

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 873

02/06/2017 Authored by Hamilton; Murphy, E.; Schomacker; Liebling; Dean, M., and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
02/15/2017 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; modifying reimbursement rates for intermediate care
1.3 facilities for persons with developmental disabilities and for home and
1.4 community-based providers; amending Minnesota Statutes 2016, section
1.5 256B.5012, by adding a subdivision; proposing coding for new law in Minnesota
1.6 Statutes, chapter 256B.

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

1.8 Section 1. 256B.4915 **DISABILITY WAIVER REIMBURSEMENT RATE**
1.9 **ADJUSTMENTS.**

1.10 Subdivision 1. Historical rate. The commissioner of human services shall adjust the
1.11 historical rates calculated in section 256B.4913, subdivision 4a, paragraph (b), in effect
1.12 during the banding period under section 256B.4913, subdivision 4a, paragraph (a), for each
1.13 reimbursement rate adjustment under section 256B.4919; Laws 2013, chapter 108, article
1.14 7, sections 34 and 60; and Laws 2014, chapter 312, article 27, sections 57 and 75.

1.15 Subd. 2. Disability waiver rates system. The commissioner shall adjust the rates
1.16 calculated in sections 256B.4914, subdivision 6, paragraphs (b) and (c); 256B.4914,
1.17 subdivision 7; 256B.4914, subdivision 8; and 256B.4914, subdivision 9, for each
1.18 reimbursement rate adjustment under Laws 2013, chapter 108, article 7, sections 34 and
1.19 60; and Laws 2014, chapter 312, article 27, sections 57 and 75.

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

2.1       Sec. 2. [256B.4919] HOME AND COMMUNITY-BASED SERVICE PROVIDER  
2.2       RATE AND GRANT ADJUSTMENTS.

2.3       Subdivision 1. Definitions. (a) For the purposes of this section, the terms in this  
2.4       subdivision have the meaning given, unless otherwise provided for in this section.

2.5       (b) "Employee" means a person directly employed by a provider and who provides direct  
2.6       care to an individual. Employee does not include:

2.7       (1) a person employed in the central office of a corporation or entity that has an ownership  
2.8       interest in the provider or exercises control over the provider;

2.9       (2) a person paid by the provider under a management contract;

2.10       (3) a person employed by a provider that has less than five percent of the provider's  
2.11       direct care employees providing services impacted by rate increases under subdivision 2;

2.12       or

2.13       (4) a person employed by a county, except for a county employee providing services  
2.14       under paragraph (d), clause (1).

2.15       (c) "Rates" means the payments made by the commissioner of human services for  
2.16       services. Rates includes reimbursement rates, rate limits, individual limits, grants, or  
2.17       allocations, as applicable.

2.18       (d) "Services" refers to:

2.19       (1) home and community-based services that have payment rates determined under  
2.20       section 256B.4914;

2.21       (2) nursing services and home health services under section 256B.0625, subdivision 6a;

2.22       (3) personal care services and qualified professional supervision of personal care services  
2.23       under section 256B.0625, subdivisions 6a and 19a;

2.24       (4) home care nursing services under section 256B.0625, subdivision 7;

2.25       (5) community first services and supports under section 256B.85;

2.26       (6) essential community supports under section 256B.0922;

2.27       (7) day training and habilitation services for adults with developmental disabilities under  
2.28       sections 252.41 to 252.46, including the additional cost to counties of the rate adjustments  
2.29       on day training and habilitation services provided as a social service;

2.30       (8) semi-independent living services under section 252.275;

- 3.1 (9) consumer support grants under section 256.476;  
3.2 (10) housing access grants under section 256B.0658;  
3.3 (11) self-advocacy grants under Laws 2009, chapter 101;  
3.4 (12) deaf and hard-of-hearing grants, including community support services for deaf  
3.5 and hard-of-hearing adults with mental illness who use or wish to use sign language as their  
3.6 primary means of communication under section 256.01, subdivision 2;  
3.7 (13) deaf and hard-of-hearing grants under sections 256C.233, 256C.25, and 256C.261;  
3.8 (14) employment support grants under section 256B.021, subdivision 6; and  
3.9 (15) grants provided to people who are eligible for the Housing Opportunities for Persons  
3.10 with AIDS Program under section 256B.492.

