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State of Minnesota
HOUSE OF REPRESENTATIVES
First Division Engrossment

NINETY-FIRST SESSION

H. F. No. 168

- 01/17/2019 Authored by Schultz
- The bill was read for the first time and referred to the Committee on Health and Human Services Policy
- 02/14/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
- Division Action**
- Referred by Chair to the Health and Human Services Finance Division*
- 02/25/2019 *Referred by Chair to the Long-Term Care Division*
- 03/25/2019 *Division action, to adopt as amended and return to Health and Human Services Finance Division*

1.1 A bill for an act

1.2 relating to human services; modifying the disability waiver rate system; requiring

1.3 reports; amending Minnesota Statutes 2018, sections 256B.4913, subdivisions 4a,

1.4 5; 256B.4914, subdivisions 2, 4, 5, 6, 7, 8, 9, 10, 10a, 14, by adding a subdivision;

1.5 repealing Minnesota Statutes 2018, section 256B.4913, subdivisions 4a, 6, 7.

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

1.7 Section 1. Minnesota Statutes 2018, section 256B.4913, subdivision 4a, is amended to

1.8 read:

1.9 Subd. 4a. **Rate stabilization adjustment.** (a) For purposes of this subdivision,

1.10 "implementation period" means the period beginning January 1, 2014, and ending on the

1.11 last day of the month in which the rate management system is populated with the data

1.12 necessary to calculate rates for substantially all individuals receiving home and

1.13 community-based waiver services under sections 256B.092 and 256B.49. "Banding period"

1.14 means the time period beginning on January 1, 2014, and ending upon the expiration of the

1.15 12-month period defined in paragraph (c), clause (5).

1.16 (b) For purposes of this subdivision, the historical rate for all service recipients means

1.17 the individual reimbursement rate for a recipient in effect on December 1, 2013, except

1.18 that:

1.19 (1) for a day service recipient who was not authorized to receive these waiver services

1.20 prior to January 1, 2014; added a new service or services on or after January 1, 2014; or

1.21 changed providers on or after January 1, 2014, the historical rate must be the weighted

1.22 average authorized rate for the provider number in the county of service, effective December

1.23 1, 2013; or

2.1 (2) for a unit-based service with programming or a unit-based service without
2.2 programming recipient who was not authorized to receive these waiver services prior to
2.3 January 1, 2014; added a new service or services on or after January 1, 2014; or changed
2.4 providers on or after January 1, 2014, the historical rate must be the weighted average
2.5 authorized rate for each provider number in the county of service, effective December 1,
2.6 2013; or

2.7 (3) for residential service recipients who change providers on or after January 1, 2014,
2.8 the historical rate must be set by each lead agency within their county aggregate budget
2.9 using their respective methodology for residential services effective December 1, 2013, for
2.10 determining the provider rate for a similarly situated recipient being served by that provider.

2.11 (c) The commissioner shall adjust individual reimbursement rates determined under this
2.12 section so that the unit rate is no higher or lower than:

2.13 (1) 0.5 percent from the historical rate for the implementation period;

2.14 (2) 0.5 percent from the rate in effect in clause (1), for the 12-month period immediately
2.15 following the time period of clause (1);

2.16 (3) 0.5 percent from the rate in effect in clause (2), for the 12-month period immediately
2.17 following the time period of clause (2);

2.18 (4) 1.0 percent from the rate in effect in clause (3), for the 12-month period immediately
2.19 following the time period of clause (3);

2.20 (5) 1.0 percent from the rate in effect in clause (4), for the 12-month period immediately
2.21 following the time period of clause (4); and

2.22 (6) no adjustment to the rate in effect in clause (5) for the 12-month period immediately
2.23 following the time period of clause (5). During this banding rate period, the commissioner
2.24 shall not enforce any rate decrease or increase that would otherwise result from the end of
2.25 the banding period. ~~The commissioner shall, upon enactment, seek federal approval for the~~
2.26 ~~addition of this banding period; and~~

2.27 ~~(7) one percent from the rate in effect in clause (6) for the 12-month period immediately~~
2.28 ~~following the time period of clause (6).~~

2.29 (d) The commissioner shall review all changes to rates that were in effect on December
2.30 1, 2013, to verify that the rates in effect produce the equivalent level of spending and service
2.31 unit utilization on an annual basis as those in effect on October 31, 2013.

3.1 (e) By December 31, 2014, the commissioner shall complete the review in paragraph
3.2 (d), adjust rates to provide equivalent annual spending, and make appropriate adjustments.

3.3 (f) During the banding period, the Medicaid Management Information System (MMIS)
3.4 service agreement rate must be adjusted to account for change in an individual's need. The
3.5 commissioner shall adjust the Medicaid Management Information System (MMIS) service
3.6 agreement rate by:

3.7 (1) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the
3.8 individual with variables reflecting the level of service in effect on December 1, 2013;

3.9 (2) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the
3.10 individual with variables reflecting the updated level of service at the time of application;
3.11 and

3.12 (3) adding to or subtracting from the Medicaid Management Information System (MMIS)
3.13 service agreement rate, the difference between the values in clauses (1) and (2).

3.14 (g) This subdivision must not apply to rates for recipients served by providers new to a
3.15 given county after January 1, 2014. Providers of personal supports services who also acted
3.16 as fiscal support entities must be treated as new providers as of January 1, 2014.

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

3.18 Sec. 2. Minnesota Statutes 2018, section 256B.4913, subdivision 5, is amended to read:

3.19 Subd. 5. **Stakeholder consultation and county training.** (a) The commissioner shall
3.20 continue consultation on regular intervals with the existing stakeholder group established
3.21 as part of the rate-setting methodology process and others, to gather input, concerns, and
3.22 data, to assist in the ~~full implementation~~ ongoing administration of the new rate payment
3.23 system and to make pertinent information available to the public through the department's
3.24 website.

3.25 (b) The commissioner shall offer training at least annually for county personnel
3.26 responsible for administering the rate-setting framework in a manner consistent with this
3.27 section and section 256B.4914.

3.28 (c) The commissioner shall maintain an online instruction manual explaining the
3.29 rate-setting framework. The manual shall be consistent with this section and section
3.30 256B.4914, and shall be accessible to all stakeholders including recipients, representatives
3.31 of recipients, county or tribal agencies, and license holders.

4.1 (d) The commissioner shall not defer to the county or tribal agency on matters of technical
4.2 application of the rate-setting framework, and a county or tribal agency shall not set rates
4.3 in a manner that conflicts with this section or section 256B.4914.

4.4 **EFFECTIVE DATE.** This section is effective January 1, 2020.

4.5 Sec. 3. Minnesota Statutes 2018, section 256B.4914, subdivision 2, is amended to read:

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

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

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

4.12 (1) typical education needed for entry;

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

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

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

4.18 ~~(d)~~ (e) "Customized living tool" means a methodology for setting service rates that
4.19 delineates and documents the amount of each component service included in a recipient's
4.20 customized living service plan.

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

4.24 ~~(e)~~ (g) "Disability waiver rates system" means a statewide system that establishes rates
4.25 that are based on uniform processes and captures the individualized nature of waiver services
4.26 and recipient needs.

