

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3128

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DATE
02/14/2022

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OFFICIAL STATUS
Introduction and first reading
Referred to Human Services Reform Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying background study requirements for
1.3 out-of-home respite provided to minors in unlicensed settings; modifying the
1.4 definition of unit of service for the purposes of individualized home supports with
1.5 training; permitting additional time-limited extensions of cosigned leases in
1.6 community-living settings; authorizing market rates for disability waiver respite
1.7 services; amending Minnesota Statutes 2020, sections 245C.04, subdivision 1;
1.8 256B.49, subdivision 23; 256B.4914, subdivisions 2, 3, 7, 8, 9, 10; Minnesota
1.9 Statutes 2021 Supplement, sections 245C.05, subdivision 5; 256B.4914,
1.10 subdivisions 5, 6; proposing coding for new law in Minnesota Statutes, chapter
1.11 245D.

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

1.13 Section 1. Minnesota Statutes 2020, section 245C.04, subdivision 1, is amended to read:

1.14 Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner
1.15 shall conduct a background study of an individual required to be studied under section
1.16 245C.03, subdivision 1, at least upon application for initial license for all license types.

1.17 (b) The commissioner shall conduct a background study of an individual required to be
1.18 studied under section 245C.03, subdivision 1, including a child care background study
1.19 subject as defined in section 245C.02, subdivision 6a, in a family child care program, licensed
1.20 child care center, certified license-exempt child care center, or legal nonlicensed child care
1.21 provider, on a schedule determined by the commissioner. Except as provided in section
1.22 245C.05, subdivision 5a, a child care background study must include submission of
1.23 fingerprints for a national criminal history record check and a review of the information
1.24 under section 245C.08. A background study for a child care program must be repeated
1.25 within five years from the most recent study conducted under this paragraph.

1.26 (c) At reapplication for a family child care license:

2.1 (1) for a background study affiliated with a licensed family child care center or legal
2.2 nonlicensed child care provider, the individual shall provide information required under
2.3 section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be
2.4 fingerprinted and photographed under section 245C.05, subdivision 5;

2.5 (2) the county agency shall verify the information received under clause (1) and forward
2.6 the information to the commissioner to complete the background study; and

2.7 (3) the background study conducted by the commissioner under this paragraph must
2.8 include a review of the information required under section 245C.08.

2.9 (d) The commissioner is not required to conduct a study of an individual at the time of
2.10 reapplication for a license if the individual's background study was completed by the
2.11 commissioner of human services and the following conditions are met:

2.12 (1) a study of the individual was conducted either at the time of initial licensure or when
2.13 the individual became affiliated with the license holder;

2.14 (2) the individual has been continuously affiliated with the license holder since the last
2.15 study was conducted; and

2.16 (3) the last study of the individual was conducted on or after October 1, 1995.

2.17 (e) The commissioner of human services shall conduct a background study of an
2.18 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6),
2.19 who is newly affiliated with a child foster family setting license holder:

2.20 (1) the county or private agency shall collect and forward to the commissioner the
2.21 information required under section 245C.05, subdivisions 1 and 5, when the child foster
2.22 family setting applicant or license holder resides in the home where child foster care services
2.23 are provided; and

2.24 (2) the background study conducted by the commissioner of human services under this
2.25 paragraph must include a review of the information required under section 245C.08,
2.26 subdivisions 1, 3, and 4.

2.27 (f) The commissioner shall conduct a background study of an individual specified under
2.28 section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated
2.29 with an adult foster care or family adult day services and with a family child care license
2.30 holder or a legal nonlicensed child care provider authorized under chapter 119B and:

2.31 (1) except as provided in section 245C.05, subdivision 5a, the county shall collect and
2.32 forward to the commissioner the information required under section 245C.05, subdivision

3.1 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background
3.2 studies conducted by the commissioner for all family adult day services, for adult foster
3.3 care when the adult foster care license holder resides in the adult foster care residence, and
3.4 for family child care and legal nonlicensed child care authorized under chapter 119B;

3.5 (2) the license holder shall collect and forward to the commissioner the information
3.6 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs
3.7 (a) and (b), for background studies conducted by the commissioner for adult foster care
3.8 when the license holder does not reside in the adult foster care residence; and

3.9 (3) the background study conducted by the commissioner under this paragraph must
3.10 include a review of the information required under section 245C.08, subdivision 1, paragraph
3.11 (a), and subdivisions 3 and 4.

3.12 (g) Applicants for licensure, license holders, and other entities as provided in this chapter
3.13 must submit completed background study requests to the commissioner using the electronic
3.14 system known as NETStudy before individuals specified in section 245C.03, subdivision
3.15 1, begin positions allowing direct contact in any licensed program.

3.16 (h) For an individual who is not on the entity's active roster, the entity must initiate a
3.17 new background study through NETStudy when:

3.18 (1) an individual returns to a position requiring a background study following an absence
3.19 of 120 or more consecutive days; or

3.20 (2) a program that discontinued providing licensed direct contact services for 120 or
3.21 more consecutive days begins to provide direct contact licensed services again.

3.22 The license holder shall maintain a copy of the notification provided to the commissioner
3.23 under this paragraph in the program's files. If the individual's disqualification was previously
3.24 set aside for the license holder's program and the new background study results in no new
3.25 information that indicates the individual may pose a risk of harm to persons receiving
3.26 services from the license holder, the previous set-aside shall remain in effect.

3.27 (i) For purposes of this section, a physician licensed under chapter 147 or advanced
3.28 practice registered nurse licensed under chapter 148 is considered to be continuously affiliated
3.29 upon the license holder's receipt from the commissioner of health or human services of the
3.30 physician's or advanced practice registered nurse's background study results.

3.31 (j) For purposes of family child care, a substitute caregiver must receive repeat
3.32 background studies at the time of each license renewal.

4.1 (k) A repeat background study at the time of license renewal is not required if the family
4.2 child care substitute caregiver's background study was completed by the commissioner on
4.3 or after October 1, 2017, and the substitute caregiver is on the license holder's active roster
4.4 in NETStudy 2.0.

4.5 (l) Before and after school programs authorized under chapter 119B, are exempt from
4.6 the background study requirements under section 123B.03, for an employee for whom a
4.7 background study under this chapter has been completed.

4.8 (m) Upon request of the license holder, the commissioner of human services shall conduct
4.9 a background study of an individual specified under section 245C.03, subdivision 1,
4.10 paragraph (a), clauses (2) to (6), who is newly affiliated with a home and community-based
4.11 service provider licensed under chapter 245D and certified to provide children's out-of-home
4.12 respite under section 245D.34. The license holder shall collect and forward to the
4.13 commissioner all the information described under section 245C.05, subdivisions 1 and 5.
4.14 The background study conducted by the commissioner of human services under this
4.15 paragraph must include a review of all the information described under section 245C.08,
4.16 subdivisions 1, 3, and 4.

