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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 823

02/06/2017 Authored by Schomacker, Baker, Kiel, Kresha, Albright and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; reforming the elderly waiver program; appropriating
1.3 money; amending Minnesota Statutes 2016, sections 256B.056, subdivision 5;
1.4 256B.0911, subdivision 3a; 256B.0915, subdivisions 1, 3e, 5, by adding
1.5 subdivisions; 256B.439, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2016, section 256B.056, subdivision 5, is amended to read:

1.8 Subd. 5. Excess income. (a) A person who has excess income is eligible for medical
1.9 assistance if the person has expenses for medical care that are more than the amount of the
1.10 person's excess income, computed by deducting incurred medical expenses from the excess
1.11 income to reduce the excess to the income standard specified in subdivision 5c. The person
1.12 shall elect to have the medical expenses deducted at the beginning of a one-month budget
1.13 period or at the beginning of a six-month budget period. The commissioner shall allow
1.14 persons eligible for assistance on a one-month spenddown basis under this subdivision to
1.15 elect to pay the monthly spenddown amount in advance of the month of eligibility to the
1.16 state agency in order to maintain eligibility on a continuous basis. If the recipient does not
1.17 pay the spenddown amount on or before the 20th of the month, the recipient is ineligible
1.18 for this option for the following month. The local agency shall code the Medicaid
1.19 Management Information System (MMIS) to indicate that the recipient has elected this
1.20 option. The state agency shall convey recipient eligibility information relative to the
1.21 collection of the spenddown to providers through the Electronic Verification System (EVS).
1.22 A recipient electing advance payment must pay the state agency the monthly spenddown
1.23 amount on or before the 20th of the month in order to be eligible for this option in the
1.24 following month.

2.1 (b) A person who is eligible for medical assistance and receiving services under section
2.2 256B.0915 shall be eligible to pay the person's monthly spenddown or waiver obligation
2.3 amount due to a provider of the person's choice. The state, or other payer acting on behalf
2.4 of the state, shall deduct that amount from the provider's claims for each month.

2.5 Sec. 2. Minnesota Statutes 2016, section 256B.0911, subdivision 3a, is amended to read:

2.6 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services
2.7 planning, or other assistance intended to support community-based living, including persons
2.8 who need assessment in order to determine waiver or alternative care program eligibility,
2.9 must be visited by a long-term care consultation team within 20 calendar days after the date
2.10 on which an assessment was requested or recommended. Upon statewide implementation
2.11 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person
2.12 requesting personal care assistance services and home care nursing. The commissioner shall
2.13 provide at least a 90-day notice to lead agencies prior to the effective date of this requirement.
2.14 Face-to-face assessments must be conducted according to paragraphs (b) to (i).

2.15 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified
2.16 assessors to conduct the assessment. For a person with complex health care needs, a public
2.17 health or registered nurse from the team must be consulted.

2.18 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must
2.19 be used to complete a comprehensive, person-centered assessment. The assessment must
2.20 include the health, psychological, functional, environmental, and social needs of the
2.21 individual necessary to develop a community support plan that meets the individual's needs
2.22 and preferences.

2.23 (d) The assessment must be conducted in a face-to-face interview with the person being
2.24 assessed and the person's legal representative. At the request of the person, other individuals
2.25 may participate in the assessment to provide information on the needs, strengths, and
2.26 preferences of the person necessary to develop a community support plan that ensures the
2.27 person's health and safety. Except for legal representatives or family members invited by
2.28 the person, persons participating in the assessment may not be a provider of service or have
2.29 any financial interest in the provision of services. For persons who are to be assessed for
2.30 elderly waiver ~~customized living~~ services under section 256B.0915, with the permission of
2.31 the person being assessed or the person's designated or legal representative, the client's
2.32 current or proposed provider of services may submit a copy of the provider's nursing
2.33 assessment or written report outlining its recommendations regarding the client's care needs.
2.34 The person conducting the assessment must notify the provider of the date by which this

3.1 information is to be submitted. This information shall be provided to the person conducting
3.2 the assessment prior to the assessment. For a person who is to be assessed for waiver services
3.3 under section 256B.092 or 256B.49, with the permission of the person being assessed or
3.4 the person's designated legal representative, the person's current provider of services may
3.5 submit a written report outlining recommendations regarding the person's care needs prepared
3.6 by a direct service employee with at least 20 hours of service to that client. The person
3.7 conducting the assessment or reassessment must notify the provider of the date by which
3.8 this information is to be submitted. This information shall be provided to the person
3.9 conducting the assessment and the person or the person's legal representative, and must be
3.10 considered prior to the finalization of the assessment or reassessment.