4.27 ~~(f)~~ (h) "Individual staffing" means the time spent as a one-to-one interaction specific to
4.28 an individual recipient by staff to provide direct support and assistance with activities of
4.29 daily living, instrumental activities of daily living, and training to participants, and is based
4.30 on the requirements in each individual's coordinated service and support plan under section
4.31 245D.02, subdivision 4b; any coordinated service and support plan addendum under section

5.1 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
5.2 needs must also be considered.

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

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

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

5.9 ~~(j)~~ (l) "Rates management system" means a web-based software application that uses a
5.10 framework and component values, as determined by the commissioner, to establish service
5.11 rates.

5.12 ~~(k)~~ (m) "Recipient" means a person receiving home and community-based services
5.13 funded under any of the disability waivers.

5.14 ~~(l)~~ (n) "Shared staffing" means time spent by employees, not defined under paragraph
5.15 (f), providing or available to provide more than one individual with direct support and
5.16 assistance with activities of daily living as defined under section 256B.0659, subdivision
5.17 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659,
5.18 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and
5.19 training to participants, and is based on the requirements in each individual's coordinated
5.20 service and support plan under section 245D.02, subdivision 4b; any coordinated service
5.21 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and
5.22 provider observation of an individual's service need. Total shared staffing hours are divided
5.23 proportionally by the number of individuals who receive the shared service provisions.

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

5.28 ~~(n)~~ (p) "Unit of service" means the following:

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

5.32 (2) for day services under subdivision 7:

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

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

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

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

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

6.10 (iii) for prevocational services, a unit of service is a day or an hour. A day unit of service
6.11 is six or more hours of time spent providing direct service;

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

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

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

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

6.19 Sec. 4. Minnesota Statutes 2018, section 256B.4914, subdivision 4, is amended to read:

6.20 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and
6.21 community-based waived services, including rate exceptions under subdivision 12, are
6.22 set by the rates management system.

6.23 ~~(b) Data for services under section 256B.4913, subdivision 4a, shall be collected in a~~
6.24 ~~manner prescribed by the commissioner.~~

6.25 ~~(e)~~ (b) Data and information in the rates management system may be used to calculate
6.26 an individual's rate.

6.27 ~~(d)~~ (c) Service providers, with information from the community support plan and
6.28 oversight by lead agencies, shall provide values and information needed to calculate an
6.29 individual's rate into the rates management system. The determination of service levels must
6.30 be part of a discussion with members of the support team as defined in section 245D.02,

7.1 subdivision 34. This discussion must occur prior to the final establishment of each individual's
7.2 rate. The values and information include:

7.3 (1) shared staffing hours;

7.4 (2) individual staffing hours;

7.5 (3) direct registered nurse hours;

7.6 (4) direct licensed practical nurse hours;

7.7 (5) staffing ratios;

7.8 (6) information to document variable levels of service qualification for variable levels
7.9 of reimbursement in each framework;

7.10 (7) shared or individualized arrangements for unit-based services, including the staffing
7.11 ratio;

7.12 (8) number of trips and miles for transportation services; and

7.13 (9) service hours provided through monitoring technology.

7.14 ~~(e)~~ (d) Updates to individual data must include:

7.15 (1) data for each individual that is updated annually when renewing service plans; and

7.16 (2) requests by individuals or lead agencies to update a rate whenever there is a change
7.17 in an individual's service needs, with accompanying documentation.

7.18 ~~(f)~~ (e) Lead agencies shall review and approve all services reflecting each individual's
7.19 needs, and the values to calculate the final payment rate for services with variables under
7.20 subdivisions 6, 7, 8, and 9 for each individual. Lead agencies must notify the individual and
7.21 the service provider of the final agreed-upon values and rate, and provide information that
7.22 is identical to what was entered into the rates management system. If a value used was
7.23 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
7.24 agencies to correct it. Lead agencies must respond to these requests. When responding to
7.25 the request, the lead agency must consider:

7.26 (1) meeting the health and welfare needs of the individual or individuals receiving
7.27 services by service site, identified in their coordinated service and support plan under section
7.28 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

7.29 (2) meeting the requirements for staffing under subdivision 2, paragraphs ~~(f)~~ (h), ~~(i)~~ (n),
7.30 and ~~(m)~~ (o); and meeting or exceeding the licensing standards for staffing required under
7.31 section 245D.09, subdivision 1; and

8.1 (3) meeting the staffing ratio requirements under subdivision 2, paragraph ~~(h)~~ (o), and
8.2 meeting or exceeding the licensing standards for staffing required under section 245D.31.

8.3 **EFFECTIVE DATE.** This section is effective January 1, 2020.

8.4 Sec. 5. Minnesota Statutes 2018, section 256B.4914, subdivision 5, is amended to read:

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

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

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

8.17 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
8.18 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
8.19 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
8.20 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
8.21 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

8.22 (2) for day services, 20 percent of the median wage for nursing assistant (SOC code
8.23 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
8.24 and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

8.25 (3) for residential asleep-overnight staff, the wage is the minimum wage in Minnesota
8.26 for large employers, except in a family foster care setting, the wage is 36 percent of the
8.27 minimum wage in Minnesota for large employers;

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

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

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

9.3 (7) for supportive living services staff, 20 percent of the median wage for nursing assistant
9.4 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
9.5 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
9.6 21-1093);

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

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

9.14 (10) for individualized home supports services staff, 40 percent of the median wage for
9.15 community social service specialist (SOC code 21-1099); 50 percent of the median wage
9.16 for social and human services aide (SOC code 21-1093); and ten percent of the median
9.17 wage for psychiatric technician (SOC code 29-2053);

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

9.22 (12) for independent living skills specialist staff, 100 percent of mental health and
9.23 substance abuse social worker (SOC code 21-1023);

9.24 (13) for supported employment staff, 20 percent of the median wage for nursing assistant
9.25 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
9.26 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
9.27 21-1093);

9.28 (14) for employment support services staff, 50 percent of the median wage for
9.29 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
9.30 community and social services specialist (SOC code 21-1099);

9.31 (15) for employment exploration services staff, 50 percent of the median wage for
9.32 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
9.33 community and social services specialist (SOC code 21-1099);

10.1 (16) for employment development services staff, 50 percent of the median wage for
10.2 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
10.3 of the median wage for community and social services specialist (SOC code 21-1099);

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

10.7 (18) for night supervision staff, 20 percent of the median wage for home health aide
10.8 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
10.9 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
10.10 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
10.11 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

10.12 (19) for respite staff, 50 percent of the median wage for personal and home care aide
10.13 (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code
10.14 31-1014);

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

10.18 (21) for supervisory staff, 100 percent of the median wage for community and social
10.19 services specialist (SOC code 21-1099), with the exception of the supervisor of behavior
10.20 professional, behavior analyst, and behavior specialists, which is 100 percent of the median
10.21 wage for clinical counseling and school psychologist (SOC code 19-3031);

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

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

10.26 (b) Component values for residential support services are:

10.27 (1) competitive workforce factor: 4.7 percent;

10.28 ~~(1)~~ (2) supervisory span of control ratio: 11 percent;

10.29 ~~(2)~~ (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

10.30 ~~(3)~~ (4) employee-related cost ratio: 23.6 percent;