4.17 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
4.18 whichever is later. The commissioner of human services shall notify the revisor of statutes
4.19 when federal approval is obtained.

4.20 Sec. 2. Minnesota Statutes 2021 Supplement, section 245C.05, subdivision 5, is amended
4.21 to read:

4.22 Subd. 5. **Fingerprints and photograph.** (a) Notwithstanding paragraph (b), for
4.23 background studies conducted by the commissioner for certified children's out-of-home
4.24 respite, child foster care, children's residential facilities, adoptions, or a transfer of permanent
4.25 legal and physical custody of a child, the subject of the background study, who is 18 years
4.26 of age or older, shall provide the commissioner with a set of classifiable fingerprints obtained
4.27 from an authorized agency for a national criminal history record check.

4.28 (b) For background studies initiated on or after the implementation of NETStudy 2.0,
4.29 except as provided under subdivision 5a, every subject of a background study must provide
4.30 the commissioner with a set of the background study subject's classifiable fingerprints and
4.31 photograph. The photograph and fingerprints must be recorded at the same time by the
4.32 authorized fingerprint collection vendor or vendors and sent to the commissioner through
4.33 the commissioner's secure data system described in section 245C.32, subdivision 1a,
4.34 paragraph (b).

5.1 (c) The fingerprints shall be submitted by the commissioner to the Bureau of Criminal
5.2 Apprehension and, when specifically required by law, submitted to the Federal Bureau of
5.3 Investigation for a national criminal history record check.

5.4 (d) The fingerprints must not be retained by the Department of Public Safety, Bureau
5.5 of Criminal Apprehension, or the commissioner. The Federal Bureau of Investigation will
5.6 not retain background study subjects' fingerprints.

5.7 (e) The authorized fingerprint collection vendor or vendors shall, for purposes of verifying
5.8 the identity of the background study subject, be able to view the identifying information
5.9 entered into NETStudy 2.0 by the entity that initiated the background study, but shall not
5.10 retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The
5.11 authorized fingerprint collection vendor or vendors shall retain no more than the name and
5.12 date and time the subject's fingerprints were recorded and sent, only as necessary for auditing
5.13 and billing activities.

5.14 (f) For any background study conducted under this chapter, the subject shall provide the
5.15 commissioner with a set of classifiable fingerprints when the commissioner has reasonable
5.16 cause to require a national criminal history record check as defined in section 245C.02,
5.17 subdivision 15a.

5.18 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
5.19 whichever is later. The commissioner of human services shall notify the revisor of statutes
5.20 when federal approval is obtained.

5.21 **Sec. 3. [245D.34] CHILDREN'S OUT-OF-HOME RESPITE CERTIFICATION**
5.22 **STANDARDS.**

5.23 Subdivision 1. **Certification.** (a) The commissioner of human services shall issue a
5.24 children's out-of-home respite certification for services licensed under this chapter when a
5.25 license holder is determined to have met the requirements under this section. This certification
5.26 is voluntary for license holders. The certification shall be printed on the license and identified
5.27 on the commissioner's public website.

5.28 (b) A license holder seeking certification under this section must request this certification
5.29 on forms and in the manner prescribed by the commissioner.

5.30 (c) If a commissioner finds that a license holder has failed to comply with the certification
5.31 requirements under this section, the commissioner may issue a correction order and an order
5.32 of conditional license in accordance with section 245A.06 or may issue a sanction in
5.33 accordance with section 245A.07, including and up to removal of the certification.

6.1 (d) A denial of the certification or the removal of the certification based on a
 6.2 determination that the requirements of this section have not been met is not subject to appeal.
 6.3 A license holder that has been denied a certification or that has had a certification removed
 6.4 may again request certification when the license holder is in compliance with the
 6.5 requirements of this section.

6.6 Subd. 2. **Certification requirements.** The requirements for certification under this
 6.7 section are:

6.8 (1) the license holder maintains a current roster of staff who meet the background study
 6.9 requirements under section 245C.04, subdivision 1, paragraph (m);

6.10 (2) the license holder assigns only individuals on the roster described in clause (1) to
 6.11 provide out-of-home respite to a minor in an unlicensed service site;

6.12 (3) the case manager has verified and documented in the person's coordinated service
 6.13 and support plan that any proposed unlicensed service site is appropriate to meet the person's
 6.14 unique assessed needs; and

6.15 (4) when providing out-of-home respite to a minor at an unlicensed service site, the
 6.16 service site the license holder uses is identified and approved by the case manager in the
 6.17 person's coordinated service and support plan.

6.18 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 6.19 whichever is later. The commissioner of human services shall notify the revisor of statutes
 6.20 when federal approval is obtained.

6.21 Sec. 4. Minnesota Statutes 2020, section 256B.49, subdivision 23, is amended to read:

6.22 **Subd. 23. Community-living settings.** (a) For the purposes of this chapter,
 6.23 "community-living settings" means a single-family home or multifamily dwelling unit where
 6.24 a service recipient or a service recipient's family owns or rents, and maintains control over
 6.25 the individual unit as demonstrated by a lease agreement. Community-living settings does
 6.26 not include a home or dwelling unit that the service provider owns, operates, or leases or
 6.27 in which the service provider has a direct or indirect financial interest.

6.28 (b) To ensure a service recipient or the service recipient's family maintains control over
 6.29 the home or dwelling unit, community-living settings are subject to the following
 6.30 requirements:

6.31 (1) service recipients must not be required to receive services or share services;

7.1 (2) service recipients must not be required to have a disability or specific diagnosis to
7.2 live in the community-living setting;

7.3 (3) service recipients may hire service providers of their choice;

7.4 (4) service recipients may choose whether to share their household and with whom;

7.5 (5) the home or multifamily dwelling unit must include living, sleeping, bathing, and
7.6 cooking areas;

7.7 (6) service recipients must have lockable access and egress;

7.8 (7) service recipients must be free to receive visitors and leave the settings at times and
7.9 for durations of their own choosing;

7.10 (8) leases must comply with chapter 504B;

7.11 (9) landlords must not charge different rents to tenants who are receiving home and
7.12 community-based services; and

7.13 (10) access to the greater community must be easily facilitated based on the service
7.14 recipient's needs and preferences.

7.15 (c) Nothing in this section prohibits a service recipient from having another person or
7.16 entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits
7.17 a service recipient, during any period in which a service provider has cosigned the service
7.18 recipient's lease, from modifying services with an existing cosigning service provider and,
7.19 subject to the approval of the landlord, maintaining a lease cosigned by the service provider.
7.20 Nothing in this section prohibits a service recipient, during any period in which a service
7.21 provider has cosigned the service recipient's lease, from terminating services with the
7.22 cosigning service provider, receiving services from a new service provider, and, subject to
7.23 the approval of the landlord, maintaining a lease cosigned by the new service provider.

