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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3551

02/19/2020 Authored by Halverson, Schomacker, Cantrell, Moller, Haley and others
The bill was read for the first time and referred to the Health and Human Services Finance Division

1.1 A bill for an act
1.2 relating to human services; modifying certain wage and inflation calculations in
1.3 the disability waiver rate system; requiring a report; amending Minnesota Statutes
1.4 2019 Supplement, section 256B.4914, subdivisions 5, 10.

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

1.6 Section 1. Minnesota Statutes 2019 Supplement, section 256B.4914, subdivision 5, is
1.7 amended to read:

1.8 Subd. 5. Base wage index and standard component values. (a) The base wage index
1.9 is established to determine staffing costs associated with providing services to individuals
1.10 receiving home and community-based services. For purposes of developing and calculating
1.11 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
1.12 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
1.13 the most recent edition of the Occupational Handbook must be used. The base wage index
1.14 must be calculated as follows:

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

1.16 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
1.17 health aide (SOC code 39-9021); 30 percent of the median wage for nursing assistant (SOC
1.18 code 31-1014); and 20 percent of the median wage for social and human services aide (SOC
1.19 code 21-1093); and

1.20 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
1.21 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
1.22 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code

2.1 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);  
2.2 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

2.3 (2) for adult day services, 70 percent of the median wage for nursing assistant (SOC  
2.4 code 31-1014); and 30 percent of the median wage for personal care aide (SOC code  
2.5 39-9021);

2.6 (3) for day services, day support services, and prevocational services, 20 percent of the  
2.7 median wage for nursing assistant (SOC code 31-1014); 20 percent of the median wage for  
2.8 psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social  
2.9 and human services aide (SOC code 21-1093);

2.10 (4) for residential asleep-overnight staff, the wage is the minimum wage in Minnesota  
2.11 for large employers, except in a family foster care setting, the wage is 36 percent of the  
2.12 minimum wage in Minnesota for large employers;

2.13 (5) for positive supports analyst staff, 100 percent of the median wage for mental health  
2.14 counselors (SOC code 21-1014);

2.15 (6) for positive supports professional staff, 100 percent of the median wage for clinical  
2.16 counseling and school psychologist (SOC code 19-3031);

2.17 (7) for positive supports specialist staff, 100 percent of the median wage for psychiatric  
2.18 technicians (SOC code 29-2053);

2.19 (8) for supportive living services staff, 20 percent of the median wage for nursing assistant  
2.20 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code  
2.21 29-2053); and 60 percent of the median wage for social and human services aide (SOC code  
2.22 21-1093);

2.23 (9) for housing access coordination staff, 100 percent of the median wage for community  
2.24 and social services specialist (SOC code 21-1099);

2.25 (10) for in-home family support and individualized home supports with family training  
2.26 staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of  
2.27 the median wage for community social service specialist (SOC code 21-1099); 40 percent  
2.28 of the median wage for social and human services aide (SOC code 21-1093); and ten percent  
2.29 of the median wage for psychiatric technician (SOC code 29-2053);

2.30 (11) for individualized home supports with training services staff, 40 percent of the  
2.31 median wage for community social service specialist (SOC code 21-1099); 50 percent of  
2.32 the median wage for social and human services aide (SOC code 21-1093); and ten percent  
2.33 of the median wage for psychiatric technician (SOC code 29-2053);

3.1 (12) for independent living skills staff, 40 percent of the median wage for community  
3.2 social service specialist (SOC code 21-1099); 50 percent of the median wage for social and  
3.3 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric  
3.4 technician (SOC code 29-2053);

3.5 (13) for employment support services staff, 50 percent of the median wage for  
3.6 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for  
3.7 community and social services specialist (SOC code 21-1099);

3.8 (14) for employment exploration services staff, 50 percent of the median wage for  
3.9 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for  
3.10 community and social services specialist (SOC code 21-1099);

3.11 (15) for employment development services staff, 50 percent of the median wage for  
3.12 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent  
3.13 of the median wage for community and social services specialist (SOC code 21-1099);

3.14 (16) for individualized home support staff, 50 percent of the median wage for personal  
3.15 and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing  
3.16 assistant (SOC code 31-1014);

3.17 (17) for adult companion staff, 50 percent of the median wage for personal and home  
3.18 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant  
3.19 (SOC code 31-1014);

3.20 (18) for night supervision staff, 20 percent of the median wage for home health aide  
3.21 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide  
3.22 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code  
3.23 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);  
3.24 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