10.31 ~~(4)~~ (5) general administrative support ratio: 13.25 percent;

- 11.1 ~~(5)~~ (6) program-related expense ratio: 1.3 percent; and
- 11.2 ~~(6)~~ (7) absence and utilization factor ratio: 3.9 percent.
- 11.3 (c) Component values for family foster care are:
- 11.4 (1) competitive workforce factor: 4.7 percent;
- 11.5 ~~(1)~~ (2) supervisory span of control ratio: 11 percent;
- 11.6 ~~(2)~~ (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.7 ~~(3)~~ (4) employee-related cost ratio: 23.6 percent;
- 11.8 ~~(4)~~ (5) general administrative support ratio: 3.3 percent;
- 11.9 ~~(5)~~ (6) program-related expense ratio: 1.3 percent; and
- 11.10 ~~(6)~~ (7) absence factor: 1.7 percent.
- 11.11 (d) Component values for day services for all services are:
- 11.12 (1) competitive workforce factor: 4.7 percent;
- 11.13 ~~(1)~~ (2) supervisory span of control ratio: 11 percent;
- 11.14 ~~(2)~~ (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.15 ~~(3)~~ (4) employee-related cost ratio: 23.6 percent;
- 11.16 ~~(4)~~ (5) program plan support ratio: 5.6 percent;
- 11.17 ~~(5)~~ (6) client programming and support ratio: ten percent;
- 11.18 ~~(6)~~ (7) general administrative support ratio: 13.25 percent;
- 11.19 ~~(7)~~ (8) program-related expense ratio: 1.8 percent; and
- 11.20 ~~(8)~~ (9) absence and utilization factor ratio: 9.4 percent.
- 11.21 (e) Component values for unit-based services with programming are:
- 11.22 (1) competitive workforce factor: 4.7 percent;
- 11.23 ~~(1)~~ (2) supervisory span of control ratio: 11 percent;
- 11.24 ~~(2)~~ (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.25 ~~(3)~~ (4) employee-related cost ratio: 23.6 percent;
- 11.26 ~~(4)~~ (5) program plan supports ratio: 15.5 percent;
- 11.27 ~~(5)~~ (6) client programming and supports ratio: 4.7 percent;

- 12.1 ~~(6)~~ (7) general administrative support ratio: 13.25 percent;
- 12.2 ~~(7)~~ (8) program-related expense ratio: 6.1 percent; and
- 12.3 ~~(8)~~ (9) absence and utilization factor ratio: 3.9 percent.
- 12.4 (f) Component values for unit-based services without programming except respite are:
- 12.5 (1) competitive workforce factor: 4.7 percent;
- 12.6 ~~(1)~~ (2) supervisory span of control ratio: 11 percent;
- 12.7 ~~(2)~~ (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 12.8 ~~(3)~~ (4) employee-related cost ratio: 23.6 percent;
- 12.9 ~~(4)~~ (5) program plan support ratio: 7.0 percent;
- 12.10 ~~(5)~~ (6) client programming and support ratio: 2.3 percent;
- 12.11 ~~(6)~~ (7) general administrative support ratio: 13.25 percent;
- 12.12 ~~(7)~~ (8) program-related expense ratio: 2.9 percent; and
- 12.13 ~~(8)~~ (9) absence and utilization factor ratio: 3.9 percent.
- 12.14 (g) Component values for unit-based services without programming for respite are:
- 12.15 (1) competitive workforce factor: 4.7 percent;
- 12.16 ~~(1)~~ (2) supervisory span of control ratio: 11 percent;
- 12.17 ~~(2)~~ (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 12.18 ~~(3)~~ (4) employee-related cost ratio: 23.6 percent;
- 12.19 ~~(4)~~ (5) general administrative support ratio: 13.25 percent;
- 12.20 ~~(5)~~ (6) program-related expense ratio: 2.9 percent; and
- 12.21 ~~(6)~~ (7) absence and utilization factor ratio: 3.9 percent.
- 12.22 (h) ~~On July 1, 2017, the commissioner shall update the base wage index in paragraph~~
- 12.23 ~~(a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor~~
- 12.24 ~~Statistics available on December 31, 2016. The commissioner shall publish these updated~~
- 12.25 ~~values and load them into the rate management system. On July January 1, 2022, and every~~
- 12.26 ~~five two years thereafter, the commissioner shall update the base wage index in paragraph~~
- 12.27 ~~(a) based on the most recently available wage data by SOC from the Bureau of Labor~~
- 12.28 ~~Statistics. The commissioner shall publish these updated values and load them into the rate~~
- 12.29 ~~management system.~~

13.1 (i) On January 1, 2022, and January 1, 2024, the commissioner shall increase paragraph
13.2 (b), clause (1); paragraph (c), clause (1); paragraph (d), clause (1); paragraph (e), clause
13.3 (1); paragraph (f), clause (1); and paragraph (g), clause (1), by two percentage points.

13.4 (j) Beginning January 1, 2026, the commissioner shall report to the chairs and ranking
13.5 minority members of the legislative committees and divisions with jurisdiction over health
13.6 and human services policy and finance an analysis of the competitive workforce factor. The
13.7 report must include recommendations to update the competitive workforce factor using:

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

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

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

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

13.17 ~~(i) On July 1, 2017, the commissioner shall update the framework components in~~
13.18 ~~paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5); subdivision~~
13.19 ~~6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for changes in the~~
13.20 ~~Consumer Price Index. The commissioner will adjust these values higher or lower by the~~
13.21 ~~percentage change in the Consumer Price Index-All Items, United States city average~~
13.22 ~~(CPI-U) from January 1, 2014, to January 1, 2017. The commissioner shall publish these~~
13.23 ~~updated values and load them into the rate management system. (k) On July January 1,~~
13.24 ~~2022, and every five two years thereafter, the commissioner shall update the framework~~
13.25 ~~components in paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause~~
13.26 ~~(5); subdivision 6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for~~
13.27 ~~changes in the Consumer Price Index. The commissioner shall adjust these values higher~~
13.28 ~~or lower by the percentage change in the CPI-U from the date of the previous update to the~~
13.29 ~~date of the data most recently available prior to the scheduled update. The commissioner~~
13.30 ~~shall publish these updated values and load them into the rate management system.~~

13.31 (l) Upon the implementation of the updates under paragraphs (h) and (k), rate adjustments
13.32 authorized under section 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section
13.33 60; and Laws 2014, chapter 312, article 27, section 75, shall be removed from service rates
13.34 calculated under this section.

14.1 (m) Any rate adjustments applied to the service rates calculated under this section outside
14.2 of the cost components and rate methodology specified in this section shall be removed
14.3 from rate calculations upon implementation of the updates under paragraphs (h) and (k).

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

14.7 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
14.8 except:

14.9 (1) paragraphs (h) and (k) are effective January 1, 2022, or upon federal approval,
14.10 whichever is later; and

14.11 (2) paragraph (l) is effective retroactively from July 1, 2018.

14.12 Sec. 6. Minnesota Statutes 2018, section 256B.4914, is amended by adding a subdivision
14.13 to read:

14.14 Subd. 5a. **Direct care staff; compensation.** (a) A provider paid with rates determined
14.15 under subdivision 6 must use a minimum of 66 percent of the revenue generated by rates
14.16 determined under subdivision 6 for direct care staff compensation.

