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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3130

02/11/2020 Authored by Edelson, Mann, Fischer, Albright and Cantrell  
The bill was read for the first time and referred to the Long-Term Care Division

1.1 A bill for an act  
1.2 relating to human services; modifying intermediate care facility for persons with  
1.3 developmental disabilities payment rates; amending Minnesota Statutes 2018,  
1.4 sections 256B.5012, subdivision 2, by adding subdivisions; 256B.5013, subdivisions  
1.5 1, 6; 256B.5015, subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2018, section 256B.5012, subdivision 2, is amended to read:

1.8 Subd. 2. **Operating payment rate.** (a) The operating payment rate equals the facility's  
1.9 total payment rate in effect on September 30, 2000, minus the property rate. The operating  
1.10 payment rate includes the special operating rate and the efficiency incentive in effect as of  
1.11 September 30, 2000. Within the limits of appropriations specifically for this purpose, the  
1.12 operating payment shall be increased for each rate year by the annual percentage change in  
1.13 the Employment Cost Index for Private Industry Workers - Total Compensation, as forecasted  
1.14 by the commissioner of management and budget's economic consultant, in the second quarter  
1.15 of the calendar year preceding the start of each rate year. In the case of the initial rate year  
1.16 beginning October 1, 2000, and continuing through December 31, 2001, the percentage  
1.17 change shall be based on the percentage change in the Employment Cost Index for Private  
1.18 Industry Workers - Total Compensation for the 15-month period beginning October 1, 2000,  
1.19 as forecast by Data Resources, Inc., in the first quarter of 2000.

1.20 (b) Effective October 1, 2000, the operating payment rate shall be adjusted to reflect an  
1.21 occupancy rate equal to 100 percent of the facility's capacity days as of September 30, 2000.

1.22 (c) Effective July 1, 2001, the operating payment rate shall be adjusted for the increases  
1.23 in the Department of Health licensing fees that were authorized in section 144.122.

2.1 (d) Effective July 1, 2024, and every two years thereafter, the operating payment rate  
 2.2 shall be increased by the average increase the disability waiver residential support services  
 2.3 rates are increased under section 256B.4914, subdivision 5, paragraphs (i) and (k), in the  
 2.4 same year.

2.5 Sec. 2. Minnesota Statutes 2018, section 256B.5012, is amended by adding a subdivision  
 2.6 to read:

2.7 Subd. 18. **ICF/DD rate increases effective July 1, 2020.** (a) For the rate period beginning  
 2.8 July 1, 2020, the commissioner must increase operating payments for each facility reimbursed  
 2.9 under this section equal to five percent of the operating payment rates in effect on June 30,  
 2.10 2020.

2.11 (b) For each facility, the commissioner must apply the rate increase based on occupied  
 2.12 beds, using the percentage specified in this subdivision multiplied by the total payment rate,  
 2.13 including the variable rate but excluding the property-related payment rate in effect on June  
 2.14 30, 2020. The total rate increase must include the adjustment provided in section 256B.501,  
 2.15 subdivision 12.

2.16 Sec. 3. Minnesota Statutes 2018, section 256B.5012, is amended by adding a subdivision  
 2.17 to read:

2.18 Subd. 19. **ICF/DD rate increases effective July 1, 2022.** (a) For the rate period beginning  
 2.19 July 1, 2022, the commissioner must increase operating payments for each facility reimbursed  
 2.20 under this section equal to five percent of the operating payment rates in effect on June 30,  
 2.21 2022.

2.22 (b) For each facility, the commissioner must apply the rate increase based on occupied  
 2.23 beds, using the percentage specified in this subdivision multiplied by the total payment rate,  
 2.24 including the variable rate but excluding the property-related payment rate in effect on June  
 2.25 30, 2022. The total rate increase must include the adjustment provided in section 256B.501,  
 2.26 subdivision 12.

2.27 Sec. 4. Minnesota Statutes 2018, section 256B.5013, subdivision 1, is amended to read:

2.28 Subdivision 1. **Variable rate adjustments.** (a) ~~For rate years beginning on or after~~  
 2.29 ~~October 1, 2000,~~ When there is a documented increase in the needs of a current ICF/DD  
 2.30 recipient, the county of financial responsibility may recommend a variable rate to enable  
 2.31 the facility to meet the individual's increased needs. Variable rate adjustments made under  
 2.32 this subdivision replace payments for persons with special needs for crisis intervention

3.1 services under section 256B.501, subdivision 8a. ~~Effective July 1, 2003, facilities with a~~  
 3.2 ~~base rate above the 50th percentile of the statewide average reimbursement rate for a Class~~  
 3.3 ~~A facility or Class B facility, whichever matches the facility licensure, are not eligible for~~  
 3.4 ~~a variable rate adjustment. Variable rate adjustments may not exceed a 12-month period,~~  
 3.5 ~~except when approved for purposes established in paragraph (b), clause (1). Once approved,~~  
 3.6 variable rate adjustments must continue to remain in place unless there is an identified  
 3.7 change in need. A review of needed resources must be done at the time of the individual's  
 3.8 annual support plan meeting. Any change in need identified must result in submission of a  
 3.9 request to adjust the resources for the individual. Variable rate adjustments approved solely  
 3.10 on the basis of changes on a developmental disabilities screening document will end June  
 3.11 30, 2002.