3.11 (e) The person or the person's legal representative must be provided with a written
3.12 community support plan within 40 calendar days of the assessment visit, regardless of
3.13 whether the individual is eligible for Minnesota health care programs.

3.14 (f) For a person being assessed for elderly waiver services under section 256B.0915, a
3.15 provider who submitted information under paragraph (d) shall receive a copy of the draft
3.16 assessment and have an opportunity to submit additional information to the assessor before
3.17 the assessment is final. The provider shall also receive a copy of the final written community
3.18 support plan when available, the case mix level, and the Residential Services Workbook.

3.19 (g) The written community support plan must include:

3.20 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

3.21 (2) the individual's options and choices to meet identified needs, including all available
3.22 options for case management services and providers;

3.23 (3) identification of health and safety risks and how those risks will be addressed,
3.24 including personal risk management strategies;

3.25 (4) referral information; and

3.26 (5) informal caregiver supports, if applicable.

3.27 For a person determined eligible for state plan home care under subdivision 1a, paragraph
3.28 (b), clause (1), the person or person's representative must also receive a copy of the home
3.29 care service plan developed by the certified assessor.

3.30 ~~(f)~~ (h) A person may request assistance in identifying community supports without
3.31 participating in a complete assessment. Upon a request for assistance identifying community
3.32 support, the person must be transferred or referred to long-term care options counseling

4.1 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for
4.2 telephone assistance and follow up.

4.3 ~~(g)~~ (i) The person has the right to make the final decision between institutional placement
4.4 and community placement after the recommendations have been provided, except as provided
4.5 in section 256.975, subdivision 7a, paragraph (d).

4.6 ~~(h)~~ (j) The lead agency must give the person receiving assessment or support planning,
4.7 or the person's legal representative, materials, and forms supplied by the commissioner
4.8 containing the following information:

4.9 (1) written recommendations for community-based services and consumer-directed
4.10 options;

4.11 (2) documentation that the most cost-effective alternatives available were offered to the
4.12 individual. For purposes of this clause, "cost-effective" means community services and
4.13 living arrangements that cost the same as or less than institutional care. For an individual
4.14 found to meet eligibility criteria for home and community-based service programs under
4.15 section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the federally
4.16 approved waiver plan for each program;

4.17 (3) the need for and purpose of preadmission screening conducted by long-term care
4.18 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects
4.19 nursing facility placement. If the individual selects nursing facility placement, the lead
4.20 agency shall forward information needed to complete the level of care determinations and
4.21 screening for developmental disability and mental illness collected during the assessment
4.22 to the long-term care options counselor using forms provided by the commissioner;

4.23 (4) the role of long-term care consultation assessment and support planning in eligibility
4.24 determination for waiver and alternative care programs, and state plan home care, case
4.25 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),
4.26 and (b);

4.27 (5) information about Minnesota health care programs;

4.28 (6) the person's freedom to accept or reject the recommendations of the team;

4.29 (7) the person's right to confidentiality under the Minnesota Government Data Practices
4.30 Act, chapter 13;

4.31 (8) the certified assessor's decision regarding the person's need for institutional level of
4.32 care as determined under criteria established in subdivision 4e and the certified assessor's

5.1 decision regarding eligibility for all services and programs as defined in subdivision 1a,
5.2 paragraphs (a), clause (6), and (b); and

5.3 (9) the person's right to appeal the certified assessor's decision regarding eligibility for
5.4 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and
5.5 (8), and (b), and incorporating the decision regarding the need for institutional level of care
5.6 or the lead agency's final decisions regarding public programs eligibility according to section
5.7 256.045, subdivision 3.

