SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1400

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03/14/2013	1025	Introduction and first reading Referred to Finance

A bill for an act

relating to human services; modifying payment methodologies for home and community-based services waivers; amending Minnesota Statutes 2012, sections 256B.0916, subdivision 2; 256B.092, subdivision 4; 256B.49, subdivision 17; 256B.4913; proposing coding for new law in Minnesota Statutes, chapter 256B.

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

Section 1. Minnesota Statutes 2012, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. **Distribution of funds; partnerships.** (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with developmental disabilities to individual counties or to groups of counties that form partnerships to jointly plan, and administer~~, and authorize funding~~ services for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) ~~Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:~~ Upon implementation of rate methodologies under section 256B.4914, the commissioner shall adjust the allocation methodology to lead agencies for home and community-based waivered service allocations to reflect the cost per recipient in their respective counties with disabilities in need of the level of care provided in an intermediate care facility for individuals with developmental disabilities, nursing facility, or a hospital as determined by the methodology in section 256B.4914.

~~(1) requirements in Minnesota Rules, part 9525.1880; and~~

~~(2) statewide priorities identified in section 256B.092, subdivision 12.~~

~~The plan must also identify changes made to improve services to eligible persons and to improve program management.~~

~~(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.~~

~~(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.~~

~~(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.~~

Sec. 2. Minnesota Statutes 2012, section 256B.092, subdivision 4, is amended to read:

Subd. 4. **Home and community-based services for developmental disabilities.** (a) The commissioner shall make payments to approved vendors participating in the medical assistance program to pay costs of providing home and community-based services, including case management service activities provided as an approved home and community-based service, to medical assistance eligible persons with developmental disabilities who have been screened under subdivision 7 and according to federal requirements. Federal requirements include those services and limitations included in the federally approved application for home and community-based services for persons with developmental disabilities and subsequent amendments.

(b) ~~Effective July 1, 1995, contingent upon federal approval and state appropriations made available for this purpose, and in conjunction with Laws 1995, chapter 207, article 8, section 40,~~ The commissioner of human services shall allocate resources to county agencies for home and community-based waivered services for persons with developmental disabilities ~~authorized but not receiving those services as of June 30, 1995,~~ based upon the ~~average resource need of persons with similar functional characteristics. To ensure service continuity for service recipients receiving home and community-based waivered services for persons with developmental disabilities prior to July 1, 1995, the commissioner shall make available to the county of financial responsibility home and community-based waivered services resources based upon fiscal year 1995 authorized levels.~~ number of recipients served and average cost for services per recipient under section 256B.4913:

(1) on January 1, 2014, the cost for services is based on projected expenditures for all individuals and services under section 256B.4913; and

(2) on January 1, 2017, the cost for services is based on historical expenditures for all individuals and services under section 256B.4913.

~~(c) Home and community-based resources for all recipients shall be managed by the county of financial responsibility within an allowable reimbursement average established for each county. Payments for home and community-based services provided to individual recipients shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with developmental disabilities.~~

Sec. 3. Minnesota Statutes 2012, section 256B.49, subdivision 17, is amended to read:

Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall ~~implement on January 1, 2002, one or more aggregate, need-based methods for allocating~~ allocate to local agencies the home and community-based waivered service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. ~~The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of~~ Each allocation shall be based on the number of recipients and average cost for services under section 256B.4913. Allocations shall be made to single counties or county partnerships:

(1) ~~an incentive-based payment process for achieving outcomes~~ on January 1, 2014, the average cost for services is determined based on projected expenditures; and

(2) ~~the need for a state-level risk pool;~~ on January 1, 2017, the cost for services is based on historical expenditures for all individuals and services under section 256B.4913.

~~(3) the need for retention of management responsibility at the state agency level; and~~

~~(4) a phase-in strategy as appropriate.~~

~~(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:~~

~~(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or~~

~~(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.~~

~~(d)~~ (c) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 to 256B.0656 and 256B.0659. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

~~(e)~~ (d) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

Sec. 4. Minnesota Statutes 2012, section 256B.4913, is amended to read:

256B.4913 PAYMENT METHODOLOGY DEVELOPMENT.

~~Subdivision 1. **Research period and rates.** (a) For the purposes of this section, "research rate" means a proposed payment rate for the provision of home and community-based waivered services to meet federal requirements and assess the implications of changing resources on the provision of services and "research period" means the time period during which the research rate is being assessed by the commissioner.~~

~~(b) The commissioner shall determine and publish initial frameworks and values to generate research rates for individuals receiving home and community-based services.~~

~~(c) The initial values issued by the commissioner shall ensure projected spending for home and community-based services for each service area is equivalent to projected spending under current law in the most recent expenditure forecast.~~

~~(d) The initial values issued shall be based on the most updated information and cost data available on supervision, employee-related costs, client programming and supports, programming planning supports, transportation, administrative overhead, and utilization costs. These service areas are:~~

~~(1) residential services, defined as corporate foster care, family foster care, residential care, supported living services, customized living, and 24-hour customized living;~~

~~(2) day program services, defined as adult day care, day training and habilitation, prevocational services, structured day services, and transportation;~~