14.17 (b) A provider paid with rates determined under subdivision 7 must use a minimum of
14.18 45 percent of the revenue generated by rates determined under subdivision 7 for direct care
14.19 staff compensation.

14.20 (c) A provider paid with rates determined under subdivision 8 or 9 must use a minimum
14.21 of 55 percent of the revenue generated by rates determined under subdivisions 8 and 9 for
14.22 direct care staff compensation.

14.23 (d) Applicable compensation under this subdivision includes:

14.24 (1) wages;

14.25 (2) Social Security and Medicare taxes;

14.26 (3) federal unemployment insurance tax;

14.27 (4) state unemployment insurance tax;

14.28 (5) workers' compensation insurance;

14.29 (6) health insurance;

14.30 (7) dental insurance;

- 15.1 (8) vision insurance;
- 15.2 (9) life insurance;
- 15.3 (10) short-term disability insurance;
- 15.4 (11) long-term disability insurance;
- 15.5 (12) retirement spending;
- 15.6 (13) tuition reimbursement;
- 15.7 (14) wellness programs;
- 15.8 (15) paid vacation time;
- 15.9 (16) paid sick time; or
- 15.10 (17) other items of monetary value provided to direct care staff.
- 15.11 **EFFECTIVE DATE.** This section is effective January 1, 2020.

15.12 Sec. 7. Minnesota Statutes 2018, section 256B.4914, subdivision 6, is amended to read:

15.13 Subd. 6. **Payments for residential support services.** (a) Payments for residential support
15.14 services, as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22,
15.15 must be calculated as follows:

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

15.18 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
15.19 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
15.20 5. This is defined as the direct-care rate;

15.21 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
15.22 factor in subdivision 5, paragraph (b), clause (1). This is defined as the competitive direct-care
15.23 rate;

15.24 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
15.25 accessibility under subdivision 12, add the customization rate provided in subdivision 12
15.26 to the result of clause ~~(2)~~ (3). This is defined as the customized competitive direct-care rate;

15.27 ~~(4)~~ (5) multiply the number of shared and individual direct staff hours provided on site
15.28 or through monitoring technology and nursing hours by the appropriate staff wages in
15.29 subdivision 5, paragraph (a), the competitive direct-care rate, or the customized competitive
15.30 direct-care rate;

16.1 ~~(5)~~ (6) multiply the number of shared and individual direct staff hours provided on site
16.2 or through monitoring technology and nursing hours by the product of the supervision span
16.3 of control ratio in subdivision 5, paragraph (b), clause ~~(1)~~ (2), and the appropriate supervision
16.4 wage in subdivision 5, paragraph (a), clause (21);

16.5 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ and (5) and (6), excluding any shared and
16.6 individual direct staff hours provided through monitoring technology, and multiply the
16.7 result by one plus the employee vacation, sick, and training allowance ratio in subdivision
16.8 5, paragraph (b), clause ~~(2)~~ (3). This is defined as the direct staffing cost;

16.9 ~~(7)~~ (8) for employee-related expenses, multiply the direct staffing cost, excluding any
16.10 shared and individual direct staff hours provided through monitoring technology, by one
16.11 plus the employee-related cost ratio in subdivision 5, paragraph (b), clause ~~(3)~~ (4);

16.12 ~~(8)~~ (9) for client programming and supports, the commissioner shall add \$2,179; and

16.13 ~~(9)~~ (10) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if
16.14 customized for adapted transport, based on the resident with the highest assessed need.

16.15 (b) The total rate must be calculated using the following steps:

16.16 (1) subtotal paragraph (a), clauses ~~(7)~~ to ~~(9)~~ (8) to (10), and the direct staffing cost of
16.17 any shared and individual direct staff hours provided through monitoring technology that
16.18 was excluded in clause ~~(7)~~ (8);

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

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

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

16.25 (c) The payment methodology for customized living, 24-hour customized living, and
16.26 residential care services must be the customized living tool. Revisions to the customized
16.27 living tool must be made to reflect the services and activities unique to disability-related
16.28 recipient needs.

16.29 ~~(d) For individuals enrolled prior to January 1, 2014, the days of service authorized must~~
16.30 ~~meet or exceed the days of service used to convert service agreements in effect on December~~
16.31 ~~1, 2013, and must not result in a reduction in spending or service utilization due to conversion~~
16.32 ~~during the implementation period under section 256B.4913, subdivision 4a. If during the~~

17.1 ~~implementation period, an individual's historical rate, including adjustments required under~~
17.2 ~~section 256B.4913, subdivision 4a, paragraph (e), is equal to or greater than the rate~~
17.3 ~~determined in this subdivision, the number of days authorized for the individual is 365.~~

17.4 ~~(e)~~ (d) The number of days authorized for all individuals enrolling after January 1, 2014,
17.5 in residential services must include every day that services start and end.

17.6 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
17.7 whichever is later. The commissioner of human services shall notify the revisor of statutes
17.8 when federal approval is obtained.

17.9 Sec. 8. Minnesota Statutes 2018, section 256B.4914, subdivision 7, is amended to read:

17.10 Subd. 7. **Payments for day programs.** Payments for services with day programs
17.11 including adult day care, day treatment and habilitation, prevocational services, and structured
17.12 day services must be calculated as follows:

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

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

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

17.18 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
17.19 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
17.20 5;

17.21 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
17.22 factor in subdivision 5, paragraph (d), clause (1). This is defined as the competitive direct-care
17.23 rate;

17.24 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
17.25 accessibility under subdivision 12, add the customization rate provided in subdivision 12
17.26 to the result of clause ~~(2)~~ (3). This is defined as the customized competitive direct-care rate;

17.27 ~~(4)~~ (5) multiply the number of day program direct staff hours and nursing hours by the
17.28 appropriate staff wage in subdivision 5, paragraph (a), the competitive direct-care rate, or
17.29 the customized competitive direct-care rate;

17.30 ~~(5)~~ (6) multiply the number of day direct staff hours by the product of the supervision
17.31 span of control ratio in subdivision 5, paragraph (d), clause ~~(1)~~ (2), and the appropriate
17.32 supervision wage in subdivision 5, paragraph (a), clause (21);

18.1 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ (5) and ~~(6)~~, and multiply the result by one
18.2 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
18.3 (d), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

18.4 ~~(7)~~ (8) for program plan support, multiply the result of clause ~~(6)~~ (7) by one plus the
18.5 program plan support ratio in subdivision 5, paragraph (d), clause ~~(4)~~ (5);

18.6 ~~(8)~~ (9) for employee-related expenses, multiply the result of clause ~~(7)~~ (8) by one plus
18.7 the employee-related cost ratio in subdivision 5, paragraph (d), clause ~~(3)~~ (4);

18.8 ~~(9)~~ (10) for client programming and supports, multiply the result of clause ~~(8)~~ (9) by
18.9 one plus the client programming and support ratio in subdivision 5, paragraph (d), clause
18.10 ~~(5)~~ (6);

18.11 ~~(10)~~ (11) for program facility costs, add \$19.30 per week with consideration of staffing
18.12 ratios to meet individual needs;

18.13 ~~(11)~~ (12) for adult day bath services, add \$7.01 per 15 minute unit;

18.14 ~~(12)~~ (13) this is the subtotal rate;

18.15 ~~(13)~~ (14) sum the standard general and administrative rate, the program-related expense
18.16 ratio, and the absence and utilization factor ratio;

18.17 ~~(14)~~ (15) divide the result of clause ~~(12)~~ (13) by one minus the result of clause ~~(13)~~ (14).
18.18 This is the total payment amount;

18.19 ~~(15)~~ (16) adjust the result of clause ~~(14)~~ (15) by a factor to be determined by the
18.20 commissioner to adjust for regional differences in the cost of providing services;

18.21 ~~(16)~~ (17) for transportation provided as part of day training and habilitation for an
18.22 individual who does not require a lift, add:

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

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

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

19.1 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
19.2 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
19.3 with a lift;

19.4 ~~(17)~~ (18) for transportation provided as part of day training and habilitation for an
19.5 individual who does require a lift, add:

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

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

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

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

19.14 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
19.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
19.16 when federal approval is obtained.

