amended to read:

4.17 **252.42 SERVICE PRINCIPLES.**

4.18 The design and delivery of services eligible for reimbursement should reflect the
 4.19 following principles:

4.20 (1) services must suit a person's chronological age and be provided in the least restrictive
 4.21 environment possible, consistent with the needs identified in the person's individual service
 4.22 and individual habilitation plans under Minnesota Rules, parts 9525.0004 to 9525.0036;

4.23 (2) a person with a developmental disability whose individual service and individual
 4.24 habilitation plans authorize ~~employment or employment-related~~ center-based work-related
 4.25 activities shall be given the opportunity to participate in ~~employment and employment-related~~
 4.26 center-based work-related activities ~~in which nondisabled persons participate;~~

4.27 (3) a person with a developmental disability participating in work shall be paid wages
 4.28 commensurate with the rate for comparable work and productivity except as regional centers
 4.29 are governed by section 246.151;

4.30 (4) a person with a developmental disability shall receive services which include services
 4.31 offered in settings used by the general public and designed to increase the person's active
 4.32 participation in ordinary community activities;

5.1 (5) a person with a developmental disability shall participate in the patterns, conditions,
5.2 and rhythms of everyday living and working that are consistent with the norms of the
5.3 mainstream of society.

5.4 Sec. 4. Minnesota Statutes 2016, section 252.451, subdivision 2, is amended to read:

5.5 Subd. 2. **Vendor participation and reimbursement.** Notwithstanding requirements in
5.6 chapters 245A and 245D, and sections 252.28, 252.41 to 252.46, and 256B.501, vendors
5.7 of ~~day training and habilitation~~ employment support services may enter into written
5.8 agreements with qualified businesses to provide additional training and supervision needed
5.9 by individuals to maintain their employment.

5.10 Sec. 5. Minnesota Statutes 2016, section 252.451, subdivision 3, is amended to read:

5.11 Subd. 3. **Agreement specifications.** Agreements must include the following:

5.12 (1) the type and amount of supervision and support to be provided by the business to
5.13 the individual in accordance with their needs as identified in their individual service plan;

5.14 (2) the methods used to periodically assess the individual's satisfaction with their work,
5.15 training, and support;

5.16 (3) the measures taken by the qualified business and the vendor to ensure the health,
5.17 safety, and protection of the individual during working hours, including the reporting of
5.18 abuse and neglect under state law and rules;

5.19 (4) the training and support services the vendor will provide to the qualified business,
5.20 including the frequency of on-site supervision and support; and

5.21 (5) any payment to be made to the qualified business by the vendor. Payment to the
5.22 business must be limited to:

5.23 (i) additional costs of training coworkers and managers that exceed ordinary and
5.24 customary training costs and are a direct result of employing a person with a ~~developmental~~
5.25 disability; and

5.26 (ii) additional costs for training, supervising, and assisting the person with a
5.27 ~~developmental~~ disability that exceed normal and customary costs required for performing
5.28 similar tasks or duties.

5.29 Payments made to a qualified business under this section must not include incentive
5.30 payments to the qualified business or salary supplementation for the person with a
5.31 ~~developmental~~ disability.

6.1 Sec. 6. Minnesota Statutes 2016, section 252.451, subdivision 5, is amended to read:

6.2 Subd. 5. **Vendor payment.** (a) For purposes of this section, the vendor shall bill and
6.3 the commissioner shall reimburse the vendor for ~~full-day or partial-day services~~ employment
6.4 support units of service to a client that would otherwise have been paid to the vendor for
6.5 providing direct services, provided that both of the following criteria are met:

6.6 (1) the vendor provides services and payments to the qualified business that enable the
6.7 business to perform support and supervision services for the client that the vendor would
6.8 otherwise need to perform; and

6.9 (2) the client for whom a rate will be billed will receive ~~full-day or partial-day services~~
6.10 employment support units of service from the vendor and the rate to be paid the vendor will
6.11 allow the client to work with this support and supervision at the qualified business instead
6.12 of receiving these services from the vendor.