3.12 (b) The county of financial responsibility must act on a variable rate request within 30  
 3.13 days and notify the initiator of the request of the county's recommendation in writing.

3.14 ~~(b)~~ (c) A variable rate may be recommended by the county of financial responsibility  
 3.15 for increased needs in the following situations:

3.16 (1) a need for resources due to an individual's full or partial retirement from participation  
 3.17 in a day training and habilitation service when the individual: (i) has reached the age of 65  
 3.18 or has a change in health condition that makes it difficult for the person to participate in  
 3.19 day training and habilitation services over an extended period of time because it is medically  
 3.20 contraindicated; and (ii) has expressed a desire for change through the developmental  
 3.21 disability screening process under section 256B.092;

3.22 (2) a need for additional resources for intensive short-term programming which is  
 3.23 necessary prior to an individual's discharge to a less restrictive, more integrated setting;

3.24 (3) a demonstrated medical need that significantly impacts the type or amount of services  
 3.25 needed by the individual; ~~or~~

3.26 (4) a demonstrated behavioral or cognitive need that significantly impacts the type or  
 3.27 amount of services needed by the individual; or

3.28 ~~(e) The county of financial responsibility must justify the purpose, the projected length~~  
 3.29 ~~of time, and the additional funding needed for the facility to meet the needs of the individual.~~

3.30 ~~(d) The facility shall provide an annual report to the county case manager on the use of~~  
 3.31 ~~the variable rate funds and the status of the individual on whose behalf the funds were~~  
 3.32 ~~approved. The county case manager will forward the facility's report with a recommendation~~  
 3.33 ~~to the commissioner to approve or disapprove a continuation of the variable rate.~~

4.1 ~~(e) Funds made available through the variable rate process that are not used by the facility~~  
 4.2 ~~to meet the needs of the individual for whom they were approved shall be returned to the~~  
 4.3 ~~state.~~

4.4 (5) a demonstrated increased need for staff assistance, changes in the type of staff  
 4.5 credentials needed, or a need for expert consultation based on assessments conducted prior  
 4.6 to the annual support plan meeting.

4.7 (d) Variable rate requests must include the following information:

4.8 (1) the service needs change;

4.9 (2) the variable rate requested and the difference from the current rate;

4.10 (3) a basis for the underlying costs used for the variable rate and any accompanying  
 4.11 documentation; and

4.12 (4) documentation of the expected outcomes to be achieved and the frequency of progress  
 4.13 monitoring associated with the rate increase.

4.14 Sec. 5. Minnesota Statutes 2018, section 256B.5013, subdivision 6, is amended to read:

4.15 Subd. 6. **Commissioner's responsibilities.** The commissioner shall:

4.16 (1) make a determination to approve, deny, or modify a request for a variable rate  
 4.17 adjustment within 30 days of the receipt of the completed application;

4.18 (2) notify the ICF/DD facility and county case manager of the ~~duration and conditions~~  
 4.19 ~~of variable rate adjustment approvals~~ determination; and

4.20 (3) modify MMIS II service agreements to reimburse ICF/DD facilities for approved  
 4.21 variable rates.

4.22 Sec. 6. Minnesota Statutes 2018, section 256B.5015, subdivision 2, is amended to read:

4.23 Subd. 2. **Services during the day.** (a) Services during the day, as defined in section  
 4.24 256B.501, but excluding day training and habilitation services, shall be paid as a pass-through  
 4.25 payment no later than January 1, 2004. The commissioner shall establish rates for these  
 4.26 services, other than day training and habilitation services, at levels that do not exceed 75  
 4.27 100 percent of a recipient's day training and habilitation service costs prior to the service  
 4.28 change.

4.29 (b) An individual qualifies for services during the day under paragraph (a) if, through  
 4.30 consultation with the individual and their support team or interdisciplinary team:

5.1 (1) it has been determined that the individual's needs can best be met through partial or  
5.2 full retirement from:

5.3 (i) participation in a day training and habilitation service; or

5.4 (ii) the use of services during the day in the individual's home environment; and

5.5 (2) an individualized plan has been developed with designated outcomes that:

5.6 (i) address the support needs and desires contained in the person-centered plan or  
5.7 individual support plan; and

5.8 (ii) include goals that focus on community integration as appropriate for the individual.

5.9 (c) When establishing a rate for these services, the commissioner shall also consider an  
5.10 individual recipient's needs as identified in the ~~individualized service~~ individual support  
5.11 plan and the person's need for active treatment as defined under federal regulations. The  
5.12 pass-through payments for services during the day shall be paid separately by the  
5.13 commissioner and shall not be included in the computation of the ICF/DD facility total  
5.14 payment rate.