3.11 Subd. 2. **Rate and grant adjustments.** (a) For the rate period beginning July 1, 2017,  
3.12 the commissioner shall increase rates for services by an amount equal to four percent of  
3.13 rates in effect on June 30, 2017.

3.14 (b) For the rate period beginning July 1, 2018, the commissioner shall increase rates for  
3.15 services by an amount equal to four percent of rates in effect on June 30, 2018.

3.16 Subd. 3. **Wage increases.** Except as provided in subdivision 6, a provider that receives  
3.17 a rate increase under subdivision 2 must increase the wages for employees employed on or  
3.18 after the effective date of each rate increase by a percentage equal to the percent increase  
3.19 in rates.

3.20 Subd. 4. **Certification of wage increases.** (a) A provider that receives a rate increase  
3.21 under subdivision 2 shall prepare and submit to the commissioner a certification that specifies  
3.22 that all employees received a wage increase consistent with the requirements of subdivision  
3.23 3.

3.24 (b) Within six months of the effective date of each rate increase, the provider shall post  
3.25 a copy of the certification required under paragraph (a). The provider must post the  
3.26 certification for at least six weeks in an area of the provider's operation to which all  
3.27 employees have access and must provide instructions for employees who do not believe  
3.28 they received the wage increases specified in the certification. The instructions must include  
3.29 a mailing address, e-mail address, and telephone number that an employee may use to  
3.30 contact the commissioner or the commissioner's representative.

3.31 Subd. 5. **Employees represented by exclusive bargaining representative.** For a  
3.32 provider that has employees who are represented by an exclusive bargaining representative,

4.1 the provider shall obtain a letter of acceptance of the certification required under subdivision  
4.2 4, relating to the members of the bargaining unit, signed by the exclusive bargaining agent.  
4.3 Upon receipt of the letter of acceptance, the provider shall be deemed to have met all the  
4.4 requirements of this section relating to the members of the bargaining unit. The provider  
4.5 shall submit the letter of acceptance to the commissioner along with the certification required  
4.6 by subdivision 4.

4.7 Subd. 6. **Public employees under collective bargaining agreement.** For public  
4.8 employees under a collective bargaining agreement, the increases for wages are available  
4.9 and wages may be increased, but only to the extent that the wage increases comply with  
4.10 laws governing public employees' collective bargaining.

4.11 Subd. 7. **Lead agency waiver budget allocations.** On the effective date of each rate  
4.12 adjustment under subdivision 2, the commissioner shall adjust home and community-based  
4.13 waivered service budget allocations to lead agencies to reflect the rate adjustment.

4.14 Subd. 8. **State grant contracts.** The commissioner shall amend state grant contracts  
4.15 that include direct personnel-related grant expenditures to include an increased allocation  
4.16 for the portion of the contract related to employee wages. Grant contracts for wages for  
4.17 direct care workers must be amended to pass through these adjustments within 60 days of  
4.18 the effective date of each rate adjustment under subdivision 2 and must be retroactive to its  
4.19 effective date.

4.20 Subd. 9. **Managed care and county-based purchasing plans.** The commissioner shall  
4.21 adjust on the effective date of each rate adjustment under subdivision 2 the capitation rates  
4.22 paid to managed care plans and county-based purchasing plans under section 256B.69 to  
4.23 reflect each rate adjustment for the services eligible for rate adjustments under this section.  
4.24 A managed care plan or county-based purchasing plan receiving state payments for these  
4.25 services must include the increase in their payments to providers.

4.26 Subd. 10. **Consumer-directed community supports.** Counties shall increase the budget  
4.27 for each recipient of consumer-directed community supports by the amount of each rate  
4.28 increase in subdivision 2 on its effective date.

4.29 Subd. 11. **County and tribal contracts.** County or tribal contracts for services must be  
4.30 amended to pass through each rate increase within 60 days of the effective date of the  
4.31 increase.

4.32 Subd. 12. **Direct care worker health care coverage.** For the rate period beginning July  
4.33 1, 2019, and annually thereafter, the commissioner shall increase rates for each provider

5.1 reimbursed under this section in an amount equal to that provider's annualized cost to provide  
5.2 single health care coverage for its employees during the second most recent rate period.