7.24 (d) A lease cosigned by a service provider meets the requirements of paragraph (a) if
7.25 the service recipient and service provider develop and implement a transition plan which
7.26 must provide that, within two years of cosigning the initial lease, the service provider shall
7.27 transfer the lease to the service recipient and other cosigners, if any.

7.28 (e) In the event the landlord has not approved the transfer of the lease within two years
7.29 of the service provider cosigning the initial lease, the service provider must submit a
7.30 time-limited extension request to the commissioner of human services to continue the
7.31 cosigned lease arrangement. The extension request must include:

7.32 (1) the reason the landlord denied the transfer;

8.1 (2) the plan to overcome the denial to transfer the lease;

8.2 (3) the length of time needed to successfully transfer the lease, not to exceed an additional
8.3 two years;

8.4 (4) a description of how the transition plan was followed, what occurred that led to the
8.5 landlord denying the transfer, and what changes in circumstances or condition, if any, the
8.6 service recipient experienced; and

8.7 (5) a revised transition plan to transfer the cosigned lease between the service provider
8.8 and the service recipient to the service recipient.

8.9 The commissioner must approve an extension within sufficient time to ensure the continued
8.10 occupancy by the service recipient.

8.11 (f) In the event the landlord has not approved the transfer of the lease within the timelines
8.12 of any approved time-limited extension request, the service provider must submit another
8.13 time-limited extension request to the commissioner of human services to continue the
8.14 cosigned lease arrangement. A time-limited extension request submitted under this paragraph
8.15 must include the same information required for an initial time-limited extension request
8.16 under paragraph (e). The commissioner must approve an extension within sufficient time
8.17 to ensure the continued occupancy by the service recipient.

8.18 (g) The commissioner may grant a service recipient no more than three additional
8.19 time-limited extensions under paragraph (f).

8.20 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
8.21 whichever is later. The commissioner of human services shall notify the revisor of statutes
8.22 when federal approval is obtained.

8.23 Sec. 5. Minnesota Statutes 2020, section 256B.4914, subdivision 2, is amended to read:

8.24 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
8.25 meanings given them, unless the context clearly indicates otherwise.

8.26 (b) "Commissioner" means the commissioner of human services.

8.27 (c) "Comparable occupations" means the occupations, excluding direct care staff, as
8.28 represented by the Bureau of Labor Statistics standard occupational classification codes
8.29 that have the same classification for:

8.30 (1) typical education needed for entry;

8.31 (2) work experience in a related occupation; and

9.1 (3) typical on-the-job training competency as the most predominant classification for
9.2 direct care staff.

9.3 (d) "Component value" means underlying factors that are part of the cost of providing
9.4 services that are built into the waiver rates methodology to calculate service rates.

9.5 (e) "Customized living tool" means a methodology for setting service rates that delineates
9.6 and documents the amount of each component service included in a recipient's customized
9.7 living service plan.

9.8 (f) "Direct care staff" means employees providing direct service to people receiving
9.9 services under this section. Direct care staff excludes executive, managerial, and
9.10 administrative staff.

9.11 (g) "Disability waiver rates system" means a statewide system that establishes rates that
9.12 are based on uniform processes and captures the individualized nature of waiver services
9.13 and recipient needs.

9.14 (h) "Individual staffing" means the time spent as a one-to-one interaction specific to an
9.15 individual recipient by staff to provide direct support and assistance with activities of daily
9.16 living, instrumental activities of daily living, and training to participants, and is based on
9.17 the requirements in each individual's coordinated service and support plan under section
9.18 245D.02, subdivision 4b; any coordinated service and support plan addendum under section
9.19 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
9.20 needs must also be considered.

9.21 (i) "Lead agency" means a county, partnership of counties, or tribal agency charged with
9.22 administering waived services under sections 256B.092 and 256B.49.

9.23 (j) "Median" means the amount that divides distribution into two equal groups, one-half
9.24 above the median and one-half below the median.

9.25 (k) "Payment or rate" means reimbursement to an eligible provider for services provided
9.26 to a qualified individual based on an approved service authorization.

9.27 (l) "Rates management system" means a web-based software application that uses a
9.28 framework and component values, as determined by the commissioner, to establish service
9.29 rates.

9.30 (m) "Recipient" means a person receiving home and community-based services funded
9.31 under any of the disability waivers.

10.1 (n) "Shared staffing" means time spent by employees, not defined under paragraph (f),
10.2 providing or available to provide more than one individual with direct support and assistance
10.3 with activities of daily living as defined under section 256B.0659, subdivision 1, paragraph
10.4 (b); instrumental activities of daily living as defined under section 256B.0659, subdivision
10.5 1, paragraph (i); ancillary activities needed to support individual services; and training to
10.6 participants, and is based on the requirements in each individual's coordinated service and
10.7 support plan under section 245D.02, subdivision 4b; any coordinated service and support
10.8 plan addendum under section 245D.02, subdivision 4c; an assessment tool; and provider
10.9 observation of an individual's service need. Total shared staffing hours are divided
10.10 proportionally by the number of individuals who receive the shared service provisions.

10.11 (o) "Staffing ratio" means the number of recipients a service provider employee supports
10.12 during a unit of service based on a uniform assessment tool, provider observation, case
10.13 history, and the recipient's services of choice, and not based on the staffing ratios under
10.14 section 245D.31.

10.15 (p) "Unit of service" means the following:

10.16 (1) for residential support services under subdivision 6, a unit of service is a day. Any
10.17 portion of any calendar day, within allowable Medicaid rules, where an individual spends
10.18 time in a residential setting is billable as a day;

10.19 (2) for day services under subdivision 7:

10.20 (i) for day training and habilitation services, a unit of service is either:

10.21 (A) a day unit of service is defined as six or more hours of time spent providing direct
10.22 services and transportation; or

10.23 (B) a partial day unit of service is defined as fewer than six hours of time spent providing
10.24 direct services and transportation; and

10.25 (C) for new day service recipients after January 1, 2014, 15 minute units of service must
10.26 be used for fewer than six hours of time spent providing direct services and transportation;

10.27 (ii) for adult day and structured day services, a unit of service is a day or 15 minutes. A
10.28 day unit of service is six or more hours of time spent providing direct services;

10.29 (iii) for day support services, a unit of service is 15 minutes; and

10.30 (iv) for prevocational services, a unit of service is a day or 15 minutes. A day unit of
10.31 service is six or more hours of time spent providing direct service;

10.32 (3) for unit-based services with programming under subdivision 8:

11.1 (i) for supported living services, a unit of service is a day or 15 minutes. When a day
 11.2 rate is authorized, any portion of a calendar day where an individual receives services is
 11.3 billable as a day; ~~and~~

11.4 (ii) for individualized home supports with training, a unit of service is an hour or 15
 11.5 minutes. Fifteen minute units of service must be used for fewer than six hours of time spent
 11.6 providing direct service in a calendar day. When six or more consecutive hours of time are
 11.7 spent providing direct service in a calendar day, hour units of service must be used for all
 11.8 time spent providing direct service in a calendar day. Any portion of an hour in excess of
 11.9 six hours, within allowable Medicaid rules, during which an individual receives direct
 11.10 service is billable as an hour; and

11.11 (iii) for all other services, a unit of service is 15 minutes; and

11.12 (4) for unit-based services without programming under subdivision 9, a unit of service
 11.13 is 15 minutes.

