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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 179

01/17/2019 Authored by Halverson, Schomacker, Lien, Baker, Mann and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying the disability waiver rate system; amending
1.3 Minnesota Statutes 2018, section 256B.4914, subdivisions 2, 3, 4, 5, 10, 10a.

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

1.5 Section 1. Minnesota Statutes 2018, section 256B.4914, subdivision 2, is amended to read:

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

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

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

1.12 (1) typical education needed for entry;

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

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

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

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

2.1 (f) "Direct care staff" means employees providing direct service provision to people
2.2 receiving services under this section. Direct care staff does not include executive, managerial,
2.3 and administrative staff.

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

2.7 ~~(f)~~ (h) "Individual staffing" means the time spent as a one-to-one interaction specific to
2.8 an individual recipient by staff to provide direct support and assistance with activities of
2.9 daily living, instrumental activities of daily living, and training to participants, and is based
2.10 on the requirements in each individual's coordinated service and support plan under section
2.11 245D.02, subdivision 4b; any coordinated service and support plan addendum under section
2.12 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
2.13 needs must also be considered.

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

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

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

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

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

2.25 ~~(l)~~ (n) "Shared staffing" means time spent by employees, not defined under paragraph
2.26 ~~(h)~~ (h), providing or available to provide more than one individual with direct support and
2.27 assistance with activities of daily living as defined under section 256B.0659, subdivision
2.28 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659,
2.29 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and
2.30 training to participants, and is based on the requirements in each individual's coordinated
2.31 service and support plan under section 245D.02, subdivision 4b; any coordinated service
2.32 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and

3.1 provider observation of an individual's service need. Total shared staffing hours are divided
3.2 proportionally by the number of individuals who receive the shared service provisions.

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

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

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

3.11 (2) for day services under subdivision 7:

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

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

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

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

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

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

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

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

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

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

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

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

- 4.6 (1) 24-hour customized living;
- 4.7 (2) adult day care;
- 4.8 (3) adult day care bath;
- 4.9 ~~(4) behavioral programming;~~
- 4.10 ~~(5)~~ (4) companion services;
- 4.11 ~~(6)~~ (5) customized living;
- 4.12 ~~(7)~~ (6) day training and habilitation;
- 4.13 (7) employment development services;
- 4.14 (8) employment exploration services;
- 4.15 (9) employment support services;
- 4.16 ~~(8)~~ (10) housing access coordination;
- 4.17 ~~(9)~~ (11) independent living skills;
- 4.18 (12) independent living skills specialist services;
- 4.19 (13) individualized home supports;
- 4.20 ~~(10)~~ (14) in-home family support;
- 4.21 ~~(11)~~ (15) night supervision;
- 4.22 ~~(12)~~ (16) personal support;
- 4.23 (17) positive support services;
- 4.24 ~~(13)~~ (18) prevocational services;
- 4.25 ~~(14)~~ (19) residential care services;
- 4.26 ~~(15)~~ (20) residential support services;
- 4.27 ~~(16)~~ (21) respite services;
- 4.28 ~~(17)~~ (22) structured day services;

- 5.1 ~~(18)~~ (23) supported employment services;
- 5.2 ~~(19)~~ (24) supported living services;
- 5.3 ~~(20)~~ (25) transportation services; and
- 5.4 ~~(21) individualized home supports;~~
- 5.5 ~~(22) independent living skills specialist services;~~
- 5.6 ~~(23) employment exploration services;~~
- 5.7 ~~(24) employment development services;~~
- 5.8 ~~(25) employment support services; and~~
- 5.9 (26) other services as approved by the federal government in the state home and
- 5.10 community-based services plan.

5.11 Sec. 3. Minnesota Statutes 2018, section 256B.4914, subdivision 4, is amended to read:

5.12 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and

5.13 community-based waived services, including rate exceptions under subdivision 12, are

5.14 set by the rates management system.

5.15 (b) Data for services under section 256B.4913, subdivision 4a, shall be collected in a

5.16 manner prescribed by the commissioner.

5.17 (c) Data and information in the rates management system may be used to calculate an

5.18 individual's rate.