6.13 (b) Medical assistance reimbursement of services provided to persons receiving ~~day~~
6.14 ~~training and habilitation~~ employment support services under this section is subject to the
6.15 limitations on reimbursement for vocational services under federal law and regulation.

6.16 Sec. 7. Minnesota Statutes 2016, section 256B.4913, is amended by adding a subdivision
6.17 to read:

6.18 Subd. 7. **New services.** A service added to section 256B.4914 after January 1, 2014, is
6.19 not subject to the rate stabilization adjustment in this section.

6.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.21 Sec. 8. Minnesota Statutes 2016, section 256B.4914, subdivision 3, is amended to read:

6.22 Subd. 3. **Applicable services.** Applicable services are those authorized under the state's
6.23 home and community-based services waivers under sections 256B.092 and 256B.49,
6.24 including the following, as defined in the federally approved home and community-based
6.25 services plan:

6.26 (1) 24-hour customized living;

6.27 (2) adult day care;

6.28 (3) adult day care bath;

6.29 (4) behavioral programming;

6.30 (5) companion services;

- 7.1 (6) customized living;
- 7.2 (7) day training and habilitation;
- 7.3 (8) housing access coordination;
- 7.4 (9) independent living skills;
- 7.5 (10) in-home family support;
- 7.6 (11) night supervision;
- 7.7 (12) personal support;
- 7.8 (13) prevocational services;
- 7.9 (14) residential care services;
- 7.10 (15) residential support services;
- 7.11 (16) respite services;
- 7.12 (17) structured day services;
- 7.13 ~~(18) supported employment services;~~
- 7.14 ~~(19)~~ (18) supported living services;
- 7.15 ~~(20)~~ (19) transportation services; ~~and~~
- 7.16 (20) employment exploration services;
- 7.17 (21) employment development services;
- 7.18 (22) employment support services; and
- 7.19 ~~(21)~~ (23) other services as approved by the federal government in the state home and
- 7.20 community-based services plan.

7.21 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner

7.22 of human services shall notify the revisor of statutes when federal approval is obtained.

7.23 Sec. 9. Minnesota Statutes 2016, section 256B.4914, subdivision 5, is amended to read:

7.24 Subd. 5. **Base wage index and standard component values.** (a) The base wage index

7.25 is established to determine staffing costs associated with providing services to individuals

7.26 receiving home and community-based services. For purposes of developing and calculating

7.27 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard

7.28 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in

8.1 the most recent edition of the Occupational Handbook must be used. The base wage index
8.2 must be calculated as follows:

8.3 (1) for residential direct care staff, the sum of:

8.4 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
8.5 health aide (SOC code 39-9021); 30 percent of the median wage for nursing aide (SOC
8.6 code 31-1012); and 20 percent of the median wage for social and human services aide (SOC
8.7 code 21-1093); and

8.8 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
8.9 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
8.10 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
8.11 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
8.12 percent of the median wage for social and human services aide (SOC code 21-1093);

8.13 (2) for day services, 20 percent of the median wage for nursing aide (SOC code 31-1012);
8.14 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60
8.15 percent of the median wage for social and human services aide (SOC code 21-1093);

8.16 (3) for residential asleep-overnight staff, the wage will be \$7.66 per hour, except in a
8.17 family foster care setting, the wage is \$2.80 per hour;

8.18 (4) for behavior program analyst staff, 100 percent of the median wage for mental health
8.19 counselors (SOC code 21-1014);

8.20 (5) for behavior program professional staff, 100 percent of the median wage for clinical
8.21 counseling and school psychologist (SOC code 19-3031);

8.22 (6) for behavior program specialist staff, 100 percent of the median wage for psychiatric
8.23 technicians (SOC code 29-2053);

8.24 (7) for supportive living services staff, 20 percent of the median wage for nursing aide
8.25 (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code
8.26 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
8.27 21-1093);

8.28 (8) for housing access coordination staff, 50 percent of the median wage for community
8.29 and social services specialist (SOC code 21-1099); and 50 percent of the median wage for
8.30 social and human services aide (SOC code 21-1093);