11.14 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 11.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
 11.16 when federal approval is obtained.

11.17 Sec. 6. Minnesota Statutes 2020, section 256B.4914, subdivision 3, is amended to read:

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

11.22 (1) 24-hour customized living;

11.23 (2) adult day services;

11.24 (3) adult day services bath;

11.25 (4) companion services;

11.26 (5) community residential services;

11.27 (6) customized living;

11.28 (7) day support services;

11.29 (8) day training and habilitation;

11.30 (9) employment development services;

- 12.1 (10) employment exploration services;
- 12.2 (11) employment support services;
- 12.3 (12) family residential services;
- 12.4 (13) housing access coordination;
- 12.5 (14) independent living skills;
- 12.6 (15) individualized home supports;
- 12.7 (16) individualized home supports with family training;
- 12.8 (17) individualized home supports with training;
- 12.9 (18) in-home family support;
- 12.10 (19) integrated community supports;
- 12.11 (20) night supervision;
- 12.12 (21) personal support;
- 12.13 (22) positive support services;
- 12.14 (23) prevocational services;
- 12.15 (24) residential support services;
- 12.16 ~~(25) respite services;~~
- 12.17 ~~(26)~~ (25) structured day services;
- 12.18 ~~(27)~~ (26) supported living services;
- 12.19 ~~(28)~~ (27) transportation services; and
- 12.20 ~~(29)~~ (28) other services as approved by the federal government in the state home and
- 12.21 community-based services plan.

12.22 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,

12.23 whichever is later. The commissioner of human services shall notify the revisor of statutes

12.24 when federal approval is obtained.

12.25 Sec. 7. Minnesota Statutes 2021 Supplement, section 256B.4914, subdivision 5, is amended

12.26 to read:

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

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

13.1 receiving home and community-based services. For purposes of developing and calculating
13.2 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
13.3 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
13.4 the most recent edition of the Occupational Handbook must be used. The base wage index
13.5 must be calculated as follows:

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

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

13.11 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
13.12 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
13.13 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
13.14 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
13.15 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

13.16 (2) for adult day services, 70 percent of the median wage for nursing assistant (SOC
13.17 code 31-1014); and 30 percent of the median wage for personal care aide (SOC code
13.18 39-9021);

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

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

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

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

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

13.32 (8) for supportive living services staff, 20 percent of the median wage for nursing assistant
13.33 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code

14.1 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
14.2 21-1093);

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

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

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

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

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

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

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

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

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

15.1 (18) for night supervision staff, 20 percent of the median wage for home health aide
 15.2 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
 15.3 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
 15.4 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
 15.5 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

15.6 ~~(19) for respite staff, 50 percent of the median wage for personal and home care aide~~
 15.7 ~~(SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code~~
 15.8 ~~31-1014);~~

15.9 ~~(20)~~ (19) for personal support staff, 50 percent of the median wage for personal and
 15.10 home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant
 15.11 (SOC code 31-1014);

15.12 ~~(21)~~ (20) for supervisory staff, 100 percent of the median wage for community and social
 15.13 services specialist (SOC code 21-1099), with the exception of the supervisor of positive
 15.14 supports professional, positive supports analyst, and positive supports specialists, which is
 15.15 100 percent of the median wage for clinical counseling and school psychologist (SOC code
 15.16 19-3031);

15.17 ~~(22)~~ (21) for registered nurse staff, 100 percent of the median wage for registered nurses
 15.18 (SOC code 29-1141); and

15.19 ~~(23)~~ (22) for licensed practical nurse staff, 100 percent of the median wage for licensed
 15.20 practical nurses (SOC code 29-2061).

15.21 (b) Component values for corporate foster care services, corporate supportive living
 15.22 services daily, community residential services, and integrated community support services
 15.23 are:

15.24 (1) competitive workforce factor: 4.7 percent;

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

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

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

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

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

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

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

- 16.1 (1) competitive workforce factor: 4.7 percent;
- 16.2 (2) supervisory span of control ratio: 11 percent;
- 16.3 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 16.4 (4) employee-related cost ratio: 23.6 percent;
- 16.5 (5) general administrative support ratio: 3.3 percent;
- 16.6 (6) program-related expense ratio: 1.3 percent; and
- 16.7 (7) absence factor: 1.7 percent.
- 16.8 (d) Component values for day training and habilitation, day support services, and
- 16.9 prevocational services are:
- 16.10 (1) competitive workforce factor: 4.7 percent;
- 16.11 (2) supervisory span of control ratio: 11 percent;
- 16.12 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 16.13 (4) employee-related cost ratio: 23.6 percent;
- 16.14 (5) program plan support ratio: 5.6 percent;
- 16.15 (6) client programming and support ratio: ten percent;
- 16.16 (7) general administrative support ratio: 13.25 percent;
- 16.17 (8) program-related expense ratio: 1.8 percent; and
- 16.18 (9) absence and utilization factor ratio: 9.4 percent.
- 16.19 (e) Component values for adult day services are:
- 16.20 (1) competitive workforce factor: 4.7 percent;
- 16.21 (2) supervisory span of control ratio: 11 percent;
- 16.22 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 16.23 (4) employee-related cost ratio: 23.6 percent;
- 16.24 (5) program plan support ratio: 5.6 percent;
- 16.25 (6) client programming and support ratio: 7.4 percent;
- 16.26 (7) general administrative support ratio: 13.25 percent;
- 16.27 (8) program-related expense ratio: 1.8 percent; and