5.19 (d) Service providers, with information from the community support plan and oversight

5.20 by lead agencies, shall provide values and information needed to calculate an individual's

5.21 rate into the rates management system. The determination of service levels must be part of

5.22 a discussion with members of the support team as defined in section 245D.02, subdivision

5.23 34. This discussion must occur prior to the final establishment of each individual's rate. The

5.24 values and information include:

- 5.25 (1) shared staffing hours;
- 5.26 (2) individual staffing hours;
- 5.27 (3) direct registered nurse hours;
- 5.28 (4) direct licensed practical nurse hours;
- 5.29 (5) staffing ratios;

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

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

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

6.6 (9) service hours provided through monitoring technology.

6.7 (e) Updates to individual data must include:

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

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

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

6.19 (1) meeting the health and welfare needs of the individual or individuals receiving
6.20 services by service site, identified in their coordinated service and support plan under section
6.21 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

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

6.25 (3) meeting the staffing ratio requirements under subdivision 2, paragraph ~~(n)~~ (p), and
6.26 meeting or exceeding the licensing standards for staffing required under section 245D.31.

6.27 Sec. 4. Minnesota Statutes 2018, section 256B.4914, subdivision 5, is amended to read:

6.28 Subd. 5. **Base wage index and standard component values.** (a) The base wage index
6.29 is established to determine staffing costs associated with providing services to individuals
6.30 receiving home and community-based services. For purposes of developing and calculating
6.31 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
6.32 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in

7.1 the most recent edition of the Occupational Handbook must be used. The base wage index
7.2 must be calculated as follows:

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

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

7.8 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
7.9 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
7.10 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
7.11 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
7.12 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

7.13 (2) for day services, 20 percent of the median wage for nursing assistant (SOC code
7.14 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
7.15 and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

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

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

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

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

7.25 (7) for supportive living services staff, 20 percent of the median wage for nursing assistant
7.26 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
7.27 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
7.28 21-1093);

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

7.31 (9) for in-home family support staff, 20 percent of the median wage for nursing aide
7.32 (SOC code 31-1012); 30 percent of the median wage for community social service specialist

8.1 (SOC code 21-1099); 40 percent of the median wage for social and human services aide
8.2 (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC
8.3 code 29-2053);

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

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

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

8.14 (13) for supported employment staff, 20 percent of the median wage for nursing assistant
8.15 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
8.16 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
8.17 21-1093);

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

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

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

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

8.30 (18) for night supervision staff, 20 percent of the median wage for home health aide
8.31 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
8.32 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code

9.1 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
9.2 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

9.3 (19) for respite staff, 50 percent of the median wage for personal and home care aide
9.4 (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code
9.5 31-1014);

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

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

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

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

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

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

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

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

9.21 (4) general administrative support ratio: 13.25 percent;

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

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

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

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

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

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

9.28 (4) general administrative support ratio: 3.3 percent;

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

9.30 (6) absence factor: 1.7 percent.

- 10.1 (d) Component values for day services for all services are:
- 10.2 (1) supervisory span of control ratio: 11 percent;
- 10.3 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.4 (3) employee-related cost ratio: 23.6 percent;
- 10.5 (4) program plan support ratio: 5.6 percent;
- 10.6 (5) client programming and support ratio: ten percent;
- 10.7 (6) general administrative support ratio: 13.25 percent;
- 10.8 (7) program-related expense ratio: 1.8 percent; and
- 10.9 (8) absence and utilization factor ratio: 9.4 percent.
- 10.10 (e) Component values for unit-based services with programming are:
- 10.11 (1) supervisory span of control ratio: 11 percent;
- 10.12 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.13 (3) employee-related cost ratio: 23.6 percent;
- 10.14 (4) program plan supports ratio: 15.5 percent;
- 10.15 (5) client programming and supports ratio: 4.7 percent;
- 10.16 (6) general administrative support ratio: 13.25 percent;
- 10.17 (7) program-related expense ratio: 6.1 percent; and
- 10.18 (8) absence and utilization factor ratio: 3.9 percent.
- 10.19 (f) Component values for unit-based services without programming except respite are:
- 10.20 (1) supervisory span of control ratio: 11 percent;
- 10.21 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.22 (3) employee-related cost ratio: 23.6 percent;
- 10.23 (4) program plan support ratio: 7.0 percent;
- 10.24 (5) client programming and support ratio: 2.3 percent;
- 10.25 (6) general administrative support ratio: 13.25 percent;
- 10.26 (7) program-related expense ratio: 2.9 percent; and
- 10.27 (8) absence and utilization factor ratio: 3.9 percent.