8.31 (9) for in-home family support staff, 20 percent of the median wage for nursing aide
8.32 (SOC code 31-1012); 30 percent of the median wage for community social service specialist

9.1 (SOC code 21-1099); 40 percent of the median wage for social and human services aide
 9.2 (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC
 9.3 code 29-2053);

9.4 (10) for independent living skills staff, 40 percent of the median wage for community
 9.5 social service specialist (SOC code 21-1099); 50 percent of the median wage for social and
 9.6 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
 9.7 technician (SOC code 29-2053);

9.8 (11) effective January 1, 2018, for supported employment support services staff, 20 50
 9.9 percent of the median wage for ~~nursing aide~~ rehabilitation counselor (SOC code 31-1012
 9.10 21-1015); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
 9.11 and 60 50 percent of the median wage for community and social and human services aide
 9.12 specialist (SOC code ~~21-1093~~ 21-1099);

9.13 (12) for employment exploration services staff, 50 percent of the median wage for
 9.14 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
 9.15 community and social services specialist (SOC code 21-1099);

9.16 (13) for employment development services staff, 50 percent of the median wage for
 9.17 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
 9.18 of the median wage for community and social services specialist (SOC code 21-1099);

9.19 ~~(12)~~ (14) for adult companion staff, 50 percent of the median wage for personal and
 9.20 home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
 9.21 orderlies, and attendants (SOC code 31-1012);

9.22 ~~(13)~~ (15) for night supervision staff, 20 percent of the median wage for home health
 9.23 aide (SOC code 31-1011); 20 percent of the median wage for personal and home health
 9.24 aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code
 9.25 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
 9.26 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

9.27 ~~(14)~~ (16) for respite staff, 50 percent of the median wage for personal and home care
 9.28 aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies,
 9.29 and attendants (SOC code 31-1012);

9.30 ~~(15)~~ (17) for personal support staff, 50 percent of the median wage for personal and
 9.31 home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
 9.32 orderlies, and attendants (SOC code 31-1012);

- 10.1 ~~(16)~~ (18) for supervisory staff, the basic wage is \$17.43 per hour with exception of the
10.2 supervisor of behavior analyst and behavior specialists, which must be \$30.75 per hour;
- 10.3 ~~(17)~~ (19) for registered nurse, the basic wage is \$30.82 per hour; and
10.4 ~~(18)~~ (20) for licensed practical nurse, the basic wage is \$18.64 per hour.
- 10.5 (b) Component values for residential support services are:
- 10.6 (1) supervisory span of control ratio: 11 percent;
- 10.7 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.8 (3) employee-related cost ratio: 23.6 percent;
- 10.9 (4) general administrative support ratio: 13.25 percent;
- 10.10 (5) program-related expense ratio: 1.3 percent; and
10.11 (6) absence and utilization factor ratio: 3.9 percent.
- 10.12 (c) Component values for family foster care are:
- 10.13 (1) supervisory span of control ratio: 11 percent;
- 10.14 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.15 (3) employee-related cost ratio: 23.6 percent;
- 10.16 (4) general administrative support ratio: 3.3 percent;
- 10.17 (5) program-related expense ratio: 1.3 percent; and
10.18 (6) absence factor: 1.7 percent.
- 10.19 (d) Component values for day services for all services are:
- 10.20 (1) supervisory span of control ratio: 11 percent;
- 10.21 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.22 (3) employee-related cost ratio: 23.6 percent;
- 10.23 (4) program plan support ratio: 5.6 percent;
- 10.24 (5) client programming and support ratio: ten percent;
- 10.25 (6) general administrative support ratio: 13.25 percent;
- 10.26 (7) program-related expense ratio: 1.8 percent; and
10.27 (8) absence and utilization factor ratio: 3.9 percent.