3.25 (19) for respite staff, 50 percent of the median wage for personal and home care aide  
3.26 (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code  
3.27 31-1014);

3.28 (20) for personal support staff, 50 percent of the median wage for personal and home  
3.29 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant  
3.30 (SOC code 31-1014);

3.31 (21) for supervisory staff, 100 percent of the median wage for community and social  
3.32 services specialist (SOC code 21-1099), with the exception of the supervisor of positive  
3.33 supports professional, positive supports analyst, and positive supports specialists, which is

4.1 100 percent of the median wage for clinical counseling and school psychologist (SOC code  
4.2 19-3031);

4.3 (22) for registered nurse staff, 100 percent of the median wage for registered nurses  
4.4 (SOC code 29-1141); and

4.5 (23) for licensed practical nurse staff, 100 percent of the median wage for licensed  
4.6 practical nurses (SOC code 29-2061).

4.7 (b) Component values for corporate foster care services, corporate supportive living  
4.8 services daily, community residential services, and integrated community support services  
4.9 are:

4.10 (1) competitive workforce factor: 4.7 percent;

4.11 (2) supervisory span of control ratio: 11 percent;

4.12 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

4.13 (4) employee-related cost ratio: 23.6 percent;

4.14 (5) general administrative support ratio: 13.25 percent;

4.15 (6) program-related expense ratio: 1.3 percent; and

4.16 (7) absence and utilization factor ratio: 3.9 percent.

4.17 (c) Component values for family foster care are:

4.18 (1) competitive workforce factor: 4.7 percent;

4.19 (2) supervisory span of control ratio: 11 percent;

4.20 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

4.21 (4) employee-related cost ratio: 23.6 percent;

4.22 (5) general administrative support ratio: 3.3 percent;

4.23 (6) program-related expense ratio: 1.3 percent; and

4.24 (7) absence factor: 1.7 percent.

4.25 (d) Component values for day training and habilitation, day support services, and  
4.26 prevocational services are:

4.27 (1) competitive workforce factor: 4.7 percent;

4.28 (2) supervisory span of control ratio: 11 percent;

4.29 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

- 5.1 (4) employee-related cost ratio: 23.6 percent;
- 5.2 (5) program plan support ratio: 5.6 percent;
- 5.3 (6) client programming and support ratio: ten percent;
- 5.4 (7) general administrative support ratio: 13.25 percent;
- 5.5 (8) program-related expense ratio: 1.8 percent; and
- 5.6 (9) absence and utilization factor ratio: 9.4 percent.
- 5.7 (e) Component values for adult day services are:
- 5.8 (1) competitive workforce factor: 4.7 percent;
- 5.9 (2) supervisory span of control ratio: 11 percent;
- 5.10 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 5.11 (4) employee-related cost ratio: 23.6 percent;
- 5.12 (5) program plan support ratio: 5.6 percent;
- 5.13 (6) client programming and support ratio: 7.4 percent;
- 5.14 (7) general administrative support ratio: 13.25 percent;
- 5.15 (8) program-related expense ratio: 1.8 percent; and
- 5.16 (9) absence and utilization factor ratio: 9.4 percent.
- 5.17 (f) Component values for unit-based services with programming are:
- 5.18 (1) competitive workforce factor: 4.7 percent;
- 5.19 (2) supervisory span of control ratio: 11 percent;
- 5.20 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 5.21 (4) employee-related cost ratio: 23.6 percent;
- 5.22 (5) program plan supports ratio: 15.5 percent;
- 5.23 (6) client programming and supports ratio: 4.7 percent;
- 5.24 (7) general administrative support ratio: 13.25 percent;
- 5.25 (8) program-related expense ratio: 6.1 percent; and
- 5.26 (9) absence and utilization factor ratio: 3.9 percent.
- 5.27 (g) Component values for unit-based services without programming except respite are:

- 6.1 (1) competitive workforce factor: 4.7 percent;
- 6.2 (2) supervisory span of control ratio: 11 percent;
- 6.3 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 6.4 (4) employee-related cost ratio: 23.6 percent;
- 6.5 (5) program plan support ratio: 7.0 percent;
- 6.6 (6) client programming and support ratio: 2.3 percent;
- 6.7 (7) general administrative support ratio: 13.25 percent;
- 6.8 (8) program-related expense ratio: 2.9 percent; and
- 6.9 (9) absence and utilization factor ratio: 3.9 percent.
- 6.10 (h) Component values for unit-based services without programming for respite are:
- 6.11 (1) competitive workforce factor: 4.7 percent;
- 6.12 (2) supervisory span of control ratio: 11 percent;
- 6.13 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 6.14 (4) employee-related cost ratio: 23.6 percent;
- 6.15 (5) general administrative support ratio: 13.25 percent;
- 6.16 (6) program-related expense ratio: 2.9 percent; and
- 6.17 (7) absence and utilization factor ratio: 3.9 percent.
- 6.18 (i) On July 1, 2022, and every two years thereafter, the commissioner ~~shall~~ must update
- 6.19 the base wage index in paragraph (a) based on the most recently available wage data by
- 6.20 SOC from the Bureau of Labor Statistics ~~available 30 months and one day~~ prior to the
- 6.21 scheduled update. The commissioner ~~shall~~ must publish these updated values and load them
- 6.22 into the rate management system.
- 6.23 ~~(j) Beginning February 1, 2021, and every two years thereafter, the commissioner shall~~
- 6.24 ~~report to the chairs and ranking minority members of the legislative committees and divisions~~
- 6.25 ~~with jurisdiction over health and human services policy and finance an analysis of the~~
- 6.26 ~~competitive workforce factor. The report must include recommendations to update the~~
- 6.27 ~~competitive workforce factor using:~~
- 6.28 ~~(1) the most recently available wage data by SOC code for the weighted average wage~~
- 6.29 ~~for direct care staff for residential services and direct care staff for day services;~~

7.1 ~~(2) the most recently available wage data by SOC code of the weighted average wage~~  
 7.2 ~~of comparable occupations; and~~

7.3 ~~(3) workforce data as required under subdivision 10a, paragraph (g).~~

7.4 ~~The commissioner shall not recommend an increase or decrease of the competitive workforce~~  
 7.5 ~~factor from the current value by more than two percentage points. If, after a biennial analysis~~  
 7.6 ~~for the next report, the competitive workforce factor is less than or equal to zero, the~~  
 7.7 ~~commissioner shall recommend a competitive workforce factor of zero.~~

7.8 (j) On January 1, 2021, the commissioner must increase the competitive workforce factor  
 7.9 by 2.0. On July 1, 2022, the commissioner must increase the competitive workforce factor  
 7.10 by an additional 2.0. Beginning July 1, 2024, and every two years thereafter, the  
 7.11 commissioner must update the competitive workforce factor using the most recently available  
 7.12 wage data by SOC from the Bureau of Labor Statistics prior to the scheduled update. The  
 7.13 commissioner must update the competitive workforce factor toward the differential between  
 7.14 (1) the weighted average wage for direct care staff for residential services and direct care  
 7.15 staff for day services; and (2) the weighted average wage of the comparable occupations.  
 7.16 For each update of the competitive workforce factor, the commissioner must not increase  
 7.17 or decrease the competitive workforce factor by more than 2.0. If the updated competitive  
 7.18 workforce factor is less than zero, the commissioner must set the competitive workforce  
 7.19 factor equal to zero.

7.20 (k) On July 1, 2022, and every two years thereafter, the commissioner ~~shall~~ must update  
 7.21 the framework components in paragraph (d), clause (6); paragraph (e), clause (6); paragraph  
 7.22 (f), clause (6); and paragraph (g), clause (6); subdivision 6, paragraphs (b), clauses (9) and  
 7.23 (10), and (e), clause (10); and subdivision 7, clauses (11), (17), and (18), for changes in the  
 7.24 Consumer Price Index. The commissioner ~~shall~~ must adjust these values higher or lower  
 7.25 by the percentage change in the CPI-U from the date of the previous update to the most  
 7.26 recently available data available 30 months and one day prior to the scheduled update. The  
 7.27 commissioner ~~shall~~ must publish these updated values and load them into the rate  
 7.28 management system.

7.29 (l) Upon the implementation of the updates under paragraphs (i) and (k), rate adjustments  
 7.30 authorized under section 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section  
 7.31 60; and Laws 2014, chapter 312, article 27, section 75, ~~shall~~ must be removed from service  
 7.32 rates calculated under this section.

8.1 (m) Any rate adjustments applied to the service rates calculated under this section outside  
 8.2 of the cost components and rate methodology specified in this section ~~shall~~ must be removed  
 8.3 from rate calculations upon implementation of the updates under paragraphs (i) and (k).

8.4 (n) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer  
 8.5 Price Index items are unavailable in the future, the commissioner ~~shall~~ must recommend to  
 8.6 the legislature codes or items to update and replace missing component values.