5.8 ~~(i)~~ (k) Face-to-face assessment completed as part of eligibility determination for the
5.9 alternative care, elderly waiver, community access for disability inclusion, community
5.10 alternative care, and brain injury waiver programs under sections 256B.0913, 256B.0915,
5.11 and 256B.49 is valid to establish service eligibility for no more than ~~60~~ 90 calendar days
5.12 after the date of assessment.

5.13 ~~(i)~~ (l) The effective eligibility start date for programs in paragraph (i) can never be prior
5.14 to the date of assessment. If an assessment was completed more than ~~60~~ 90 days before the
5.15 effective waiver or alternative care program eligibility start date, assessment and support
5.16 plan information must be updated and documented in the department's Medicaid Management
5.17 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of
5.18 state plan services, the effective date of eligibility for programs included in paragraph ~~(i)~~
5.19 (k) cannot be prior to the date the most recent updated assessment is completed.

5.20 Sec. 3. Minnesota Statutes 2016, section 256B.0915, subdivision 1, is amended to read:

5.21 Subdivision 1. **Authority.** (a) The commissioner is authorized to apply for a home and
5.22 community-based services waiver for the elderly, authorized under section 1915(c) of the
5.23 Social Security Act, in order to obtain federal financial participation to expand the availability
5.24 of services for persons who are eligible for medical assistance. The commissioner may
5.25 apply for additional waivers or pursue other federal financial participation which is
5.26 advantageous to the state for funding home care services for the frail elderly who are eligible
5.27 for medical assistance.

5.28 (b) The provision of waived services to elderly and disabled medical assistance
5.29 recipients must comply with the criteria for service definitions and provider standards
5.30 approved in the waiver.

5.31 (c) All lead agencies administering the elderly waiver program for the commissioner
5.32 shall use the payment rates, policies, and tools described in this section.

6.1 Sec. 4. Minnesota Statutes 2016, section 256B.0915, subdivision 3e, is amended to read:

6.2 Subd. 3e. **Customized living service rate.** (a) Payment for customized living services
6.3 shall be a monthly rate authorized by the lead agency within the parameters established by
6.4 the commissioner. The payment agreement must delineate the amount of each component
6.5 service included in the recipient's customized living service plan. The lead agency, with
6.6 input from the provider of customized living services, shall ensure that there is a documented
6.7 need within the parameters established by the commissioner for all component customized
6.8 living services authorized.

6.9 (b) The payment rate must be based on the amount of component services to be provided
6.10 utilizing component rates established by the commissioner. Counties and tribes shall use
6.11 tools issued by the commissioner to develop and document customized living service plans
6.12 and rates.

6.13 (c) Component service rates must not exceed payment rates for comparable elderly
6.14 waiver or medical assistance services and must reflect economies of scale. Customized
6.15 living services must not include rent or raw food costs.

6.16 (d) The commissioner shall include a nursing component service that includes, but is
6.17 not limited to injections, catheterizations, wound care, infections, and diabetic and foot care.
6.18 The hourly unit service payment shall be based on the registered nurses component rate.

6.19 ~~(d)~~ (e) With the exception of individuals described in subdivision 3a, paragraph (b), the
6.20 individualized monthly authorized payment for the customized living service plan shall not
6.21 exceed 50 percent of the ~~greater of either the statewide or any of the geographic groups'~~
6.22 ~~weighted average monthly nursing facility rate of the case mix resident class to which the~~
6.23 ~~elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0051~~
6.24 ~~to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph~~
6.25 ~~(a). Effective On July 1 of the state fiscal each year in which the resident assessment system~~
6.26 ~~as described in section 256B.438 for nursing home rate determination is implemented and~~
6.27 ~~July 1 of each subsequent state fiscal year,~~ the individualized monthly authorized payment
6.28 for the services described in this clause shall not exceed the limit which was in effect on
6.29 June 30 of the previous state fiscal year updated annually based on legislatively adopted
6.30 changes to all service rate maximums for home and community-based service providers.

6.31 (f) The monthly customized living service rate for a client may be increased temporarily
6.32 in lieu of the client being admitted to a hospital. The temporary increase shall cover additional
6.33 nursing and home care services needed to avoid hospitalization. A provider shall

7.1 communicate client need to the case manager in a form and manner prescribed by the
 7.2 commissioner.