- 11.1 (e) Component values for unit-based services with programming are:
- 11.2 (1) supervisory span of control ratio: 11 percent;
- 11.3 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.4 (3) employee-related cost ratio: 23.6 percent;
- 11.5 (4) program plan supports ratio: ~~3.4~~ 15.5 percent;
- 11.6 (5) client programming and supports ratio: ~~8.6~~ 4.7 percent;
- 11.7 (6) general administrative support ratio: 13.25 percent;
- 11.8 (7) program-related expense ratio: 6.1 percent; and
- 11.9 (8) absence and utilization factor ratio: ~~3.9~~ 8.0 percent.
- 11.10 (f) Component values for unit-based services without programming except respite are:
- 11.11 (1) supervisory span of control ratio: 11 percent;
- 11.12 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.13 (3) employee-related cost ratio: 23.6 percent;
- 11.14 (4) program plan support ratio: 3.1 percent;
- 11.15 (5) client programming and support ratio: 8.6 percent;
- 11.16 (6) general administrative support ratio: 13.25 percent;
- 11.17 (7) program-related expense ratio: 6.1 percent; and
- 11.18 (8) absence and utilization factor ratio: 3.9 percent.
- 11.19 (g) Component values for unit-based services without programming for respite are:
- 11.20 (1) supervisory span of control ratio: 11 percent;
- 11.21 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.22 (3) employee-related cost ratio: 23.6 percent;
- 11.23 (4) general administrative support ratio: 13.25 percent;
- 11.24 (5) program-related expense ratio: 6.1 percent; and
- 11.25 (6) absence and utilization factor ratio: 3.9 percent.
- 11.26 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
- 11.27 (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor
- 11.28 Statistics available on December 31, 2016. The commissioner shall publish these updated

12.1 values and load them into the rate management system. This adjustment occurs every five
 12.2 years. For adjustments in 2021 and beyond, the commissioner shall use the data available
 12.3 on December 31 of the calendar year five years prior.

12.4 (i) On July 1, 2017, the commissioner shall update the framework components in
 12.5 paragraphs (b) to (g); subdivision 6, clauses (8) and (9); and subdivision 7, clauses (16) and
 12.6 (17), for changes in the Consumer Price Index. The commissioner will adjust these values
 12.7 higher or lower by the percentage change in the Consumer Price Index-All Items, United
 12.8 States city average (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner
 12.9 shall publish these updated values and load them into the rate management system. This
 12.10 adjustment occurs every five years. For adjustments in 2021 and beyond, the commissioner
 12.11 shall use the data available on January 1 of the calendar year four years prior and January
 12.12 1 of the current calendar year.

12.13 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
 12.14 of human services shall notify the revisor of statutes when federal approval is obtained.

12.15 Sec. 10. Minnesota Statutes 2016, section 256B.4914, subdivision 8, is amended to read:

12.16 Subd. 8. **Payments for unit-based services with programming.** Payments for unit-based
 12.17 services with programming, including behavior programming, housing access coordination,
 12.18 in-home family support, independent living skills training, hourly supported living services,
 12.19 employment exploration services, employment development services, and supported
 12.20 employment support services provided to an individual outside of any day or residential
 12.21 service plan must be calculated as follows, unless the services are authorized separately
 12.22 under subdivision 6 or 7:

12.23 (1) determine the number of units of service to meet a recipient's needs;

12.24 (2) personnel hourly wage rate must be based on:

12.25 (i) the most currently available Bureau of Labor Statistics Minnesota-specific rates for
 12.26 the employment support, employment exploration, and employment development services
 12.27 upon implementation of those services; and

12.28 (ii) the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the
 12.29 commissioner as provided in subdivision 5, for other unit-based services with programming;

12.30 (3) for a recipient requiring customization for deaf and hard-of-hearing language
 12.31 accessibility under subdivision 12, add the customization rate provided in subdivision 12
 12.32 to the result of clause (2). This is defined as the customized direct-care rate;

13.1 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
13.2 5, paragraph (a), or the customized direct-care rate;

13.3 (5) multiply the number of direct staff hours by the product of the supervision span of
13.4 control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision
13.5 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

13.6 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
13.7 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (e), clause
13.8 (2). This is defined as the direct staffing rate;

13.9 (7) for program plan support, multiply the result of clause (6) by one plus the program
13.10 plan supports ratio in subdivision 5, paragraph (e), clause (4);