8.7 Sec. 2. Minnesota Statutes 2019 Supplement, section 256B.4914, subdivision 10, is  
 8.8 amended to read:

8.9 Subd. 10. **Updating payment values and additional information.** (a) The commissioner  
 8.10 ~~shall~~ must, within available resources, conduct research and gather data and information  
 8.11 from existing state systems or other outside sources on the following items:

8.12 (1) differences in the underlying cost to provide services and care across the state; and

8.13 (2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and  
 8.14 units of transportation for all day services, which must be collected from providers using  
 8.15 the rate management worksheet and entered into the rates management system; and

8.16 (3) the distinct underlying costs for services provided by a license holder under sections  
 8.17 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided  
 8.18 by a license holder certified under section 245D.33.

8.19 (b) No later than July 1, 2014, the commissioner, in consultation with stakeholders, ~~shall~~  
 8.20 must begin the review and evaluation of the following values already in subdivisions 6 to  
 8.21 9, or issues that impact all services, including, but not limited to:

8.22 (1) values for transportation rates;

8.23 (2) values for services where monitoring technology replaces staff time;

8.24 (3) values for indirect services;

8.25 (4) values for nursing;

8.26 (5) values for the facility use rate in day services, and the weightings used in the day  
 8.27 service ratios and adjustments to those weightings;

8.28 (6) values for workers' compensation as part of employee-related expenses;

8.29 (7) values for unemployment insurance as part of employee-related expenses;

8.30 (8) direct care workforce labor market measures;

9.1 (9) any changes in state or federal law with a direct impact on the underlying cost of  
9.2 providing home and community-based services;

9.3 (10) outcome measures, determined by the commissioner, for home and community-based  
9.4 services rates determined under this section; and

9.5 (11) different competitive workforce factors by service, as determined under subdivision  
9.6 5, paragraph (j).

9.7 (c) The commissioner ~~shall~~ must report to the chairs and the ranking minority members  
9.8 of the legislative committees and divisions with jurisdiction over health and human services  
9.9 policy and finance with the information and data gathered under paragraphs (a) and (b) on  
9.10 January 15, 2021, with a full report, and a full report once every four years thereafter.

9.11 (d) Beginning July 1, 2022, the commissioner ~~shall~~ must renew analysis and implement  
9.12 changes to the regional adjustment factors once every six years. Prior to implementation,  
9.13 the commissioner ~~shall~~ must consult with stakeholders on the methodology to calculate the  
9.14 adjustment.

9.15 (e) The commissioner ~~shall~~ must provide a public notice via LISTSERV in October of  
9.16 each year containing information detailing legislatively approved changes in:

9.17 (1) calculation values including derived wage rates and related employee and  
9.18 administrative factors;

9.19 (2) service utilization;

9.20 (3) county and tribal allocation changes; and

9.21 (4) information on adjustments made to calculation values and the timing of those  
9.22 adjustments.

9.23 The information in this notice must be effective January 1 of the following year.

9.24 (f) When the available shared staffing hours in a residential setting are insufficient to  
9.25 meet the needs of an individual who enrolled in residential services after January 1, 2014,  
9.26 then individual staffing hours ~~shall~~ must be used.

9.27 (g) The commissioner ~~shall~~ must collect transportation and trip information for all day  
9.28 services through the rates management system.

9.29 (h) The commissioner, in consultation with stakeholders, ~~shall~~ must study value-based  
9.30 models and outcome-based payment strategies for fee-for-service home and community-based  
9.31 services and report to the legislative committees with jurisdiction over the disability waiver  
9.32 rate system by October 1, 2020, with recommended strategies to: (1) promote new models

10.1 of care, services, and reimbursement structures that require more efficient use of public  
10.2 dollars while improving the outcomes most valued by the individuals served; (2) assist  
10.3 clients and their families in evaluating options and stretching individual budget funds; (3)  
10.4 support individualized, person-centered planning and individual budget choices; and (4)  
10.5 create a broader range of client options geographically or targeted at culturally competent  
10.6 models for racial and ethnic minority groups.

10.7 (i) The commissioner, in consultation with stakeholders, must study the impact of state  
10.8 and local minimum wage laws on individuals receiving services under disability waivers  
10.9 and report by January 1, 2021, to the legislative committees with jurisdiction over the  
10.10 disability waiver rate system with recommended strategies to reflect the additional costs  
10.11 associated with the state and local minimum wage laws in the payment methodologies in  
10.12 this section.