7.3 (g) Based on responses to questions 45 and 51 of the Minnesota long-term care
 7.4 consultation assessment form, the elderly waiver payment for customized living services
 7.5 includes a cognitive and behavioral needs factor for a client determined to have either:

7.6 (1) wandering or orientation issues; or

7.7 (2) anxiety, verbal aggression, physical aggression, repetitive behavior, agitation,
 7.8 self-injurious behavior, or behavior related to property destruction.

7.9 An additional 15 percent is applied to the component service rates if the total monthly hours
 7.10 of customized living services divided by 30.4 is less than 3.62. A client assessed as both
 7.11 "oriented" and "behavior requires no intervention" or "no behaviors" shall not receive a
 7.12 cognitive and behavioral needs factor.

7.13 ~~(e) Effective July 1, 2011,~~ (h) The individualized monthly payment for the customized
 7.14 living service plan for individuals described in subdivision 3a, paragraph (b), must be the
 7.15 monthly authorized payment limit for customized living for individuals classified as case
 7.16 mix A, reduced by 25 percent. This rate limit must be applied to all new participants enrolled
 7.17 in the program on or after July 1, 2011, who meet the criteria described in subdivision 3a,
 7.18 paragraph (b). This monthly limit also applies to all other participants who meet the criteria
 7.19 described in subdivision 3a, paragraph (b), at reassessment.

7.20 (i) The payment rate for a client qualifying for customized living services equals 120
 7.21 percent of the statewide average 24-hour residential services rate for the first 62 days and
 7.22 equals the rate established by the responsible case manager for the 63rd and subsequent
 7.23 days.

7.24 ~~(j)~~ (j) Customized living services are delivered by a provider licensed by the Department
 7.25 of Health as a class A or class F home care provider and provided in a building that is
 7.26 registered as a housing with services establishment under chapter 144D. Licensed home
 7.27 care providers are subject to section 256B.0651, subdivision 14.

7.28 ~~(g)~~ (k) A provider may not bill or otherwise charge an elderly waiver participant or their
 7.29 family for additional units of any allowable component service beyond those available under
 7.30 the service rate limits described in paragraph ~~(d)~~ (e), nor for additional units of any allowable
 7.31 component service beyond those approved in the service plan by the lead agency.

7.32 ~~(h) Effective July 1, 2016, and~~ (l) Each July 1 thereafter, individualized service rate
 7.33 limits for customized living services under this subdivision shall be increased by the

8.1 difference between any legislatively adopted home and community-based provider rate
8.2 increases effective on July 1 or since the previous July 1 and the average statewide percentage
8.3 increase in nursing facility operating payment rates under sections 256B.431, and 256B.434,
8.4 and 256B.441 chapter 256R, effective the previous January 1. This paragraph shall only
8.5 apply if the average statewide percentage increase in nursing facility operating payment
8.6 rates is greater than any legislatively adopted home and community-based provider rate
8.7 increases effective on July 1, or occurring since the previous July 1.

8.8 Sec. 5. Minnesota Statutes 2016, section 256B.0915, subdivision 5, is amended to read:

8.9 Subd. 5. **Assessments and reassessments for waiver clients.** (a) Each client shall
8.10 receive an initial assessment of strengths, informal supports, and need for services in
8.11 accordance with section 256B.0911, subdivisions 3, 3a, and 3b. A reassessment of a client
8.12 served under the elderly waiver must be conducted at least every 12 months ~~and at other~~
8.13 ~~times when the case manager determines that there has been significant change in the client's~~
8.14 ~~functioning. This may include instances where the client is discharged from the hospital.~~
8.15 There must be a determination that the client requires nursing facility level of care as defined
8.16 in section 256B.0911, subdivision 4e, at initial and subsequent assessments to initiate and
8.17 maintain participation in the waiver program.

8.18 (b) ~~Regardless of other assessments identified in section 144.0724, subdivision 4, as~~
8.19 ~~appropriate to determine nursing facility level of care for purposes of medical assistance~~
8.20 ~~payment for nursing facility services, only face-to-face assessments conducted according~~
8.21 ~~to section 256B.0911, subdivisions 3a and 3b, that result~~ At the discretion of the lead agency,
8.22 an annual reassessment of a client that has not had a change in condition may be conducted
8.23 without a face-to-face meeting, and such assessments may result in a nursing facility level
8.24 of care determination ~~will be accepted~~ for purposes of initial and ongoing access to waiver
8.25 service payment.

