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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2829

03/10/2016 Authored by Erhardt and Mariani

The bill was read for the first time and referred to the Committee on Aging and Long-Term Care Policy

1.1 A bill for an act  
1.2 relating to human services; modifying reimbursement rates for intermediate  
1.3 care facilities for persons with developmental disabilities and home and  
1.4 community-based services providers; amending Minnesota Statutes 2014,  
1.5 section 256B.5012, by adding a subdivision; proposing coding for new law in  
1.6 Minnesota Statutes, chapter 256B.

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

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

1.10 Subdivision 1. **Historical rate.** The commissioner of human services shall adjust  
1.11 the historical rates calculated in section 256B.4913, subdivision 4a, paragraph (b), in  
1.12 effect during the banding period under section 256B.4913, subdivision 4a, paragraph (a),  
1.13 for each reimbursement rate increase effective on or after July 1, 2015.

1.14 Subd. 2. **Residential support services.** The commissioner of human services shall  
1.15 adjust the rates calculated in section 256B.4914, subdivision 6, paragraphs (b) and (c), for  
1.16 each reimbursement rate increase effective on or after July 1, 2015.

1.17 Subd. 3. **Day programs.** The commissioner of human services shall adjust the rates  
1.18 calculated in section 256B.4914, subdivision 7, for each reimbursement rate increase  
1.19 effective on or after July 1, 2015.

1.20 Subd. 4. **Unit-based services with programming.** The commissioner of human  
1.21 services shall adjust the rate calculated in section 256B.4914, subdivision 8, for each  
1.22 reimbursement rate increase effective on or after July 1, 2015.

1.23 Subd. 5. **Unit-based services without programming.** The commissioner of human  
1.24 services shall adjust the rate calculated in section 256B.4914, subdivision 9, for each  
1.25 reimbursement rate increase effective on or after July 1, 2015.

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

2.3 Subd. 17. ICF/DD rate increases effective July 1, 2015, and July 1, 2016. (a)

2.4 For the rate periods beginning July 1, 2015, and July 1, 2016, the commissioner shall  
2.5 increase operating payments for each facility reimbursed under this section in each rate  
2.6 year equal to five percent of the operating payment rates in effect on June 30, 2015, and  
2.7 June 30, 2016, respectively.

2.8 (b) For each facility, the commissioner shall apply the rate increase based on  
2.9 occupied beds, using the percentage specified in this subdivision multiplied by the total  
2.10 payment rate, including the variable rate but excluding the property-related payment  
2.11 rate in effect on the preceding date. The total rate increase shall include the adjustment  
2.12 provided in section 256B.501, subdivision 12.

2.13 (c) Facilities that receive a rate increase under this subdivision shall use 75 percent  
2.14 of the additional revenue to increase compensation-related costs for employees directly  
2.15 employed by the facility on or after the effective dates of the rate adjustments in paragraph  
2.16 (a), except:

2.17 (1) persons employed in the central office of a corporation or entity that has an  
2.18 ownership interest in the facility or exercises control over the facility; and

2.19 (2) persons paid by the facility under a management contract.

2.20 (d) Compensation-related costs include:

2.21 (1) wages and salaries;

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

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

2.27 (4) other benefits provided and workforce needs, including the recruiting and  
2.28 training of employees as specified in the distribution plan required under paragraph (h).

2.29 (e) For public employees under a collective bargaining agreement, the increases for  
2.30 wages and benefits for certain staff are available and pay rates must be increased only to  
2.31 the extent that the increases comply with laws governing public employees' collective  
2.32 bargaining. Money received by a facility under paragraph (c) for pay increases for public  
2.33 employees must be used only for pay increases implemented between July 1, 2015, and  
2.34 August 1, 2015, for the July 1, 2015, increase and between July 1, 2016, and August 1,  
2.35 2016, for the July 1, 2016, increase.

3.1 (f) For a facility that has employees that are represented by an exclusive bargaining  
3.2 representative, the provider shall obtain a letter of acceptance of the distribution plan  
3.3 required under paragraph (h), in regard to the members of the bargaining unit, signed by  
3.4 the exclusive bargaining agent. Upon receipt of the letter of acceptance, the facility shall  
3.5 be deemed to have met all the requirements of this subdivision in regard to the members  
3.6 of the bargaining unit. Upon request, the facility shall produce the letter of acceptance for  
3.7 the commissioner.

3.8 (g) The commissioner shall amend state grant contracts that include direct  
3.9 personnel-related grant expenditures to include the allocation for the portion of the contract  
3.10 related to employee compensation. Grant contracts for compensation-related services  
3.11 must be amended to pass through these adjustments within 60 days of the effective date of  
3.12 each increase and must be retroactive to the effective date of the rate adjustment.