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

5.4 Sec. 3. Minnesota Statutes 2016, section 256B.5012, is amended by adding a subdivision  
5.5 to read:

5.6 Subd. 17. **ICF/DD rate increases effective July 1, 2017, and July 1, 2018.** (a) For the  
5.7 rate period beginning July 1, 2017, the commissioner shall increase operating payments for  
5.8 each facility reimbursed under this section by an amount equal to four percent of the operating  
5.9 payment rates in effect on June 30, 2017. For the rate period beginning July 1, 2018, the  
5.10 commissioner shall increase operating payments for each facility reimbursed under this  
5.11 section by an amount equal to four percent of the operating payment rates in effect on June  
5.12 30, 2018.

5.13 (b) For each facility, the commissioner shall apply the rate increases based on occupied  
5.14 beds, using the percentage specified in this subdivision multiplied by the total payment rate,  
5.15 including the variable rate but excluding the property-related payment rate, in effect on the  
5.16 last day of the prior rate period. The total rate increase shall include the adjustment provided  
5.17 in section 256B.501, subdivision 12.

5.18 (c) Except as provided under paragraph (g), facilities that receive a rate increase under  
5.19 this subdivision must increase by four percent the wages for employees employed on or  
5.20 after the effective date of each rate increase. For the purposes of this subdivision, "employee"  
5.21 means a person who is employed directly by the facility and who provides direct care to  
5.22 individuals. Employee does not mean a person who is employed in the central office of a  
5.23 corporation or entity that has an ownership interest in the facility or exercises control over  
5.24 the facility, nor a person who is paid by the facility under a management contract.

5.25 (d) A facility that receives a rate adjustment under paragraph (a) shall prepare and submit  
5.26 to the commissioner a certification that all employees received a wage increase consistent  
5.27 with the requirements of paragraph (c).

5.28 (e) Within six months of the effective date of each rate adjustment, the facility shall post  
5.29 a copy of the certification required under paragraph (d). The facility must post the  
5.30 certification for at least six weeks in an area of the facility's operation to which all employees  
5.31 have access and must provide instructions for employees who do not believe they received  
5.32 the wage increases specified in the certification. The instructions must include a mailing

6.1 address, e-mail address, and telephone number that an employee may use to contact the  
6.2 commissioner or the commissioner's representative.

6.3 (f) For a facility that has employees represented by an exclusive bargaining representative,  
6.4 the provider shall obtain a letter of acceptance of the certification required under paragraph  
6.5 (d), relating to the members of the bargaining unit, signed by the exclusive bargaining agent.  
6.6 Upon receipt of the letter of acceptance, the facility shall be deemed to have met all the  
6.7 requirements of this subdivision relating to the members of the bargaining unit. The facility  
6.8 shall submit the letter of acceptance to the commissioner along with the certification as  
6.9 required by paragraph (d).

6.10 (g) For public employees under a collective bargaining agreement, the increases for  
6.11 wages are available and pay rates may be increased, but only to the extent that the pay rate  
6.12 increases comply with laws governing public employees' collective bargaining.

6.13 (h) The commissioner shall amend state grant contracts that include direct  
6.14 personnel-related grant expenditures to include an increased allocation for the portion of  
6.15 the contract related to employee wages. Grant contracts for wages for direct care workers  
6.16 must be amended to pass through these adjustments within 60 days of the effective date of  
6.17 the increase and must be retroactive to the date of the effective date of the increase.

6.18 (i) For the rate period beginning July 1, 2019, and annually thereafter, the commissioner  
6.19 shall increase operating payment rates for any provider reimbursed under this subdivision  
6.20 by an amount equal to the provider's annualized cost to provide single health care coverage  
6.21 for its employees during the second most recent rate period.

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

6.23 **Sec. 4. REVISOR'S INSTRUCTION.**

6.24 The revisor of statutes shall renumber the provisions of Minnesota Statutes listed in  
6.25 column A to the references listed in column B. The revisor shall also make necessary  
6.26 cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the  
6.27 renumbering.

6.28	<u>Column A</u>	<u>Column B</u>
6.29	<u>256B.038</u>	<u>256B.4917</u>
6.30	<u>256B.765</u>	<u>256B.4918</u>