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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **1199**

02/25/2015 Authored by Pierson, Hamilton, Schomacker, Anzelc, Newton and others

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

03/09/2015 Adoption of Report: Re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

03/19/2015 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; increasing the base wage for residential
1.3 asleep-overnight staff; increasing ICF/DD payment rates to defray costs resulting
1.4 from increases in the minimum wage; amending Minnesota Statutes 2014,
1.5 sections 256B.4914, subdivision 5; 256B.5012, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2014, section 256B.4914, subdivision 5, is amended to
1.8 read:

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

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

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

1.21 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
1.22 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
1.23 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
1.24 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
1.25 percent of the median wage for social and human services aide (SOC code 21-1093);

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

(3) for residential asleep-overnight staff, the base wage will be \$7.66 per hour is either the minimum wage specified in section 177.24, subdivision 1, or the federal minimum wage, whichever is higher, except in a family foster care setting, where the base wage is \$2.80 per hour;

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

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

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

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

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

(9) for in-home family support staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of the median wage for community social service specialist (SOC code 21-1099); 40 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

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

(11) for supported employment staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

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

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

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

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

(16) for supervisory staff, the basic wage is \$17.43 per hour with exception of the supervisor of behavior analyst and behavior specialists, which must be \$30.75 per hour;

(17) for registered nurse, the basic wage is \$30.82 per hour; and

(18) for licensed practical nurse, the basic wage is \$18.64 per hour.

(b) Component values for residential support services are:

(1) supervisory span of control ratio: 11 percent;

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

(3) employee-related cost ratio: 23.6 percent;

(4) general administrative support ratio: 13.25 percent;

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

(6) absence and utilization factor ratio: 3.9 percent.

(c) Component values for family foster care are:

(1) supervisory span of control ratio: 11 percent;

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

(3) employee-related cost ratio: 23.6 percent;

(4) general administrative support ratio: 3.3 percent;

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

(6) absence factor: 1.7 percent.

(d) Component values for day services for all services are:

(1) supervisory span of control ratio: 11 percent;

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

(3) employee-related cost ratio: 23.6 percent;

(4) program plan support ratio: 5.6 percent;

(5) client programming and support ratio: ten percent;

(6) general administrative support ratio: 13.25 percent;

- 4.1 (7) program-related expense ratio: 1.8 percent; and
- 4.2 (8) absence and utilization factor ratio: 3.9 percent.
- 4.3 (e) Component values for unit-based services with programming are:
- 4.4 (1) supervisory span of control ratio: 11 percent;
- 4.5 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 4.6 (3) employee-related cost ratio: 23.6 percent;
- 4.7 (4) program plan supports ratio: 3.1 percent;
- 4.8 (5) client programming and supports ratio: 8.6 percent;
- 4.9 (6) general administrative support ratio: 13.25 percent;
- 4.10 (7) program-related expense ratio: 6.1 percent; and
- 4.11 (8) absence and utilization factor ratio: 3.9 percent.
- 4.12 (f) Component values for unit-based services without programming except respite
- 4.13 are:
- 4.14 (1) supervisory span of control ratio: 11 percent;
- 4.15 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 4.16 (3) employee-related cost ratio: 23.6 percent;
- 4.17 (4) program plan support ratio: 3.1 percent;
- 4.18 (5) client programming and support ratio: 8.6 percent;
- 4.19 (6) general administrative support ratio: 13.25 percent;
- 4.20 (7) program-related expense ratio: 6.1 percent; and
- 4.21 (8) absence and utilization factor ratio: 3.9 percent.
- 4.22 (g) Component values for unit-based services without programming for respite are:
- 4.23 (1) supervisory span of control ratio: 11 percent;
- 4.24 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 4.25 (3) employee-related cost ratio: 23.6 percent;
- 4.26 (4) general administrative support ratio: 13.25 percent;
- 4.27 (5) program-related expense ratio: 6.1 percent; and
- 4.28 (6) absence and utilization factor ratio: 3.9 percent.
- 4.29 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
- 4.30 (a) based on the wage data by standard occupational code (SOC) from the Bureau of
- 4.31 Labor Statistics available on December 31, 2016. The commissioner shall publish these
- 4.32 updated values and load them into the rate management system. This adjustment occurs
- 4.33 every five years. For adjustments in 2021 and beyond, the commissioner shall use the data
- 4.34 available on December 31 of the calendar year five years prior.
- 4.35 (i) On July 1, 2017, the commissioner shall update the framework components
- 4.36 in paragraphs (b) to (g); subdivision 6, clauses (8) and (9); and subdivision 7, clauses

(16) and (17), for changes in the Consumer Price Index. The commissioner will adjust these values higher or lower by the percentage change in the Consumer Price Index-All Items, United States city average (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner shall publish these updated values and load them into the rate management system. This adjustment occurs every five years. For adjustments in 2021 and beyond, the commissioner shall use the data available on January 1 of the calendar year four years prior and January 1 of the current calendar year.

(j) Within 12 months following any change in the minimum wage specified in section 177.24, subdivision 1, or the federal minimum wage, the commissioner must adjust Medicaid Management Information System (MMIS) service agreements to reflect this change. These adjustments to MMIS must be made for banding period rates, retroactive to the date of the minimum wage increase, under section 256B.4913, subdivision 4a, as well as for all postbanding period rates.

Sec. 2. Minnesota Statutes 2014, section 256B.5012, is amended by adding a subdivision to read:

Subd. 17. **ICF/DD rate increase to defray minimum wage increases.** (a) Effective August 1, 2015, the operating payment rates for any qualifying ICF/DD, as defined in paragraph (b), must be increased whenever the facility can demonstrate an increase in costs directly attributable to an increase in the minimum wage specified in section 177.24, or to an increase in the federal minimum wage. Costs directly attributable to a legally required increase in the minimum wage include: (1) salary increases; and (2) the employer's share of FICA, Medicare taxes, employer-sponsored retirement plans, federal and state unemployment insurances, and workers' compensation. All increased revenue from this rate increase must be used solely to increase the compensation of minimum wage employees of the facility.

(b) In order to qualify for a rate increase under paragraph (a), a facility must submit an application to the commissioner within six months following an increase in the minimum wage. The application shall be submitted in a form and manner prescribed by the commissioner, but must include: (1) a clear computation of the facility's total increased costs directly attributable to the increase in the minimum wage, as defined in paragraph (a); and (2) a plan by which the facility will distribute the increased revenue to minimum wage employees of the facility.

(c) For each facility that applies for a rate increase under paragraph (a), the commissioner must determine the total increased costs as a percentage of the facility's operating payment rate in effect on the day of the minimum wage increase.

- 6.1 (d) For each facility reimbursed under this subdivision, the commissioner shall
6.2 increase operating payments under this section equal to the percentage determined in
6.3 paragraph (c). The commissioner shall apply the rate increase to each qualifying facility's
6.4 payment rate based on occupied beds, using the percentage specified in paragraph (c),
6.5 multiplied by the total payment rate in effect on the day prior to the minimum wage
6.6 increase, including the variable rate, but excluding the property-related payment rate.
6.7 (e) The rate increase under this subdivision is effective retroactively from the day
6.8 the minimum wage increases.