3.13 (h) A facility that receives a rate adjustment under paragraph (a) that is subject to  
3.14 paragraphs (c) and (d) shall prepare, and upon request, submit to the commissioner a  
3.15 distribution plan that specifies the amount of money the facility expects to receive that is  
3.16 subject to the requirements of paragraphs (c) and (d), including how that money will be  
3.17 distributed to increase compensation for employees.

3.18 (i) Within six months of the effective date of each rate adjustment, the facility shall  
3.19 post the distribution plan required under paragraph (h) for a period of at least six weeks in  
3.20 an area of the facility's operation to which all eligible employees have access and shall  
3.21 provide instructions for employees who do not believe they have received the wage and  
3.22 other compensation-related increases specified in the distribution plan. The instructions  
3.23 must include a mailing address, e-mail address, and telephone number that an employee  
3.24 may use to contact the commissioner or the commissioner's representative.

3.25 **Sec. 3. PROVIDER RATE AND GRANT INCREASES EFFECTIVE JULY 1,**  
3.26 **2015, AND JULY 1, 2016.**

3.27 (a) The commissioner of human services shall increase reimbursement rates, grants,  
3.28 allocations, individual limits, and rate limits, as applicable, by five percent for the rate  
3.29 periods beginning July 1, 2015, and July 1, 2016, for services rendered on or after those  
3.30 dates. County or tribal contracts for services specified in this section must be amended to  
3.31 pass through these rate increases within 60 days of the effective date of each increase.

3.32 (b) The rate changes described in this section must be provided to:

3.33 (1) home and community-based waived services for persons with developmental  
3.34 disabilities, including consumer-directed community supports, under Minnesota Statutes,  
3.35 section 256B.092;

- 4.1 (2) waived services under community alternatives for disabled individuals,  
4.2 including consumer-directed community supports, under Minnesota Statutes, section  
4.3 256B.49;
- 4.4 (3) community alternative care waived services, including consumer-directed  
4.5 community supports, under Minnesota Statutes, section 256B.49;
- 4.6 (4) brain injury waived services, including consumer-directed community  
4.7 supports, under Minnesota Statutes, section 256B.49;
- 4.8 (5) home and community-based waived services for the elderly under Minnesota  
4.9 Statutes, section 256B.0915;
- 4.10 (6) nursing services and home health services under Minnesota Statutes, section  
4.11 256B.0625, subdivision 6a;
- 4.12 (7) personal care services and qualified professional supervision of personal care  
4.13 services under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;
- 4.14 (8) home care nursing services under Minnesota Statutes, section 256B.0625,  
4.15 subdivision 7;
- 4.16 (9) community first services and supports under Minnesota Statutes, section 256B.85;
- 4.17 (10) essential community supports under Minnesota Statutes, section 256B.0922;
- 4.18 (11) day training and habilitation services for adults with developmental disabilities  
4.19 under Minnesota Statutes, sections 252.41 to 252.46, including the additional cost to  
4.20 counties of the rate adjustments on day training and habilitation services, provided as a  
4.21 social service;
- 4.22 (12) alternative care services under Minnesota Statutes, section 256B.0913;
- 4.23 (13) living skills training programs for persons with intractable epilepsy who need  
4.24 assistance in the transition to independent living under Laws 1988, chapter 689;
- 4.25 (14) semi-independent living services (SILS) under Minnesota Statutes, section  
4.26 252.275;
- 4.27 (15) consumer support grants under Minnesota Statutes, section 256.476;
- 4.28 (16) family support grants under Minnesota Statutes, section 252.32;
- 4.29 (17) housing access grants under Minnesota Statutes, section 256B.0658;
- 4.30 (18) self-advocacy grants under Laws 2009, chapter 101;
- 4.31 (19) technology grants under Laws 2009, chapter 79;
- 4.32 (20) aging grants under Minnesota Statutes, sections 256.975 to 256.977 and  
4.33 256B.0917;
- 4.34 (21) deaf and hard-of-hearing grants, including community support services for deaf  
4.35 and hard-of-hearing adults with mental illness who use or wish to use sign language as their  
4.36 primary means of communication under Minnesota Statutes, section 256.01, subdivision 2;

5.1 (22) deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233,  
5.2 256C.25, and 256C.261;

5.3 (23) Disability Linkage Line grants under Minnesota Statutes, section 256.01,  
5.4 subdivision 24;

5.5 (24) transition initiative grants under Minnesota Statutes, section 256.478;

5.6 (25) employment support grants under Minnesota Statutes, section 256B.021,  
5.7 subdivision 6; and

5.8 (26) grants provided to people who are eligible for the Housing Opportunities for  
5.9 Persons with AIDS program under Minnesota Statutes, section 256B.492.