~~(3) unit-based services with programming, defined as in-home family support, independent living services, supported living services, supported employment, behavior programming, and housing access coordination; and~~

~~(4) unit-based services without programming, defined as respite, personal support, and night supervision.~~

~~(e) The commissioner shall make available the underlying assessment information, without any identifying information, and the statistical modeling used to generate the initial research rate and calculate budget neutrality.~~

~~Subd. 2.~~ **~~Framework values.~~** ~~(a) The commissioner shall propose legislation with the specific payment methodology frameworks, process for calculation, and specific values to populate the frameworks by February 15, 2013.~~

~~(b) The commissioner shall provide underlying data and information used to formulate the final frameworks and values to the existing stakeholder workgroup by January 15, 2013.~~

~~(c) The commissioner shall provide recommendations for the final frameworks and values, and the basis for the recommendations, to the legislative committees with jurisdiction over health and human services finance by February 15, 2013.~~

~~(d) The commissioner shall review the following topics during the research period and propose, as necessary, recommendations to address the following research questions:~~

~~(1) underlying differences in the cost to provide services throughout the state;~~

~~(2) a data-driven process for determining labor costs and customizations for staffing classifications included in each rate framework based on the services performed;~~

~~(3) the allocation of resources previously established under section 256B.501, subdivision 4b;~~

~~(4) further definition and development of unit-based services;~~

~~(5) the impact of splitting the allocation of resources for unit-based services for those with programming aspects and those without;~~

~~(6) linking assessment criteria to future assessment processes for determination of customizations;~~

~~(7) recognition of cost differences in the use of monitoring technology where it is appropriate to substitute for supervision;~~

~~(8) implications for day services of reimbursement based on a unit rate and a daily rate;~~

~~(9) a definition of shared and individual staffing for unit-based services;~~

~~(10) the underlying costs of providing transportation associated with day services; and~~

~~(11) an exception process for individuals with exceptional needs that cannot be met under the initial research rate, and an alternative payment structure for those individuals.~~

~~(c) The commissioner shall develop a comprehensive plan based on information gathered during the research period that uses statistically reliable and valid assessment data to refine payment methodologies.~~

~~(f) The commissioner shall make recommendations and provide underlying data and information used to formulate these research recommendations to the existing stakeholder workgroup by January 15, 2013.~~

~~Subd. 3. **Data collection.** (a) The commissioner shall conduct any necessary research and gather additional data for the further development and refinement of payment methodology components. These include but are not limited to:~~

~~(1) levels of service utilization and patterns of use;~~

~~(2) staffing patterns for each service;~~

~~(3) profiles of individual service needs; and~~

~~(4) cost factors involved in providing transportation services.~~

~~(b) The commissioner shall provide this information to the existing stakeholder workgroup by January 15, 2013.~~

Subd. 4. **Rate stabilization adjustment.** ~~Beginning~~ (a) The commissioner of human services shall adjust individual reimbursement rates by no more than one percent per year, effective January 1, ~~2014, the commissioner shall adjust individual rates determined by~~ 2016. Rates will be adjusted using the new payment methodology so that the new unit rate varies no more than one percent per year from the rate effective on December ~~31~~ 1 of the prior calendar year. This adjustment is made annually ~~and is~~

~~effective for~~ three calendar years from the date of implementation. This subdivision expires ~~January 1, 2017~~ December 31, 2019.

(b) Rate stabilization adjustment applies to services that are authorized in each recipient's annual service review.

(c) Exemptions will be made only when there is a significant change in the recipient's assessed needs that results in a service authorization change. Exemption adjustments will be limited to the difference in the authorized framework rate specific to a recipient's change in assessed need. Exemptions will be managed within lead agencies' budgets per existing allocation procedures that govern county waiver budget allocation.

Subd. 5. **Stakeholder consultation.** The commissioner shall continue consultation on regular intervals with the existing stakeholder group established as part of the rate-setting methodology process and others to gather input, concerns, and data, ~~and exchange ideas for the legislative proposals for~~ to assist in the full implementation of the new rate payment system and to make pertinent information available to the public through the department's Web site.

Subd. 6. **Implementation.** On January 1, 2016, the commissioner ~~may~~ shall implement changes ~~no sooner than January 1, 2014,~~ to payment rates for individuals receiving home and community-based waivered services after the enactment of legislation that establishes specific payment methodology frameworks, processes for rate calculations, and specific values to populate the ~~payment methodology frameworks~~ disability waiver rates system, under section 256B.4914.

Sec. 5. **[256B.4914] HOME AND COMMUNITY-BASED WAIVERS; RATE SETTING.**

Subdivision 1. **Application.** The payment methodologies in this section apply to home and community-based services waivers under sections 256B.092 and 256B.49.

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

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

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

(d) "Customized living tool" means a methodology for setting service rates that delineates and documents the amount of each component service included in a recipient's customized living service plan, which must be approved by the recipient's full interdisciplinary team.

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

(f) "Lead agency" means a county, partnership of counties, or tribal agency charged with administering waivered services under sections 256B.092 and 256B.49.