19.17 Sec. 9. Minnesota Statutes 2018, section 256B.4914, subdivision 8, is amended to read:

19.18 Subd. 8. **Payments for unit-based services with programming.** Payments for unit-based
19.19 services with programming, including behavior programming, housing access coordination,
19.20 in-home family support, independent living skills training, independent living skills specialist
19.21 services, individualized home supports, hourly supported living services, employment
19.22 exploration services, employment development services, supported employment, and
19.23 employment support services provided to an individual outside of any day or residential
19.24 service plan must be calculated as follows, unless the services are authorized separately
19.25 under subdivision 6 or 7:

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

19.27 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
19.28 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
19.29 5;

19.30 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
19.31 factor in subdivision 5, paragraph (e), clause (1). This is defined as the competitive direct-care
19.32 rate;

20.1 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
20.2 accessibility under subdivision 12, add the customization rate provided in subdivision 12
20.3 to the result of clause ~~(2)~~ (3). This is defined as the customized competitive direct-care rate;

20.4 ~~(4)~~ (5) multiply the number of direct staff hours by the appropriate staff wage in
20.5 subdivision 5, paragraph (a), the competitive direct-care rate, or the customized competitive
20.6 direct-care rate;

20.7 ~~(5)~~ (6) multiply the number of direct staff hours by the product of the supervision span
20.8 of control ratio in subdivision 5, paragraph (e), clause ~~(1)~~ (2), and the appropriate supervision
20.9 wage in subdivision 5, paragraph (a), clause (21);

20.10 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ and (5) and ~~(6)~~, and multiply the result by one
20.11 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
20.12 (e), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

20.13 ~~(7)~~ (8) for program plan support, multiply the result of clause ~~(6)~~ (7) by one plus the
20.14 program plan supports ratio in subdivision 5, paragraph (e), clause ~~(4)~~ (5);

20.15 ~~(8)~~ (9) for employee-related expenses, multiply the result of clause ~~(7)~~ (8) by one plus
20.16 the employee-related cost ratio in subdivision 5, paragraph (e), clause ~~(3)~~ (4);

20.17 ~~(9)~~ (10) for client programming and supports, multiply the result of clause ~~(8)~~ (9) by
20.18 one plus the client programming and supports ratio in subdivision 5, paragraph (e), clause
20.19 ~~(5)~~ (6);

20.20 ~~(10)~~ (11) this is the subtotal rate;

20.21 ~~(11)~~ (12) sum the standard general and administrative rate, the program-related expense
20.22 ratio, and the absence and utilization factor ratio;

20.23 ~~(12)~~ (13) divide the result of clause ~~(10)~~ (11) by one minus the result of clause ~~(11)~~ (12).
20.24 This is the total payment amount;

20.25 ~~(13)~~ (14) for supported employment provided in a shared manner, divide the total payment
20.26 amount in clause ~~(12)~~ (13) by the number of service recipients, not to exceed three. For
20.27 employment support services provided in a shared manner, divide the total payment amount
20.28 in clause ~~(12)~~ (13) by the number of service recipients, not to exceed six. For independent
20.29 living skills training and individualized home supports provided in a shared manner, divide
20.30 the total payment amount in clause ~~(12)~~ (13) by the number of service recipients, not to
20.31 exceed two; and

21.1 ~~(14)~~ (15) adjust the result of clause ~~(13)~~ (14) by a factor to be determined by the
21.2 commissioner to adjust for regional differences in the cost of providing services.

21.3 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
21.4 whichever is later. The commissioner of human services shall notify the revisor of statutes
21.5 when federal approval is obtained.

21.6 Sec. 10. Minnesota Statutes 2018, section 256B.4914, subdivision 9, is amended to read:

21.7 Subd. 9. **Payments for unit-based services without programming.** Payments for
21.8 unit-based services without programming, including night supervision, personal support,
21.9 respite, and companion care provided to an individual outside of any day or residential
21.10 service plan must be calculated as follows unless the services are authorized separately
21.11 under subdivision 6 or 7:

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

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

21.16 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
21.17 factor in subdivision 5, paragraph (f), clause (1). This is defined as the competitive direct-care
21.18 rate;

21.19 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
21.20 accessibility under subdivision 12, add the customization rate provided in subdivision 12
21.21 to the result of clause ~~(2)~~ (3). This is defined as the customized ~~direct-care~~ competitive
21.22 direct-care rate;

21.23 ~~(4)~~ (5) multiply the number of direct staff hours by the ~~appropriate staff wage in~~
21.24 ~~subdivision 5~~ competitive direct-care rate or the customized ~~direct-care~~ competitive
21.25 direct-care rate;

21.26 ~~(5)~~ (6) multiply the number of direct staff hours by the product of the supervision span
21.27 of control ratio in subdivision 5, paragraph (f), clause ~~(1)~~ (2), and the appropriate supervision
21.28 wage in subdivision 5, paragraph (a), clause (21);

21.29 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ and (5) and (6), and multiply the result by one
21.30 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
21.31 (f), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