- 17.1 (9) absence and utilization factor ratio: 9.4 percent.
- 17.2 (f) Component values for unit-based services with programming are:
- 17.3 (1) competitive workforce factor: 4.7 percent;
- 17.4 (2) supervisory span of control ratio: 11 percent;
- 17.5 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 17.6 (4) employee-related cost ratio: 23.6 percent;
- 17.7 (5) program plan supports ratio: 15.5 percent;
- 17.8 (6) client programming and supports ratio: 4.7 percent;
- 17.9 (7) general administrative support ratio: 13.25 percent;
- 17.10 (8) program-related expense ratio: 6.1 percent; and
- 17.11 (9) absence and utilization factor ratio: 3.9 percent.
- 17.12 (g) Component values for unit-based services without programming except respite are:
- 17.13 (1) competitive workforce factor: 4.7 percent;
- 17.14 (2) supervisory span of control ratio: 11 percent;
- 17.15 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 17.16 (4) employee-related cost ratio: 23.6 percent;
- 17.17 (5) program plan support ratio: 7.0 percent;
- 17.18 (6) client programming and support ratio: 2.3 percent;
- 17.19 (7) general administrative support ratio: 13.25 percent;
- 17.20 (8) program-related expense ratio: 2.9 percent; and
- 17.21 (9) absence and utilization factor ratio: 3.9 percent.
- 17.22 ~~(h) Component values for unit-based services without programming for respite are:~~
- 17.23 ~~(1) competitive workforce factor: 4.7 percent;~~
- 17.24 ~~(2) supervisory span of control ratio: 11 percent;~~
- 17.25 ~~(3) employee vacation, sick, and training allowance ratio: 8.71 percent;~~
- 17.26 ~~(4) employee-related cost ratio: 23.6 percent;~~
- 17.27 ~~(5) general administrative support ratio: 13.25 percent;~~

18.1 ~~(6) program-related expense ratio: 2.9 percent; and~~

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

18.3 ~~(f)~~ (h) The commissioner shall update the base wage index in paragraph (a), publish
18.4 these updated values, and load them into the rate management system as follows:

18.5 (1) on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics
18.6 available as of December 31, 2019;

18.7 (2) on November 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics
18.8 available as of December 31, 2021; and

18.9 (3) on July 1, 2026, and every two years thereafter, based on wage data by SOC from
18.10 the Bureau of Labor Statistics available 30 months and one day prior to the scheduled update.

18.11 ~~(g)~~ (i) Beginning February 1, 2021, and every two years thereafter, the commissioner
18.12 shall report to the chairs and ranking minority members of the legislative committees and
18.13 divisions with jurisdiction over health and human services policy and finance an analysis
18.14 of the competitive workforce factor. The report must include recommendations to update
18.15 the competitive workforce factor using:

18.16 (1) the most recently available wage data by SOC code for the weighted average wage
18.17 for direct care staff for residential services and direct care staff for day services;

18.18 (2) the most recently available wage data by SOC code of the weighted average wage
18.19 of comparable occupations; and

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

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

18.25 ~~(h)~~ (j) The commissioner shall update the framework components in paragraph (d),
18.26 clause (6); paragraph (e), clause (6); paragraph (f), clause (6); and paragraph (g), clause (6);
18.27 subdivision 6, paragraphs (b), clauses (9) and (10), and (e), clause (10); and subdivision 7,
18.28 clauses (11), (17), and (18), for changes in the Consumer Price Index. The commissioner
18.29 shall adjust these values higher or lower, publish these updated values, and load them into
18.30 the rate management system as follows:

18.31 (1) on January 1, 2022, by the percentage change in the CPI-U from the date of the
18.32 previous update to the data available on December 31, 2019;

19.1 (2) on November 1, 2024, by the percentage change in the CPI-U from the date of the
19.2 previous update to the data available as of December 31, 2021; and

19.3 (3) on July 1, 2026, and every two years thereafter, by the percentage change in the
19.4 CPI-U from the date of the previous update to the data available 30 months and one day
19.5 prior to the scheduled update.

19.6 ~~(i)~~ (k) Upon the implementation of the updates under paragraphs ~~(i)~~ (h) and ~~(k)~~ (j), rate
19.7 adjustments authorized under section 256B.439, subdivision 7; Laws 2013, chapter 108,
19.8 article 7, section 60; and Laws 2014, chapter 312, article 27, section 75, shall be removed
19.9 from service rates calculated under this section.

19.10 ~~(m)~~ (l) Any rate adjustments applied to the service rates calculated under this section
19.11 outside of the cost components and rate methodology specified in this section shall be
19.12 removed from rate calculations upon implementation of the updates under paragraphs ~~(i)~~
19.13 (h) and ~~(k)~~ (j).

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

19.17 ~~(o)~~ (n) At least 80 percent of the marginal increase in revenue from the rate adjustment
19.18 applied to the service rates calculated under this section in paragraphs ~~(i)~~ (h) and ~~(k)~~ (j)
19.19 beginning on January 1, 2022, for services rendered between January 1, 2022, and March
19.20 31, 2024, must be used to increase compensation-related costs for employees directly
19.21 employed by the program on or after January 1, 2022. For the purposes of this paragraph,
19.22 compensation-related costs include:

19.23 (1) wages and salaries;

19.24 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
19.25 taxes, workers' compensation, and mileage reimbursement;

19.26 (3) the employer's paid share of health and dental insurance, life insurance, disability
19.27 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
19.28 employee retirement accounts; and

19.29 (4) benefits that address direct support professional workforce needs above and beyond
19.30 what employees were offered prior to January 1, 2022, including retention and recruitment
19.31 bonuses and tuition reimbursement.

19.32 Compensation-related costs for persons employed in the central office of a corporation or
19.33 entity that has an ownership interest in the provider or exercises control over the provider,

20.1 or for persons paid by the provider under a management contract, do not count toward the
 20.2 80 percent requirement under this paragraph. A provider agency or individual provider that
 20.3 receives a rate subject to the requirements of this paragraph shall prepare, and upon request
 20.4 submit to the commissioner, a distribution plan that specifies the amount of money the
 20.5 provider expects to receive that is subject to the requirements of this paragraph, including
 20.6 how that money was or will be distributed to increase compensation-related costs for
 20.7 employees. Within 60 days of final implementation of a rate adjustment subject to the
 20.8 requirements of this paragraph, the provider must post the distribution plan and leave it
 20.9 posted for a period of at least six months in an area of the provider's operation to which all
 20.10 direct support professionals have access.

20.11 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 20.12 whichever is later. The commissioner of human services shall notify the revisor of statutes
 20.13 when federal approval is obtained.

20.14 Sec. 8. Minnesota Statutes 2021 Supplement, section 256B.4914, subdivision 6, is amended
 20.15 to read:

20.16 **Subd. 6. Payments for residential support services.** (a) For purposes of this subdivision,
 20.17 residential support services includes 24-hour customized living services, community
 20.18 residential services, customized living services, family residential services, foster care
 20.19 services, integrated community supports, and supportive living services daily.