11.1 (g) Component values for unit-based services without programming for respite are:

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

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

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

11.5 (4) general administrative support ratio: 13.25 percent;

11.6 (5) program-related expense ratio: 2.9 percent; and

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

11.8 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph

11.9 (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor

11.10 Statistics available on December 31, 2016. The commissioner shall publish these updated

11.11 values and load them into the rate management system. On July 1, 2022, and every ~~five~~ two

11.12 years thereafter, the commissioner shall update the base wage index in paragraph (a) based

11.13 on the most recently available wage data by SOC from the Bureau of Labor Statistics. The

11.14 commissioner shall publish these updated values and load them into the rate management

11.15 system.

11.16 (i) On July 1, 2017, the commissioner shall update the framework components in

11.17 paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5); subdivision

11.18 6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for changes in the

11.19 Consumer Price Index. The commissioner will adjust these values higher or lower by the

11.20 percentage change in the Consumer Price Index-All Items, United States city average

11.21 (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner shall publish these

11.22 updated values and load them into the rate management system. On July 1, 2022, and every

11.23 ~~five~~ two years thereafter, the commissioner shall update the framework components in

11.24 paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5); subdivision

11.25 6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for changes in the

11.26 Consumer Price Index. The commissioner shall adjust these values higher or lower by the

11.27 percentage change in the CPI-U from the date of the previous update to the date of the data

11.28 most recently available prior to the scheduled update. The commissioner shall publish these

11.29 updated values and load them into the rate management system.

11.30 (j) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer

11.31 Price Index items are unavailable in the future, the commissioner shall recommend to the

11.32 legislature codes or items to update and replace missing component values.

12.1 (k) The commissioner shall increase the updated base wage index in paragraph (h) with
 12.2 a competitive workforce factor as follows:

12.3 (1) effective July 1, 2019, or upon federal approval, whichever is later, the competitive
 12.4 workforce factor is 8.35 percent; and

12.5 (2) effective July 1, 2022, and every two years thereafter, the commissioner shall update
 12.6 the competitive workforce factor using the most recently available data prior to the scheduled
 12.7 update. The commissioner shall adjust the competitive workforce factor to equal the
 12.8 differential between:

12.9 (i) the weighted average wage for direct care staff for residential services and direct care
 12.10 staff for day services; and

12.11 (ii) the weighted average wage of the comparable occupations.

12.12 For each adjustment of the competitive workforce factor, the adjustment must not increase
 12.13 or decrease the competitive workforce factor by more than 2.0. If the competitive workforce
 12.14 factor is less than or equal to zero, then the competitive workforce factor is zero. The lead
 12.15 agencies must implement the competitive workforce factor on the dates listed in clause (1)
 12.16 and not as reassessments, reauthorizations, or service plan renewals occur. Lead agencies
 12.17 must implement adjustments to the competitive workforce factor in clause (2) in conjunction
 12.18 with the base wage index updates required in paragraph (h) as reassessments, reauthorizations,
 12.19 or service plan renewals occur.

12.20 **EFFECTIVE DATE.** (a) The amendments to paragraphs (h) and (i) are effective July
 12.21 1, 2022, or upon federal approval, whichever is later. The commissioner shall inform the
 12.22 revisor of statutes when federal approval is obtained.

12.23 (b) Paragraph (k) is effective July 1, 2019, or upon federal approval, whichever is later.
 12.24 The commissioner shall inform the revisor of statutes when federal approval is obtained.

12.25 Sec. 5. Minnesota Statutes 2018, section 256B.4914, subdivision 10, is amended to read:

12.26 **Subd. 10. Updating payment values and additional information.** (a) From January
 12.27 1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform
 12.28 procedures to refine terms and adjust values used to calculate payment rates in this section.

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

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

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

13.4 (3) the distinct underlying costs for services provided by a license holder under sections
13.5 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
13.6 by a license holder certified under section 245D.33.

13.7 (c) Beginning January 1, 2014, through December 31, 2018, using a statistically valid
13.8 set of rates management system data, the commissioner, in consultation with stakeholders,
13.9 shall analyze for each service the average difference in the rate on December 31, 2013, and
13.10 the framework rate at the individual, provider, lead agency, and state levels. The
13.11 commissioner shall issue semiannual reports to the stakeholders on the difference in rates
13.12 by service and by county during the banding period under section 256B.4913, subdivision
13.13 4a. The commissioner shall issue the first report by October 1, 2014, and the final report
13.14 shall be issued by December 31, 2018.