- 22.1 ~~(7)~~ (8) for program plan support, multiply the result of clause ~~(6)~~ (7) by one plus the
22.2 program plan support ratio in subdivision 5, paragraph (f), clause ~~(4)~~ (5);
- 22.3 ~~(8)~~ (9) for employee-related expenses, multiply the result of clause ~~(7)~~ (8) by one plus
22.4 the employee-related cost ratio in subdivision 5, paragraph (f), clause ~~(3)~~ (4);
- 22.5 ~~(9)~~ (10) for client programming and supports, multiply the result of clause ~~(8)~~ (9) by
22.6 one plus the client programming and support ratio in subdivision 5, paragraph (f), clause
22.7 ~~(5)~~ (6);
- 22.8 ~~(10)~~ (11) this is the subtotal rate;
- 22.9 ~~(11)~~ (12) sum the standard general and administrative rate, the program-related expense
22.10 ratio, and the absence and utilization factor ratio;
- 22.11 ~~(12)~~ (13) divide the result of clause ~~(10)~~ (11) by one minus the result of clause ~~(11)~~ (12).
22.12 This is the total payment amount;
- 22.13 ~~(13)~~ (14) for respite services, determine the number of day units of service to meet an
22.14 individual's needs;
- 22.15 ~~(14)~~ (15) personnel hourly wage rates must be based on the 2009 Bureau of Labor
22.16 Statistics Minnesota-specific rate or rates derived by the commissioner as provided in
22.17 subdivision 5;
- 22.18 (16) multiply the result of clause (15) by the product of one plus the competitive
22.19 workforce factor in subdivision 5, paragraph (g), clause (1). This is defined as the competitive
22.20 direct-care rate;
- 22.21 ~~(15)~~ (17) for a recipient requiring deaf and hard-of-hearing customization under
22.22 subdivision 12, add the customization rate provided in subdivision 12 to the result of clause
22.23 ~~(14)~~ (16). This is defined as the customized ~~direct-care~~ competitive direct-care rate;
- 22.24 ~~(16)~~ (18) multiply the number of direct staff hours by the ~~appropriate staff wage in~~
22.25 ~~subdivision 5, paragraph (a)~~ competitive direct-care rate or the customized competitive
22.26 direct-care rate;
- 22.27 ~~(17)~~ (19) multiply the number of direct staff hours by the product of the supervisory
22.28 span of control ratio in subdivision 5, paragraph (g), clause ~~(1)~~ (2), and the appropriate
22.29 supervision wage in subdivision 5, paragraph (a), clause (21);
- 22.30 ~~(18)~~ (20) combine the results of clauses ~~(16)~~ (18) and ~~(17)~~ (19), and multiply the result
22.31 by one plus the employee vacation, sick, and training allowance ratio in subdivision 5,
22.32 paragraph (g), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

23.1 ~~(19)~~ (21) for employee-related expenses, multiply the result of clause ~~(18)~~ (20) by one
23.2 plus the employee-related cost ratio in subdivision 5, paragraph (g), clause ~~(3)~~ (4);

23.3 ~~(20)~~ (22) this is the subtotal rate;

23.4 ~~(21)~~ (23) sum the standard general and administrative rate, the program-related expense
23.5 ratio, and the absence and utilization factor ratio;

23.6 ~~(22)~~ (24) divide the result of clause ~~(20)~~ (22) by one minus the result of clause ~~(21)~~ (23).
23.7 This is the total payment amount; and

23.8 ~~(23)~~ (25) adjust the result of clauses ~~(12)~~ (13) and ~~(22)~~ (24) by a factor to be determined
23.9 by the commissioner to adjust for regional differences in the cost of providing services.

23.10 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
23.11 whichever is later. The commissioner of human services shall notify the revisor of statutes
23.12 when federal approval is obtained.

23.13 Sec. 11. Minnesota Statutes 2018, section 256B.4914, subdivision 10, is amended to read:

23.14 Subd. 10. **Updating payment values and additional information.** ~~(a) From January~~
23.15 ~~1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform~~
23.16 ~~procedures to refine terms and adjust values used to calculate payment rates in this section.~~

23.17 ~~(b)~~ (a) No later than July 1, 2014, the commissioner shall, within available resources,
23.18 begin to conduct research and gather data and information from existing state systems or
23.19 other outside sources on the following items:

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

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

23.24 (3) the distinct underlying costs for services provided by a license holder under sections
23.25 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
23.26 by a license holder certified under section 245D.33.

23.27 ~~(c) Beginning January 1, 2014, through December 31, 2018, using a statistically valid~~
23.28 ~~set of rates management system data, the commissioner, in consultation with stakeholders,~~
23.29 ~~shall analyze for each service the average difference in the rate on December 31, 2013, and~~
23.30 ~~the framework rate at the individual, provider, lead agency, and state levels. The~~
23.31 ~~commissioner shall issue semiannual reports to the stakeholders on the difference in rates~~
23.32 ~~by service and by county during the banding period under section 256B.4913, subdivision~~

24.1 ~~4a. The commissioner shall issue the first report by October 1, 2014, and the final report~~
24.2 ~~shall be issued by December 31, 2018.~~

24.3 ~~(d)~~ (b) No later than July 1, 2014, the commissioner, in consultation with stakeholders,
24.4 shall begin the review and evaluation of the following values already in subdivisions 6 to
24.5 9, or issues that impact all services, including, but not limited to:

24.6 (1) values for transportation rates;

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

24.8 (3) values for indirect services;

24.9 (4) values for nursing;

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

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

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

24.14 (8) direct care workforce labor market measures;

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

24.17 ~~(9)~~ (10) outcome measures, determined by the commissioner, for home and
24.18 community-based services rates determined under this section.

24.19 ~~(e)~~ (c) The commissioner shall report to the chairs and the ranking minority members
24.20 of the legislative committees and divisions with jurisdiction over health and human services
24.21 policy and finance with the information and data gathered under paragraphs ~~(b) to (d)~~ (a)
24.22 and (b) on the following dates:

24.23 ~~(1) January 15, 2015, with preliminary results and data;~~

24.24 ~~(2) January 15, 2016, with a status implementation update, and additional data and~~
24.25 ~~summary information;~~

24.26 ~~(3) January 15, 2017, with the full report; and~~

24.27 ~~(4) January 15, 2020~~ 2021, with ~~another~~ a full report, and a full report once every four
24.28 years thereafter.

24.29 ~~(f) The commissioner shall implement a regional adjustment factor to all rate calculations~~
24.30 ~~in subdivisions 6 to 9, effective no later than January 1, 2015.~~ (d) Beginning July 1, 2017

25.1 January 1, 2022, the commissioner shall renew analysis and implement changes to the
25.2 regional adjustment factors ~~when adjustments required under subdivision 5, paragraph (h),~~
25.3 ~~occur~~ once every six years. Prior to implementation, the commissioner shall consult with
25.4 stakeholders on the methodology to calculate the adjustment.

25.5 ~~(g)~~ (e) The commissioner shall provide a public notice via LISTSERV in October of
25.6 each year ~~beginning October 1, 2014~~, containing information detailing legislatively approved
25.7 changes in:

25.8 (1) calculation values including derived wage rates and related employee and
25.9 administrative factors;

25.10 (2) service utilization;

25.11 (3) county and tribal allocation changes; and

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

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

25.15 ~~(h)~~ (f) When the available shared staffing hours in a residential setting are insufficient
25.16 to meet the needs of an individual who enrolled in residential services after January 1, 2014,
25.17 ~~or insufficient to meet the needs of an individual with a service agreement adjustment~~
25.18 ~~described in section 256B.4913, subdivision 4a, paragraph (f)~~, then individual staffing hours
25.19 shall be used.

25.20 ~~(i) The commissioner shall study the underlying cost of absence and utilization for day~~
25.21 ~~services. Based on the commissioner's evaluation of the data collected under this paragraph,~~
25.22 ~~the commissioner shall make recommendations to the legislature by January 15, 2018, for~~
25.23 ~~changes, if any, to the absence and utilization factor ratio component value for day services.~~

25.24 ~~(j) Beginning July 1, 2017,~~ (g) The commissioner shall collect transportation and trip
25.25 information for all day services through the rates management system.