8.26 (c) The lead agency shall conduct a change-in-condition reassessment before the annual
8.27 reassessment in cases where a client's condition changed due to a major health event, an
8.28 emerging need or risk, worsening health condition, or cases where the current services do
8.29 not meet the client's needs. A change-in-condition reassessment can be initiated by the lead
8.30 agency, or it may be requested by the client or requested on the client's behalf by another
8.31 party, such as a provider of services. The lead agency shall complete a change-in-condition
8.32 reassessment no later than 20 calendar days from the request. The lead agency shall conduct
8.33 these assessments in a timely manner and expedite urgent requests. The lead agency shall

9.1 evaluate urgent requests based on the client's needs and risk to the client if a reassessment
 9.2 is not completed. These assessments may be done either face-to-face or remotely.

9.3 Sec. 6. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision
 9.4 to read:

9.5 Subd. 11. **Payment rates; application.** The payment methodologies in subdivisions 12
 9.6 to 15 apply to elderly waiver and elderly waiver customized living under this section,
 9.7 alternative care under section 256B.0913, and community access for disability inclusion
 9.8 customized living.

9.9 Sec. 7. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision
 9.10 to read:

9.11 Subd. 12. **Payment rates; establishment.** (a) The commissioner shall use standard
 9.12 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
 9.13 the most recent edition of the Occupational Handbook, data from the most recent and
 9.14 available nursing facility cost report, and data from the Non-Wage Provider Costs in Home
 9.15 and Community-Based Disability Services Report to establish component rates every July
 9.16 1 using Minnesota-specific wages taken from job descriptions.

9.17 (b) In creating the component rates, the commissioner shall establish a base wage
 9.18 calculation for each service and add additional rates for the following factors:

9.19 (1) payroll taxes and benefits;

9.20 (2) general and administrative;

9.21 (3) program plan support;

9.22 (4) registered nurse management and supervision; and

9.23 (5) social worker.

9.24 Sec. 8. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision
 9.25 to read:

9.26 Subd. 13. **Payment rates; base wage index.** (a) Base wages are calculated for the
 9.27 following services as follows:

9.28 (1) the home management and support services base wage equals 33.33 percent of the
 9.29 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home
 9.30 care aide (SOC code 39-9021); 33.33 percent of the Minneapolis-St. Paul-Bloomington,

10.1 MN-WI MetroSA average wage for food preparation workers (SOC code 35-2021); and
10.2 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage
10.3 for maids and housekeeping cleaners (SOC code 37-2012);

10.4 (2) the home care aide base wage equals 50 percent of the Minneapolis-St.
10.5 Paul-Bloomington, MN-WI MetroSA average wage for home health aides (SOC code
10.6 31-1011); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
10.7 average wage for nursing assistants (SOC code 35-2021);

10.8 (3) the home health aide base wage equals 20 percent of the Minneapolis-St.
10.9 Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed
10.10 vocational nurses (SOC code 29-2061); and 80 percent of the Minneapolis-St.
10.11 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
10.12 35-2021);

10.13 (4) the medication setups by licensed practical nurse base wage equals ten percent of
10.14 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical
10.15 and licensed vocational nurses (SOC code 29-2061); and 90 percent of the Minneapolis-St.
10.16 Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code
10.17 29-1141);

10.18 (5) the chore services base wage equals 50 percent of the Minneapolis-St.
10.19 Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners
10.20 (SOC code 37-2012); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
10.21 MetroSA average wage for landscaping and groundskeeping workers (SOC code 37-3011);

10.22 (6) the companion services base wage equals 50 percent of the Minneapolis-St.
10.23 Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aides (SOC
10.24 code 39-9021); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
10.25 average wage for maids and housekeeping cleaners (SOC code 37-2012);

10.26 (7) the homemaker services and assistance with personal care base wage equals 60
10.27 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for
10.28 personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St.
10.29 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
10.30 35-2021); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
10.31 average wage for maids and housekeeping cleaners (SOC code 37-2012);