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

13.18 (1) values for transportation rates;

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

13.20 (3) values for indirect services;

13.21 (4) values for nursing;

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

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

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

13.26 (8) any changes in state or federal law with a direct impact on the underlying cost of
13.27 providing home and community-based services; ~~and~~

13.28 (9) direct care staff labor market measures; and

13.29 (10) outcome measures, determined by the commissioner, for home and community-based
13.30 services rates determined under this section.

14.1 (e) The commissioner shall report to the chairs and the ranking minority members of
14.2 the legislative committees and divisions with jurisdiction over health and human services
14.3 policy and finance with the information and data gathered under paragraphs (b) to (d) on
14.4 the following dates:

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

14.6 (2) January 15, 2016, with a status implementation update, and additional data and
14.7 summary information;

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

14.9 (4) January 15, 2020, with another full report, and a full report once every four years
14.10 thereafter.

14.11 (f) The commissioner shall implement a regional adjustment factor to all rate calculations
14.12 in subdivisions 6 to 9, effective no later than January 1, 2015. Beginning July 1, 2017, the
14.13 commissioner shall renew analysis and implement changes to the regional adjustment factors
14.14 when adjustments required under subdivision 5, paragraph (h), occur. Prior to
14.15 implementation, the commissioner shall consult with stakeholders on the methodology to
14.16 calculate the adjustment.

14.17 (g) The commissioner shall provide a public notice via LISTSERV in October of each
14.18 year beginning October 1, 2014, containing information detailing legislatively approved
14.19 changes in:

14.20 (1) calculation values including derived wage rates and related employee and
14.21 administrative factors;

14.22 (2) service utilization;

14.23 (3) county and tribal allocation changes; and

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

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

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

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

15.5 (j) Beginning July 1, 2017, the commissioner shall collect transportation and trip
15.6 information for all day services through the rates management system.

15.7 Sec. 6. Minnesota Statutes 2018, section 256B.4914, subdivision 10a, is amended to read:

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

15.15 (1) worker wage costs;

15.16 (2) benefits paid;

15.17 (3) supervisor wage costs;

15.18 (4) executive wage costs;

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

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

15.21 (7) administrative costs paid;

15.22 (8) program costs paid;

15.23 (9) transportation costs paid;

15.24 (10) vacancy rates; and

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

15.27 (b) At least once in any five-year period, a provider must submit cost data for a fiscal
15.28 year that ended not more than 18 months prior to the submission date. The commissioner
15.29 shall provide each provider a 90-day notice prior to its submission due date. If a provider
15.30 fails to submit required reporting data, the commissioner shall provide notice to providers
15.31 that have not provided required data 30 days after the required submission date, and a second

16.1 notice for providers who have not provided required data 60 days after the required
16.2 submission date. The commissioner shall temporarily suspend payments to the provider if
16.3 cost data is not received 90 days after the required submission date. Withheld payments
16.4 shall be made once data is received by the commissioner.

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

16.8 (d) The commissioner shall analyze cost documentation in paragraph (a) and, in
16.9 consultation with stakeholders identified in section 256B.4913, subdivision 5, may submit
16.10 recommendations on component values and inflationary factor adjustments to the chairs
16.11 and ranking minority members of the legislative committees with jurisdiction over human
16.12 services every four years beginning January 1, 2020. The commissioner shall make
16.13 recommendations in conjunction with reports submitted to the legislature according to
16.14 subdivision 10, paragraph ~~(e)~~ (c). The commissioner shall release cost data in an aggregate
16.15 form, and cost data from individual providers shall not be released except as provided for
16.16 in current law.

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

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

16.24 (1) number of direct care staff;

16.25 (2) wages of direct care staff;

16.26 (3) overtime wages of direct care staff;

16.27 (4) hours worked by direct care staff;

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

16.29 (6) benefits provided to direct care staff;

16.30 (7) direct care staff job vacancies; and

16.31 (8) direct care staff retention rates.

- 17.1 (g) Beginning February 1, 2020, the commissioner shall publish annual reports on
17.2 provider and state-level labor market data, including, but not limited to:
- 17.3 (1) number of direct care staff;
17.4 (2) wages of direct care staff;
17.5 (3) overtime wages of direct care staff;
17.6 (4) hours worked by direct care staff;
17.7 (5) overtime hours worked by direct care staff;
17.8 (6) benefits provided to direct care staff;
17.9 (7) direct care staff job vacancies; and
17.10 (8) direct care staff retention rates.