13.11 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
13.12 employee-related cost ratio in subdivision 5, paragraph (e), clause (3);

13.13 (9) for client programming and supports, multiply the result of clause (8) by one plus
13.14 the client programming and supports ratio in subdivision 5, paragraph (e), clause (5);

13.15 (10) this is the subtotal rate;

13.16 (11) sum the standard general and administrative rate, the program-related expense ratio,
13.17 and the absence and utilization factor ratio;

13.18 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
13.19 total payment amount;

13.20 (13) for supported employment supports or employment exploration provided in a shared
13.21 manner, divide the total payment amount in clause (12) by the number of service recipients,
13.22 not to exceed ~~three~~ six. For independent living skills training provided in a shared manner,
13.23 divide the total payment amount in clause (12) by the number of service recipients, not to
13.24 exceed two; and

13.25 (14) adjust the result of clause (13) by a factor to be determined by the commissioner
13.26 to adjust for regional differences in the cost of providing services.

13.27 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
13.28 of human services shall notify the revisor of statutes when federal approval is obtained.

13.29 Sec. 11. Minnesota Statutes 2016, section 256B.4914, subdivision 16, is amended to read:

13.30 Subd. 16. **Budget neutrality adjustments.** (a) The commissioner shall use the following
13.31 adjustments to the rate generated by the framework to assure budget neutrality until the rate

14.1 information is available to implement paragraph (b). The rate generated by the framework
 14.2 shall be multiplied by the appropriate factor, as designated below:

14.3 (1) for residential services: 1.003;

14.4 (2) for day services: 1.000;

14.5 (3) for unit-based services with programming: ~~0.941~~ 1.00; and

14.6 (4) for unit-based services without programming: 0.796.

14.7 (b) Within 12 months of January 1, 2014, the commissioner shall compare estimated
 14.8 spending for all home and community-based waiver services under the new payment rates
 14.9 defined in subdivisions 6 to 9 with estimated spending for the same recipients and services
 14.10 under the rates in effect on July 1, 2013. This comparison must distinguish spending under
 14.11 each of subdivisions 6, 7, 8, and 9. The comparison must be based on actual recipients and
 14.12 services for one or more service months after the new rates have gone into effect. The
 14.13 commissioner shall consult with the commissioner of management and budget on this
 14.14 analysis to ensure budget neutrality. If estimated spending under the new rates for services
 14.15 under one or more subdivisions differs in this comparison by 0.3 percent or more, the
 14.16 commissioner shall assure aggregate budget neutrality across all service areas by adjusting
 14.17 the budget neutrality factor in paragraph (a) in each subdivision so that total estimated
 14.18 spending for each subdivision under the new rates matches estimated spending under the
 14.19 rates in effect on July 1, 2013.

14.20 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
 14.21 of human services shall notify the revisor of statutes when federal approval is obtained.

14.22 Sec. 12. **FEDERAL WAIVER AMENDMENTS.**

14.23 The commissioner of human services shall submit necessary waiver amendments to the
 14.24 Centers for Medicare and Medicaid Services to add employment exploration services,
 14.25 employment development services, and employment support services to the home and
 14.26 community-based services waivers authorized under Minnesota Statutes, sections 256B.092
 14.27 and 256B.49. The commissioner shall also submit necessary waiver amendments to remove
 14.28 community-based employment from day training and habilitation and prevocational services.
 14.29 The commissioner shall submit the necessary waiver amendments by October 1, 2017.

14.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.1 Sec. 13. **REPEALER.**

15.2 Minnesota Statutes 2016, section 252.41, subdivision 8, is repealed.

252.41 DEFINITIONS.

Subd. 8. **Supported employment.** "Supported employment" means employment of a person with a disability so severe that the person needs ongoing training and support to get and keep a job in which:

- (1) the person engages in paid work at a work site where individuals without disabilities who do not require public subsidies also may be employed;
- (2) public funds are necessary to provide ongoing training and support services throughout the period of the person's employment; and
- (3) the person has the opportunity for social interaction with individuals who do not have disabilities and who are not paid caregivers.