20.20 (b) Payments for community residential services, corporate foster care services, corporate
 20.21 supportive living services daily, family residential services, and family foster care services
 20.22 must be calculated as follows:

20.23 (1) determine the number of shared staffing and individual direct staff hours to meet a
 20.24 recipient's needs provided on site or through monitoring technology;

20.25 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
 20.26 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
 20.27 5;

20.28 (3) except for subdivision 5, paragraph (a), clauses (4) and ~~(21)~~ (20) to ~~(23)~~ (22), multiply
 20.29 the result of clause (2) by the product of one plus the competitive workforce factor in
 20.30 subdivision 5, paragraph (b), clause (1);

20.31 (4) for a recipient requiring customization for deaf and hard-of-hearing language
 20.32 accessibility under subdivision 12, add the customization rate provided in subdivision 12
 20.33 to the result of clause (3);

21.1 (5) multiply the number of shared and individual direct staff hours provided on site or
21.2 through monitoring technology and nursing hours by the appropriate staff wages;

21.3 (6) multiply the number of shared and individual direct staff hours provided on site or
21.4 through monitoring technology and nursing hours by the product of the supervision span
21.5 of control ratio in subdivision 5, paragraph (b), clause (2), and the appropriate supervision
21.6 wage in subdivision 5, paragraph (a), clause ~~(21)~~ (20);

21.7 (7) combine the results of clauses (5) and (6), excluding any shared and individual direct
21.8 staff hours provided through monitoring technology, and multiply the result by one plus
21.9 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b),
21.10 clause (3). This is defined as the direct staffing cost;

21.11 (8) for employee-related expenses, multiply the direct staffing cost, excluding any shared
21.12 and individual direct staff hours provided through monitoring technology, by one plus the
21.13 employee-related cost ratio in subdivision 5, paragraph (b), clause (4);

21.14 (9) for client programming and supports, the commissioner shall add \$2,179; and

21.15 (10) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if
21.16 customized for adapted transport, based on the resident with the highest assessed need.

21.17 (c) The total rate must be calculated using the following steps:

21.18 (1) subtotal paragraph (b), clauses (8) to (10), and the direct staffing cost of any shared
21.19 and individual direct staff hours provided through monitoring technology that was excluded
21.20 in clause (8);

21.21 (2) sum the standard general and administrative rate, the program-related expense ratio,
21.22 and the absence and utilization ratio;

21.23 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
21.24 payment amount; and

21.25 (4) adjust the result of clause (3) by a factor to be determined by the commissioner to
21.26 adjust for regional differences in the cost of providing services.

21.27 (d) The payment methodology for customized living and 24-hour customized living
21.28 must be the customized living tool. The commissioner shall revise the customized living
21.29 tool to reflect the services and activities unique to disability-related recipient needs, and
21.30 adjust for regional differences in the cost of providing services. The rate adjustments
21.31 described in section 256S.205 do not apply to rates paid under this section. Customized
21.32 living and 24-hour customized living rates determined under this section shall not include

22.1 more than 24 hours of support in a daily unit. The commissioner shall establish the following
22.2 acuity-based customized living tool input limits, based on case mix, for customized living
22.3 and 24-hour customized living rates determined under this section:

22.4 (1) no more than two hours of mental health management per day for people assessed
22.5 for case mixes A, D, and G;

22.6 (2) no more than four hours of activities of daily living assistance per day for people
22.7 assessed for case mix B; and

22.8 (3) no more than six hours of activities of daily living assistance per day for people
22.9 assessed for case mix D.

22.10 (e) Payments for integrated community support services must be calculated as follows:

22.11 (1) the base shared staffing must be eight hours divided by the number of people receiving
22.12 support in the integrated community support setting;

22.13 (2) the individual staffing hours must be the average number of direct support hours
22.14 provided directly to the service recipient;

22.15 (3) the personnel hourly wage rate must be based on the most recent Bureau of Labor
22.16 Statistics Minnesota-specific rates or rates derived by the commissioner as provided in
22.17 subdivision 5;

22.18 (4) except for subdivision 5, paragraph (a), clauses (4) and ~~(21)~~ (20) to ~~(23)~~ (22), multiply
22.19 the result of clause (3) by the product of one plus the competitive workforce factor in
22.20 subdivision 5, paragraph (b), clause (1);

22.21 (5) for a recipient requiring customization for deaf and hard-of-hearing language
22.22 accessibility under subdivision 12, add the customization rate provided in subdivision 12
22.23 to the result of clause (4);

22.24 (6) multiply the number of shared and individual direct staff hours in clauses (1) and
22.25 (2) by the appropriate staff wages;

22.26 (7) multiply the number of shared and individual direct staff hours in clauses (1) and
22.27 (2) by the product of the supervisory span of control ratio in subdivision 5, paragraph (b),
22.28 clause (2), and the appropriate supervisory wage in subdivision 5, paragraph (a), clause ~~(21)~~
22.29 (20);

22.30 (8) combine the results of clauses (6) and (7) and multiply the result by one plus the
22.31 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b), clause
22.32 (3). This is defined as the direct staffing cost;

23.1 (9) for employee-related expenses, multiply the direct staffing cost by one plus the
23.2 employee-related cost ratio in subdivision 5, paragraph (b), clause (4); and

23.3 (10) for client programming and supports, the commissioner shall add \$2,260.21 divided
23.4 by 365.

23.5 (f) The total rate must be calculated as follows:

23.6 (1) add the results of paragraph (e), clauses (9) and (10);

23.7 (2) add the standard general and administrative rate, the program-related expense ratio,
23.8 and the absence and utilization factor ratio;

23.9 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
23.10 payment amount; and

23.11 (4) adjust the result of clause (3) by a factor to be determined by the commissioner to
23.12 adjust for regional differences in the cost of providing services.

23.13 (g) The number of days authorized for all individuals enrolling in residential services
23.14 must include every day that services start and end.

23.15 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
23.16 whichever is later. The commissioner of human services shall notify the revisor of statutes
23.17 when federal approval is obtained.

23.18 Sec. 9. Minnesota Statutes 2020, section 256B.4914, subdivision 7, is amended to read:

23.19 Subd. 7. **Payments for day programs.** Payments for services with day programs
23.20 including adult day services, day treatment and habilitation, day support services,
23.21 prevocational services, and structured day services must be calculated as follows:

23.22 (1) determine the number of units of service and staffing ratio to meet a recipient's needs:

23.23 (i) the staffing ratios for the units of service provided to a recipient in a typical week
23.24 must be averaged to determine an individual's staffing ratio; and

23.25 (ii) the commissioner, in consultation with service providers, shall develop a uniform
23.26 staffing ratio worksheet to be used to determine staffing ratios under this subdivision;

23.27 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
23.28 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
23.29 5;

24.1 (3) except for subdivision 5, paragraph (a), clauses (4) and ~~(21)~~ (20) to ~~(23)~~ (22), multiply
24.2 the result of clause (2) by the product of one plus the competitive workforce factor in
24.3 subdivision 5, paragraph (d), clause (1);

24.4 (4) for a recipient requiring customization for deaf and hard-of-hearing language
24.5 accessibility under subdivision 12, add the customization rate provided in subdivision 12
24.6 to the result of clause (3);

24.7 (5) multiply the number of day program direct staff hours and nursing hours by the
24.8 appropriate staff wage;