10.32 (8) the homemaker services and cleaning base wage equals 60 percent of the
10.33 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home
10.34 care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI

11.1 MetroSA average wage for nursing assistants (SOC code 35-2021); and 20 percent of the
 11.2 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and
 11.3 housekeeping cleaners (SOC code 37-2012);

11.4 (9) the homemaker services and home management base wage equals 60 percent of the
 11.5 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home
 11.6 care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 11.7 MetroSA average wage for nursing assistants (SOC code 35-2021); and 20 percent of the
 11.8 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and
 11.9 housekeeping cleaners (SOC code 37-2012);

11.10 (10) the in-home respite care services base wage equals five percent of the
 11.11 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses
 11.12 (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 11.13 average wage for nursing assistants (SOC code 35-2021); and 20 percent of the
 11.14 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical
 11.15 and licensed vocational nurses (SOC code 29-2061);

11.16 (11) the out-of-home respite care services base wage equals five percent of the
 11.17 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses
 11.18 (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 11.19 average wage for nursing assistants (SOC code 35-2021); and 20 percent of the
 11.20 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical
 11.21 and licensed vocational nurses (SOC code 29-2061);

11.22 (12) the registered nurse base wage equals 100 percent of the Minneapolis-St.
 11.23 Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code
 11.24 29-1141); and

11.25 (13) the social worker base wage equals 100 percent of the Minneapolis-St.
 11.26 Paul-Bloomington, MN-WI MetroSA average wage for medical and public health social
 11.27 workers (SOC code 21-1022).

11.28 (b) If any of the SOC codes and positions are no longer available, the commissioner
 11.29 shall, in consultation with stakeholders, select a new SOC code and position that is the
 11.30 closest match to the previously used SOC position.

11.31 Sec. 9. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision
 11.32 to read:

11.33 Subd. 14. **Payment rates; factors.** The commissioner shall use the following factors:

12.1 (1) the payroll taxes and benefits factor is the sum of net payroll taxes and benefits
 12.2 divided by the sum of all salaries for all nursing facilities on the most recent and available
 12.3 cost report;

12.4 (2) the general and administrative factor is the sum of net general and administrative
 12.5 expenses minus administrative salaries divided by total operating expenses for all nursing
 12.6 facilities on the most recent and available cost report;

12.7 (3) the program plan support factor is defined as the direct service staff needed to provide
 12.8 support for the home and community-based service when not engaged in direct contact with
 12.9 clients. Based on the 2016 Non-Wage Provider Costs in Home and Community-Based
 12.10 Disability Waiver Services Report, this factor equals 12.8 percent;

12.11 (4) the registered nurse management and supervision factor equals 15 percent of the
 12.12 registered nurse component rate; and

12.13 (5) the social worker factor equals 15 percent of the social worker component rate.

12.14 Sec. 10. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision
 12.15 to read:

12.16 Subd. 15. **Payment rates; component rates.** (a) For the purposes of this subdivision,
 12.17 the "adjusted base wage" for a position equals the position's base wage plus:

12.18 (1) the position's base wage multiplied by the payroll taxes and benefits factor;

12.19 (2) the position's base wage multiplied by the general and administrative factor; and

12.20 (3) the position's base wage multiplied by the program plan support factor.

12.21 (b) For medication setups by licensed nurse, registered nurse, and social worker services,
 12.22 the component rate for each service equals the respective position's adjusted base wage.

12.23 (c) For home management and support services, home care aide, and home health aide
 12.24 services, the component rate for each service equals the respective position's adjusted base
 12.25 wage plus the registered nurse management and supervision factor.

12.26 (d) The home management and support services rate shall be used for payment for
 12.27 socialization and transportation under elderly waiver customized living.

12.28 (e) The rates for chore services and companion services are calculated as follows:

12.29 (1) sum the adjusted base wage for the respective position and the social worker factor;

12.30 and

12.31 (2) divide the result of clause (1) by four.

13.1 (f) The rates for homemaker services and assistance with personal cares, homemaker
13.2 services and cleaning, and homemaker services and home management are calculated as
13.3 follows:

13.4 (1) sum the adjusted base wage for the respective position and the registered nurse
13.5 management and supervision factor; and

13.6 (2) divide the result of clause (1) by four.