25.26 (h) The commissioner, in consultation with stakeholders, shall study value-based models
25.27 and outcome-based payment strategies for fee-for-service home and community-based
25.28 services and report to the legislative committees with jurisdiction over the disability waiver
25.29 rate system by October 1, 2020, with recommended strategies to improve the quality,
25.30 efficiency, and effectiveness of services.

25.31 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
25.32 for paragraph (f), which is effective January 1, 2020.

26.1 Sec. 12. Minnesota Statutes 2018, section 256B.4914, subdivision 10a, is amended to
26.2 read:

26.3 Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure
26.4 that wage values and component values in subdivisions 5 to 9 reflect the cost to provide the
26.5 service. As determined by the commissioner, in consultation with stakeholders identified
26.6 in section 256B.4913, subdivision 5, a provider enrolled to provide services with rates
26.7 determined under this section must submit requested cost data to the commissioner to support
26.8 research on the cost of providing services that have rates determined by the disability waiver
26.9 rates system. Requested cost data may include, but is not limited to:

26.10 (1) worker wage costs;

26.11 (2) benefits paid;

26.12 (3) supervisor wage costs;

26.13 (4) executive wage costs;

26.14 (5) vacation, sick, and training time paid;

26.15 (6) taxes, workers' compensation, and unemployment insurance costs paid;

26.16 (7) administrative costs paid;

26.17 (8) program costs paid;

26.18 (9) transportation costs paid;

26.19 (10) vacancy rates; and

26.20 (11) other data relating to costs required to provide services requested by the
26.21 commissioner.

26.22 (b) At least once in any five-year period, a provider must submit cost data for a fiscal
26.23 year that ended not more than 18 months prior to the submission date. The commissioner
26.24 shall provide each provider a 90-day notice prior to its submission due date. If a provider
26.25 fails to submit required reporting data, the commissioner shall provide notice to providers
26.26 that have not provided required data 30 days after the required submission date, and a second
26.27 notice for providers who have not provided required data 60 days after the required
26.28 submission date. The commissioner shall temporarily suspend payments to the provider if
26.29 cost data is not received 90 days after the required submission date. Withheld payments
26.30 shall be made once data is received by the commissioner.

27.1 (c) The commissioner shall conduct a random validation of data submitted under
27.2 paragraph (a) to ensure data accuracy. The commissioner shall analyze cost documentation
27.3 in paragraph (a) and provide recommendations for adjustments to cost components.

27.4 (d) The commissioner shall analyze cost documentation in paragraph (a) and, in
27.5 consultation with stakeholders identified in section 256B.4913, subdivision 5, may submit
27.6 recommendations on component values and inflationary factor adjustments to the chairs
27.7 and ranking minority members of the legislative committees with jurisdiction over human
27.8 services every four years beginning January 1, 2020. The commissioner shall make
27.9 recommendations in conjunction with reports submitted to the legislature according to
27.10 subdivision 10, paragraph (e). The commissioner shall release cost data in an aggregate
27.11 form, and cost data from individual providers shall not be released except as provided for
27.12 in current law.

27.13 (e) The commissioner, in consultation with stakeholders identified in section 256B.4913,
27.14 subdivision 5, shall develop and implement a process for providing training and technical
27.15 assistance necessary to support provider submission of cost documentation required under
27.16 paragraph (a).

27.17 (f) Beginning November 1, 2019, providers enrolled to provide services with rates
27.18 determined under this section shall submit labor market data to the commissioner annually,
27.19 including but not limited to:

27.20 (1) number of direct care staff;

27.21 (2) wages of direct care staff;

27.22 (3) overtime wages of direct care staff;

27.23 (4) hours worked by direct care staff;

27.24 (5) overtime hours worked by direct care staff;

27.25 (6) benefits provided to direct care staff;

27.26 (7) direct care staff job vacancies; and

27.27 (8) direct care staff retention rates.

27.28 (g) Beginning February 1, 2020, the commissioner shall publish annual reports on
27.29 provider and state-level labor market data, including but not limited to the data obtained
27.30 under paragraph (f).

28.1 (h) The commissioner shall temporarily suspend payments to the provider if data
28.2 requested under paragraph (f) is not received 90 days after the required submission date.
28.3 The commissioner shall make withheld payments once data is received by the commissioner.

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

28.5 Sec. 13. Minnesota Statutes 2018, section 256B.4914, subdivision 14, is amended to read:

28.6 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead agencies
28.7 must identify individuals with exceptional needs that cannot be met under the disability
28.8 waiver rate system. The commissioner shall use that information to evaluate and, if necessary,
28.9 approve an alternative payment rate for those individuals. Whether granted, denied, or
28.10 modified, the commissioner shall respond to all exception requests in writing. The
28.11 commissioner shall include in the written response the basis for the action and provide
28.12 notification of the right to appeal under paragraph (h).

28.13 (b) Lead agencies must act on an exception request within 30 days and notify the initiator
28.14 of the request of their recommendation in writing. A lead agency shall submit all exception
28.15 requests along with its recommendation to the commissioner.

28.16 (c) An application for a rate exception may be submitted for the following criteria:

28.17 (1) an individual has service needs that cannot be met through additional units of service;

28.18 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 is so insufficient
28.19 that it has resulted in an individual receiving a notice of discharge from the individual's
28.20 provider; or

28.21 (3) an individual's service needs, including behavioral changes, require a level of service
28.22 which necessitates a change in provider or which requires the current provider to propose
28.23 service changes beyond those currently authorized.

28.24 (d) Exception requests must include the following information:

28.25 (1) the service needs required by each individual that are not accounted for in subdivisions
28.26 6, 7, 8, and 9;

28.27 (2) the service rate requested and the difference from the rate determined in subdivisions
28.28 6, 7, 8, and 9;

28.29 (3) a basis for the underlying costs used for the rate exception and any accompanying
28.30 documentation; and

28.31 (4) any contingencies for approval.

29.1 (e) Approved rate exceptions shall be managed within lead agency allocations under
29.2 sections 256B.092 and 256B.49.

29.3 (f) Individual disability waiver recipients, an interested party, or the license holder that
29.4 would receive the rate exception increase may request that a lead agency submit an exception
29.5 request. A lead agency that denies such a request shall notify the individual waiver recipient,
29.6 interested party, or license holder of its decision and the reasons for denying the request in
29.7 writing no later than 30 days after the request has been made and shall submit its denial to
29.8 the commissioner in accordance with paragraph (b). The reasons for the denial must be
29.9 based on the failure to meet the criteria in paragraph (c).

29.10 (g) The commissioner shall determine whether to approve or deny an exception request
29.11 no more than 30 days after receiving the request. If the commissioner denies the request,
29.12 the commissioner shall notify the lead agency and the individual disability waiver recipient,
29.13 the interested party, and the license holder in writing of the reasons for the denial.

29.14 (h) The individual disability waiver recipient may appeal any denial of an exception
29.15 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
29.16 256.0451. When the denial of an exception request results in the proposed demission of a
29.17 waiver recipient from a residential or day habilitation program, the commissioner shall issue
29.18 a temporary stay of demission, when requested by the disability waiver recipient, consistent
29.19 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
29.20 stay shall remain in effect until the lead agency can provide an informed choice of
29.21 appropriate, alternative services to the disability waiver.