24.9 (6) multiply the number of day direct staff hours by the product of the supervision span
24.10 of control ratio in subdivision 5, paragraph (d), clause (2), and the appropriate supervision
24.11 wage in subdivision 5, paragraph (a), clause ~~(21)~~ (20);

24.12 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
24.13 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (d), clause
24.14 (3). This is defined as the direct staffing rate;

24.15 (8) for program plan support, multiply the result of clause (7) by one plus the program
24.16 plan support ratio in subdivision 5, paragraph (d), clause (5);

24.17 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
24.18 employee-related cost ratio in subdivision 5, paragraph (d), clause (4);

24.19 (10) for client programming and supports, multiply the result of clause (9) by one plus
24.20 the client programming and support ratio in subdivision 5, paragraph (d), clause (6);

24.21 (11) for program facility costs, add \$19.30 per week with consideration of staffing ratios
24.22 to meet individual needs;

24.23 (12) for adult day bath services, add \$7.01 per 15 minute unit;

24.24 (13) this is the subtotal rate;

24.25 (14) sum the standard general and administrative rate, the program-related expense ratio,
24.26 and the absence and utilization factor ratio;

24.27 (15) divide the result of clause (13) by one minus the result of clause (14). This is the
24.28 total payment amount;

24.29 (16) adjust the result of clause (15) by a factor to be determined by the commissioner
24.30 to adjust for regional differences in the cost of providing services;

25.1 (17) for transportation provided as part of day training and habilitation for an individual
 25.2 who does not require a lift, add:

25.3 (i) \$10.50 for a trip between zero and ten miles for a nonshared ride in a vehicle without
 25.4 a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a shared ride in a
 25.5 vehicle with a lift;

25.6 (ii) \$15.75 for a trip between 11 and 20 miles for a nonshared ride in a vehicle without
 25.7 a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88 for a shared ride in a
 25.8 vehicle with a lift;

25.9 (iii) \$25.75 for a trip between 21 and 50 miles for a nonshared ride in a vehicle without
 25.10 a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88 for a shared ride in a
 25.11 vehicle with a lift; or

25.12 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
 25.13 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
 25.14 with a lift;

25.15 (18) for transportation provided as part of day training and habilitation for an individual
 25.16 who does require a lift, add:

25.17 (i) \$19.05 for a trip between zero and ten miles for a nonshared ride in a vehicle with a
 25.18 lift, and \$15.05 for a shared ride in a vehicle with a lift;

25.19 (ii) \$32.16 for a trip between 11 and 20 miles for a nonshared ride in a vehicle with a
 25.20 lift, and \$28.16 for a shared ride in a vehicle with a lift;

25.21 (iii) \$58.76 for a trip between 21 and 50 miles for a nonshared ride in a vehicle with a
 25.22 lift, and \$58.76 for a shared ride in a vehicle with a lift; or

25.23 (iv) \$80.93 for a trip of 51 miles or more for a nonshared ride in a vehicle with a lift,
 25.24 and \$80.93 for a shared ride in a vehicle with a lift.

25.25 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 25.26 whichever is later. The commissioner of human services shall notify the revisor of statutes
 25.27 when federal approval is obtained.

25.28 Sec. 10. Minnesota Statutes 2020, section 256B.4914, subdivision 8, is amended to read:

25.29 Subd. 8. **Payments for unit-based services with programming.** Payments for unit-based
 25.30 services with programming, including employment exploration services, employment
 25.31 development services, housing access coordination, individualized home supports with
 25.32 family training, individualized home supports with training, in-home family support,

26.1 independent living skills training, and hourly supported living services provided to an
26.2 individual outside of any day or residential service plan must be calculated as follows, unless
26.3 the services are authorized separately under subdivision 6 or 7:

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

26.5 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
26.6 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
26.7 5;

26.8 (3) except for subdivision 5, paragraph (a), clauses (4) and ~~(21)~~ (20) to ~~(23)~~ (22), multiply
26.9 the result of clause (2) by the product of one plus the competitive workforce factor in
26.10 subdivision 5, paragraph (f), clause (1);

26.11 (4) for a recipient requiring customization for deaf and hard-of-hearing language
26.12 accessibility under subdivision 12, add the customization rate provided in subdivision 12
26.13 to the result of clause (3);

26.14 (5) multiply the number of direct staff hours by the appropriate staff wage;

26.15 (6) multiply the number of direct staff hours by the product of the supervision span of
26.16 control ratio in subdivision 5, paragraph (f), clause (2), and the appropriate supervision
26.17 wage in subdivision 5, paragraph (a), clause ~~(21)~~ (20);

26.18 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
26.19 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (f), clause
26.20 (3). This is defined as the direct staffing rate;

26.21 (8) for program plan support, multiply the result of clause (7) by one plus the program
26.22 plan supports ratio in subdivision 5, paragraph (f), clause (5);

26.23 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
26.24 employee-related cost ratio in subdivision 5, paragraph (f), clause (4);

26.25 (10) for client programming and supports, multiply the result of clause (9) by one plus
26.26 the client programming and supports ratio in subdivision 5, paragraph (f), clause (6);

26.27 (11) this is the subtotal rate;

26.28 (12) sum the standard general and administrative rate, the program-related expense ratio,
26.29 and the absence and utilization factor ratio;

26.30 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
26.31 total payment amount;

27.1 (14) for employment exploration services provided in a shared manner, divide the total
 27.2 payment amount in clause (13) by the number of service recipients, not to exceed five. For
 27.3 employment support services provided in a shared manner, divide the total payment amount
 27.4 in clause (13) by the number of service recipients, not to exceed six. For independent living
 27.5 skills training, individualized home supports with training, and individualized home supports
 27.6 with family training provided in a shared manner, divide the total payment amount in clause
 27.7 (13) by the number of service recipients, not to exceed two; and

27.8 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
 27.9 to adjust for regional differences in the cost of providing services.

27.10 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 27.11 whichever is later. The commissioner of human services shall notify the revisor of statutes
 27.12 when federal approval is obtained.