13.7 (g) The 15-minute rate for in-home respite care services is calculated as follows:

13.8 (1) sum the adjusted base wage for in-home respite care services and the registered nurse
13.9 management and supervision factor; and

13.10 (2) divide the result of clause (1) by four.

13.11 (h) The in-home respite care services daily rate equals the in-home respite care services
13.12 15-minute rate multiplied by 18.

13.13 (i) The 15-minute rate for out-of-home respite care is calculated as follows:

13.14 (1) sum the out-of-home respite care services adjusted base wage and the registered
13.15 nurse management and supervision factor; and

13.16 (2) divide the result of clause (1) by four.

13.17 (j) The out-of-home respite care services daily rate equals the out-of-home respite care
13.18 services 15-minute rate multiplied by 18.

13.19 (k) The home delivered meals rate equals \$9.30. Beginning July 1, 2018, the
13.20 commissioner shall increase the home delivered meals rate every July 1 by the percent
13.21 increase in the nursing facility dietary per diem using the two most recent nursing facility
13.22 cost reports.

13.23 (l) The adult day services rate is based on the home care aide rate under subdivision 13,
13.24 paragraph (a), clause (2), but the general and administrative factor used shall be 20 percent.
13.25 The staffing ratio for an adult day services client is assumed to be four clients to one
13.26 caregiver. The nonregistered nurse portion of the service rate shall be multiplied by the
13.27 staffing ratio and divided by four to determine the unit rate. The registered nurse portion is
13.28 divided by four to determine the unit rate and \$0.63 per unit is added to cover the cost of
13.29 meals. If a bath is authorized for an adult day services client, the staffing ratio for that unit
13.30 is one client to one caregiver and at least two units must be authorized to allow for adequate
13.31 time to meet client needs. Adult day services may be authorized for up to 40 units, or ten
13.32 hours, per day based on client and family caregiver needs.

14.1 Sec. 11. Minnesota Statutes 2016, section 256B.439, is amended by adding a subdivision
14.2 to read:

14.3 Subd. 2b. Performance measures for elderly waiver customized living. The
14.4 commissioner shall develop performance measures for housing with services establishments
14.5 that are enrolled in the elderly waiver program as a provider of customized living or 24-hour
14.6 customized living. According to methods determined by the commissioner in consultation
14.7 with stakeholders and experts, the commissioner shall develop the following performance
14.8 measures:

14.9 (1) an annual customer satisfaction survey measure using the CoreQ questions for assisted
14.10 living residents and family members questions;

14.11 (2) a measure utilizing level 3 or 4 citations from Department of Health home care survey
14.12 findings and substantiated Office of Health Facility Complaints findings against a home
14.13 care agency;

14.14 (3) a home care staff retention measure; and

14.15 (4) a measure that scores a provider's staff according to their level of training and
14.16 education.

14.17 Sec. 12. **DIRECTION TO COMMISSIONER; ADULT DAY SERVICES STAFFING**
14.18 **RATIOS.**

14.19 The commissioner of human services shall study the staffing ratio for adult day services
14.20 clients and shall provide the chairs and ranking minority members of the house of
14.21 representatives and senate committees with jurisdiction over adult day services with
14.22 recommendations to adjust staffing ratios based on client needs by January 1, 2018.

14.23 Sec. 13. **APPROPRIATION; PERFORMANCE MEASURES FOR ELDERLY**
14.24 **WAIVER CUSTOMIZED LIVING.**

14.25 \$5,000,000 in fiscal year 2017 is appropriated from the general fund to the commissioner
14.26 of human services for purposes of developing performance measures for elderly waiver
14.27 customized living under Minnesota Statutes, section 256B.439, subdivision 2b. This is a
14.28 onetime appropriation.

14.29 Sec. 14. **REVISOR'S INSTRUCTION.**

14.30 The revisor of statutes, in consultation with the House Research Department, Office of
14.31 Senate Counsel, Research, and Fiscal Analysis, and Department of Human Services shall

- 15.1 prepare legislation for the 2018 legislative session to recodify laws governing the elderly
- 15.2 waiver program in Minnesota Statutes, chapter 256B.
- 15.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.