29.22 (i) Providers may petition lead agencies to update values that were entered incorrectly
29.23 or erroneously into the rate management system, based on past service level discussions
29.24 and determination in subdivision 4, without applying for a rate exception.

29.25 (j) The starting date for the rate exception will be the later of the date of the recipient's
29.26 change in support or the date of the request to the lead agency for an exception.

29.27 (k) The commissioner shall track all exception requests received and their dispositions.
29.28 The commissioner shall issue quarterly public exceptions statistical reports, including the
29.29 number of exception requests received and the numbers granted, denied, withdrawn, and
29.30 pending. The report shall include the average amount of time required to process exceptions.

29.31 ~~(l) No later than January 15, 2016, the commissioner shall provide research findings on~~
29.32 ~~the estimated fiscal impact, the primary cost drivers, and common population characteristics~~
29.33 ~~of recipients with needs that cannot be met by the framework rates.~~

30.1 ~~(m) No later than July 1, 2016, the commissioner shall develop and implement, in~~
30.2 ~~consultation with stakeholders, a process to determine eligibility for rate exceptions for~~
30.3 ~~individuals with rates determined under the methodology in section 256B.4913, subdivision~~
30.4 ~~4a. Determination of eligibility for an exception will occur as annual service renewals are~~
30.5 ~~completed.~~

30.6 ~~(n) (l) Approved rate exceptions will be implemented at such time that the individual's~~
30.7 ~~rate is no longer banded and remain in effect in all cases until an individual's needs change~~
30.8 ~~as defined in paragraph (c).~~

30.9 **EFFECTIVE DATE.** This section is effective January 1, 2020.

30.10 Sec. 14. **DIRECTION TO COMMISSIONER; DIRECT CARE STAFF**
30.11 **COMPENSATION REPORT.**

30.12 By January 15, 2022, the commissioner of human services, in consultation with
30.13 stakeholders, shall report to the chairs and ranking minority members of the legislative
30.14 committees and divisions with jurisdiction over health and human services policy and finance
30.15 with recommendations for:

30.16 (1) the implementation of penalties for providers who do not meet the compensation
30.17 levels identified in Minnesota Statutes, section 256B.4914, subdivision 5a;

30.18 (2) the implementation of good cause exemptions for providers who have not met the
30.19 compensation levels identified in Minnesota Statutes, section 256B.4914, subdivision 5a;
30.20 and

30.21 (3) the rebasing of compensation levels identified in Minnesota Statutes, section
30.22 256B.4914, subdivision 5a, using data reported under Minnesota Statutes, section 256B.4914,
30.23 subdivision 10a.

30.24 Sec. 15. **REVISOR INSTRUCTION.**

30.25 The revisor of statutes shall renumber Minnesota Statutes, section 256B.4913, subdivision
30.26 5, as a subdivision in Minnesota Statutes, section 256B.4914. The revisor shall also make
30.27 necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent
30.28 with the renumbering.

30.29 Sec. 16. **REPEALER.**

30.30 Minnesota Statutes 2018, section 256B.4913, subdivisions 4a, 6, and 7, are repealed
30.31 effective January 1, 2020.

256B.4913 PAYMENT METHODOLOGY DEVELOPMENT.

Subd. 4a. **Rate stabilization adjustment.** (a) For purposes of this subdivision, "implementation period" means the period beginning January 1, 2014, and ending on the last day of the month in which the rate management system is populated with the data necessary to calculate rates for substantially all individuals receiving home and community-based waiver services under sections 256B.092 and 256B.49. "Banding period" means the time period beginning on January 1, 2014, and ending upon the expiration of the 12-month period defined in paragraph (c), clause (5).

(b) For purposes of this subdivision, the historical rate for all service recipients means the individual reimbursement rate for a recipient in effect on December 1, 2013, except that:

(1) for a day service recipient who was not authorized to receive these waiver services prior to January 1, 2014; added a new service or services on or after January 1, 2014; or changed providers on or after January 1, 2014, the historical rate must be the weighted average authorized rate for the provider number in the county of service, effective December 1, 2013; or

(2) for a unit-based service with programming or a unit-based service without programming recipient who was not authorized to receive these waiver services prior to January 1, 2014; added a new service or services on or after January 1, 2014; or changed providers on or after January 1, 2014, the historical rate must be the weighted average authorized rate for each provider number in the county of service, effective December 1, 2013; or

(3) for residential service recipients who change providers on or after January 1, 2014, the historical rate must be set by each lead agency within their county aggregate budget using their respective methodology for residential services effective December 1, 2013, for determining the provider rate for a similarly situated recipient being served by that provider.

(c) The commissioner shall adjust individual reimbursement rates determined under this section so that the unit rate is no higher or lower than:

(1) 0.5 percent from the historical rate for the implementation period;

(2) 0.5 percent from the rate in effect in clause (1), for the 12-month period immediately following the time period of clause (1);

(3) 0.5 percent from the rate in effect in clause (2), for the 12-month period immediately following the time period of clause (2);

(4) 1.0 percent from the rate in effect in clause (3), for the 12-month period immediately following the time period of clause (3);

(5) 1.0 percent from the rate in effect in clause (4), for the 12-month period immediately following the time period of clause (4);

(6) no adjustment to the rate in effect in clause (5) for the 12-month period immediately following the time period of clause (5). During this banding rate period, the commissioner shall not enforce any rate decrease or increase that would otherwise result from the end of the banding period. The commissioner shall, upon enactment, seek federal approval for the addition of this banding period; and

(7) one percent from the rate in effect in clause (6) for the 12-month period immediately following the time period of clause (6).

(d) The commissioner shall review all changes to rates that were in effect on December 1, 2013, to verify that the rates in effect produce the equivalent level of spending and service unit utilization on an annual basis as those in effect on October 31, 2013.

(e) By December 31, 2014, the commissioner shall complete the review in paragraph (d), adjust rates to provide equivalent annual spending, and make appropriate adjustments.

(f) During the banding period, the Medicaid Management Information System (MMIS) service agreement rate must be adjusted to account for change in an individual's need. The commissioner shall adjust the Medicaid Management Information System (MMIS) service agreement rate by:

(1) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the individual with variables reflecting the level of service in effect on December 1, 2013;

(2) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the individual with variables reflecting the updated level of service at the time of application; and

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(3) adding to or subtracting from the Medicaid Management Information System (MMIS) service agreement rate, the difference between the values in clauses (1) and (2).

(g) This subdivision must not apply to rates for recipients served by providers new to a given county after January 1, 2014. Providers of personal supports services who also acted as fiscal support entities must be treated as new providers as of January 1, 2014.

Subd. 6. **Implementation.** (a) The commissioner shall implement changes on January 1, 2014, to payment rates for individuals receiving home and community-based waived services after the enactment of legislation that establishes specific payment methodology frameworks, processes for rate calculations, and specific values to populate the disability waiver rates system.

(b) On January 1, 2014, all new service authorizations must use the disability waiver rates system. Beginning January 1, 2014, all renewing individual service plans must use the disability waiver rates system as reassessment and reauthorization occurs. By December 31, 2014, data for all recipients must be entered into the disability waiver rates system.

Subd. 7. **New services.** A service added to section 256B.4914 after January 1, 2014, is not subject to rate stabilization adjustment in this section.