27.13 Sec. 11. Minnesota Statutes 2020, section 256B.4914, subdivision 9, is amended to read:

27.14 **Subd. 9. Payments for unit-based services without programming.** Payments for
 27.15 unit-based services without programming, including individualized home supports, night
 27.16 supervision, personal support, ~~respite~~, and companion care provided to an individual outside
 27.17 of any day or residential service plan must be calculated as follows unless the services are
 27.18 authorized separately under subdivision 6 or 7:

27.19 (1) ~~for all services except respite~~, determine the number of units of service to meet a
 27.20 recipient's needs;

27.21 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
 27.22 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

27.23 (3) except for subdivision 5, paragraph (a), clauses (4) and ~~(21)~~ (20) to ~~(23)~~ (22), multiply
 27.24 the result of clause (2) by the product of one plus the competitive workforce factor in
 27.25 subdivision 5, paragraph (g), clause (1);

27.26 (4) for a recipient requiring customization for deaf and hard-of-hearing language
 27.27 accessibility under subdivision 12, add the customization rate provided in subdivision 12
 27.28 to the result of clause (3);

27.29 (5) multiply the number of direct staff hours by the appropriate staff wage;

27.30 (6) multiply the number of direct staff hours by the product of the supervision span of
 27.31 control ratio in subdivision 5, paragraph (g), clause (2), and the appropriate supervision
 27.32 wage in subdivision 5, paragraph (a), clause ~~(21)~~ (20);

28.1 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
28.2 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (g), clause
28.3 (3). This is defined as the direct staffing rate;

28.4 (8) for program plan support, multiply the result of clause (7) by one plus the program
28.5 plan support ratio in subdivision 5, paragraph (g), clause (5);

28.6 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
28.7 employee-related cost ratio in subdivision 5, paragraph (g), clause (4);

28.8 (10) for client programming and supports, multiply the result of clause (9) by one plus
28.9 the client programming and support ratio in subdivision 5, paragraph (g), clause (6);

28.10 (11) this is the subtotal rate;

28.11 (12) sum the standard general and administrative rate, the program-related expense ratio,
28.12 and the absence and utilization factor ratio;

28.13 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
28.14 total payment amount;

28.15 ~~(14) for respite services, determine the number of day units of service to meet an~~
28.16 ~~individual's needs;~~

28.17 ~~(15) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics~~
28.18 ~~Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;~~

28.19 ~~(16) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the~~
28.20 ~~result of clause (15) by the product of one plus the competitive workforce factor in~~
28.21 ~~subdivision 5, paragraph (h), clause (1);~~

28.22 ~~(17) for a recipient requiring deaf and hard-of-hearing customization under subdivision~~
28.23 ~~12, add the customization rate provided in subdivision 12 to the result of clause (16);~~

28.24 ~~(18) multiply the number of direct staff hours by the appropriate staff wage;~~

28.25 ~~(19) multiply the number of direct staff hours by the product of the supervisory span of~~
28.26 ~~control ratio in subdivision 5, paragraph (h), clause (2), and the appropriate supervision~~
28.27 ~~wage in subdivision 5, paragraph (a), clause (21);~~

28.28 (20) combine the results of clauses (18) and (19), and multiply the result by one plus
28.29 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (h),
28.30 clause (3). This is defined as the direct staffing rate;

29.1 ~~(21) for employee-related expenses, multiply the result of clause (20) by one plus the~~
 29.2 ~~employee-related cost ratio in subdivision 5, paragraph (h), clause (4);~~

29.3 ~~(22) this is the subtotal rate;~~

29.4 ~~(23) sum the standard general and administrative rate, the program-related expense ratio,~~
 29.5 ~~and the absence and utilization factor ratio;~~

29.6 ~~(24) divide the result of clause (22) by one minus the result of clause (23). This is the~~
 29.7 ~~total payment amount;~~

29.8 ~~(25)~~ (14) for individualized home supports provided in a shared manner, divide the total
 29.9 payment amount in clause (13) by the number of service recipients, not to exceed two; and

29.10 ~~(26) for respite care services provided in a shared manner, divide the total payment~~
 29.11 ~~amount in clause (24) by the number of service recipients, not to exceed three; and~~

29.12 ~~(27)~~ (15) adjust the result of clauses (13), ~~(25)~~, and ~~(26)~~ (14) by a factor to be determined
 29.13 by the commissioner to adjust for regional differences in the cost of providing services.

29.14 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 29.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
 29.16 when federal approval is obtained.

29.17 Sec. 12. Minnesota Statutes 2020, section 256B.4914, subdivision 10, is amended to read:

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

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

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

29.25 (3) the distinct underlying costs for services provided by a license holder under sections
 29.26 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
 29.27 by a license holder certified under section 245D.33.

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

29.31 (1) values for transportation rates;

- 30.1 (2) values for services where monitoring technology replaces staff time;
- 30.2 (3) values for indirect services;
- 30.3 (4) values for nursing;
- 30.4 (5) values for the facility use rate in day services, and the weightings used in the day
- 30.5 service ratios and adjustments to those weightings;
- 30.6 (6) values for workers' compensation as part of employee-related expenses;
- 30.7 (7) values for unemployment insurance as part of employee-related expenses;
- 30.8 (8) direct care workforce labor market measures;
- 30.9 (9) any changes in state or federal law with a direct impact on the underlying cost of
- 30.10 providing home and community-based services;
- 30.11 (10) outcome measures, determined by the commissioner, for home and community-based
- 30.12 services rates determined under this section; and
- 30.13 (11) different competitive workforce factors by service, as determined under subdivision
- 30.14 5, paragraph ~~(j)~~ (i).
- 30.15 (c) The commissioner shall report to the chairs and the ranking minority members of
- 30.16 the legislative committees and divisions with jurisdiction over health and human services
- 30.17 policy and finance with the information and data gathered under paragraphs (a) and (b) on
- 30.18 January 15, 2021, with a full report, and a full report once every four years thereafter.
- 30.19 (d) Beginning July 1, 2022, the commissioner shall renew analysis and implement
- 30.20 changes to the regional adjustment factors once every six years. Prior to implementation,
- 30.21 the commissioner shall consult with stakeholders on the methodology to calculate the
- 30.22 adjustment.
- 30.23 (e) The commissioner shall provide a public notice via LISTSERV in October of each
- 30.24 year containing information detailing legislatively approved changes in:
- 30.25 (1) calculation values including derived wage rates and related employee and
- 30.26 administrative factors;
- 30.27 (2) service utilization;
- 30.28 (3) county and tribal allocation changes; and
- 30.29 (4) information on adjustments made to calculation values and the timing of those
- 30.30 adjustments.

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

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

31.5 (g) The commissioner shall collect transportation and trip information for all day services
31.6 through the rates management system.

31.7 (h) The commissioner, in consultation with stakeholders, shall study value-based models
31.8 and outcome-based payment strategies for fee-for-service home and community-based
31.9 services and report to the legislative committees with jurisdiction over the disability waiver
31.10 rate system by October 1, 2020, with recommended strategies to: (1) promote new models
31.11 of care, services, and reimbursement structures that require more efficient use of public
31.12 dollars while improving the outcomes most valued by the individuals served; (2) assist
31.13 clients and their families in evaluating options and stretching individual budget funds; (3)
31.14 support individualized, person-centered planning and individual budget choices; and (4)
31.15 create a broader range of client options geographically or targeted at culturally competent
31.16 models for racial and ethnic minority groups.

31.17 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
31.18 whichever is later. The commissioner of human services shall notify the revisor of statutes
31.19 when federal approval is obtained.