5.10 (c) A managed care plan or county-based purchasing plan receiving state payments  
5.11 for the services, grants, and programs in paragraph (b) must include these increases in  
5.12 their payments to providers. For the purposes of this subdivision, entities that provide care  
5.13 coordination are providers. To implement the rate increases in paragraph (a), capitation  
5.14 rates paid by the commissioner to managed care plans and county-based purchasing plans  
5.15 under Minnesota Statutes, section 256B.69, shall reflect a five percent increase for the  
5.16 services, grants, and programs specified in paragraph (b) for each period beginning July 1,  
5.17 2015, and July 1, 2016.

5.18 (d) Counties shall increase the budget for each recipient of consumer-directed  
5.19 community supports by the amounts in paragraph (a) on the effective dates in paragraph (a).

5.20 (e) Providers that receive a rate increase under paragraph (a) shall use 75 percent  
5.21 of the additional revenue to increase compensation-related costs for employees directly  
5.22 employed by the program on or after the effective date of each rate adjustment in  
5.23 paragraph (a), except:

5.24 (1) persons employed in the central office of a corporation or entity that has an  
5.25 ownership interest in the provider or exercises control over the provider; and

5.26 (2) persons paid by the provider under a management contract.

5.27 (f) Compensation-related costs include:

5.28 (1) wages and salaries;

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

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

5.34 (4) other benefits provided and workforce needs, including the recruiting and  
5.35 training of employees as specified in the distribution plan required under paragraph (k).

6.1 (g) For public employees under a collective bargaining agreement, the increases  
6.2 for wages and benefits are available and pay rates must be increased only to the extent  
6.3 that the increases comply with laws governing public employees' collective bargaining.  
6.4 Money received by a provider for pay increases for public employees under paragraph (e)  
6.5 must be used only for pay increases implemented between July 1, 2015, and August 1,  
6.6 2015, for the July 1, 2015, increase and between July 1, 2016, and August 1, 2016, for  
6.7 the July 1, 2016, increase.

6.8 (h) For a provider that has employees who are represented by an exclusive bargaining  
6.9 representative, the provider shall obtain a letter of acceptance of the distribution plan  
6.10 required under paragraph (k), in regard to the members of the bargaining unit, signed by  
6.11 the exclusive bargaining agent. Upon receipt of the letter of acceptance, the provider shall  
6.12 be deemed to have met all the requirements of this section in regard to the members of  
6.13 the bargaining unit. Upon request, the provider shall produce the letter of acceptance for  
6.14 the commissioner.

6.15 (i) The commissioner shall amend state grant contracts that include direct  
6.16 personnel-related grant expenditures to include the allocation for the portion of the  
6.17 contract related to employee compensation. Grant contracts for compensation-related  
6.18 services must be amended to pass through these adjustments within 60 days of the  
6.19 effective date of each increases under paragraph (a) and must be retroactive to the effective  
6.20 date of each rate adjustment.

6.21 (j) The Board on Aging and its area agencies on aging shall amend their grants that  
6.22 include direct personnel-related grant expenditures to include the rate adjustments for the  
6.23 portion of the grant related to employee compensation. Grants for compensation-related  
6.24 services must be amended to pass through these adjustments within 60 days of the  
6.25 effective date of each increase under paragraph (a) and must be retroactive to the effective  
6.26 date of each rate adjustment.

6.27 (k) A provider that receives a rate adjustment under paragraph (a) that is subject to  
6.28 paragraph (e) shall prepare, and upon request, submit to the commissioner a distribution  
6.29 plan that specifies the amount of money the provider expects to receive that is subject  
6.30 to the requirements of paragraph (e), including how that money will be distributed to  
6.31 increase compensation for employees.

6.32 (l) Within six months of the effective date of each rate adjustment, the provider shall  
6.33 post the distribution plan required under paragraph (k) for a period of at least six weeks in  
6.34 an area of the provider's operation to which all eligible employees have access and shall  
6.35 provide instructions for employees who do not believe they have received the wage and  
6.36 other compensation-related increases specified in the distribution plan. The instructions

- 7.1 must include a mailing address, e-mail address, and telephone number that the employee
- 7.2 may use to contact the commissioner or the commissioner's representative.