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

(h) "Rates management system" means a Web-based software application that uses a framework and component values, as determined by the commissioner, to establish service rates.

(i) "Recipient" means a person receiving home and community-based services funded under any of the disability waivers.

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

(1) 24-hour customized living;

(2) adult day care;

(3) adult day care bath;

(4) behavioral programming;

(5) companion services;

(6) customized living;

(7) day training and habilitation;

(8) housing access coordination;

(9) independent living skills;

(10) in-home family support;

(11) night supervision;

(12) personal support;

(13) prevocational services;

(14) residential care services;

(15) residential support services;

(16) respite services;

(17) structured day services;

(18) supported employment services;

(19) supported living services;

(20) transportation services; and

(21) other services as approved by the federal government in the state home and community-based services plan.

Subd. 4. **Data collection for rate determination.** (a) Rates for all applicable home and community-based waivered services, including rate exceptions under subdivision 13, are set via the rate management system.

(b) Only data and information in the rate management system may be used to calculate an individual's rate.

(c) Service providers, in consultation with lead agencies, shall enter values and information needed to calculate an individual's rate into the rate management system. These values and information include:

(1) individual staffing hours;

(2) shared staffing hours;

(3) staffing ratios;

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

(5) number of trips and miles for transportation services;

(6) individual nursing hours, for registered nursing and licensed practical nursing;

(7) shared nursing hours, for registered nursing and licensed practical nursing;

(8) shared or individualized arrangements for unit-based services, including the staffing ratio; and

(9) the type of vehicle an individual requires.

(d) Updates to individual data shall include:

(1) data for each individual shall be updated annually when renewing service plans; and

(2) individuals or providers may request an update to a rate whenever there is a change in an individual's service needs, with accompanying documentation.

(e) Lead agencies shall review and approve values to calculate the final rate for each individual:

(1) lead agencies shall provide the underlying values used to calculate an individual's rate to service providers upon request; and

(2) if the values used differ from the initial values submitted, lead agencies must notify the individual and the service provider. That notification will include the original values, the final values, and justification for any adjustments.

(f) Appeals of rate determination:

(1) all aspects of rate determination are subject to appeals under section 256B.049; and

(2) service providers may appeal a rate determination with lead agencies if any value used to calculate an individual's rate was different than what was submitted. Lead agencies shall review these requests within 30 calendar days.

Subd. 5. **Base wage index and standard component values.** (a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services.

(b) The commissioner shall calculate the base wage using a composite of wages taken from job descriptions and standard occupational codes (SOC) from the Bureau of Labor Statistics, as defined by values in the Occupational Outlook Handbook in 2009 for Minnesota. These wages will be entered into the rate management system. The base wage index shall be calculated as follows:

(1) for day services, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technicians (SOC code 29-2053); and 60 percent of the median wage for social and human services workers (SOC code 21-1093);

(2) for residential direct-care staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(3) for residential asleep overnight staff, the wage will be $7.66 per hour;

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

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

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

(7) for supportive living services staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(8) for housing access coordination staff, 50 percent of the median wage for community and social services specialist (SOC code 21-1099); and 50 percent of the median wage for social and human services aide (SOC code 21-1093);

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

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

(10) for independent living skills staff, 100 percent of the median for community social service specialists (SOC code 21-1099);

(11) for supported employment staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(12) for adult companion staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

(13) for night supervision staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(14) for respite staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9032); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

(15) for personal support staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

(16) for supervisory staff, 53 percent of the median wage for medical and health services managers (SOC code 11-9111);

(17) for licensed practical nursing staff, 100 percent of the median wage for licensed practical and licensed vocational nurses (SOC code 29-2061); and

(18) for registered nursing staff, 100 percent of the median wage for registered nurses (SOC code 29-1111).

(c) The values for other components for calculating rates are defined as:

(1) the hours of supervisory time included is 11 percent of each shared and individual hour of service;

(2) the total add-on for employee-related expenses is 23.6 percent. Of that amount:

(i) 11.56 percent is for the cost of taxes and workers' compensation; and

(ii) 12.04 percent is for the cost of other benefits, including health insurance, dental insurance, life insurance, short-term disability insurance, long-term disability insurance, vision, retirement, and tuition reimbursement;

(3) the add-on for the cost of employee vacation time, sick time, and training time is 10.3 percent;

(4) the add-on for the cost of staff time for program plan support is 5.6 percent;

(5) the add-on for general administrative costs is 13.25 percent;

(6) the add-on for program-related expenses is 1.3 percent; and

(7) the add-on for absence and utilization factors is 6.0 percent.

(d) On July 1, 2017, the commissioner shall update the base wage index in paragraph (b) based on the release of the December 31 data of the most recent year from the Bureau of Labor Statistics, and publish the base wage index on the beginning of the upcoming state fiscal year on July 1. The updated staffing wages will be updated in the rate management system. This adjustment occurs every five years.

(e) On July 1, 2017, the commissioner shall update the framework components in paragraph (c) for increases in the Consumer Price Index every five years. The commissioner will adjust these values by the percentage change in the Consumer Price Index-All Items (United States city average)(CPI-U) over the same period. The updated values will be loaded in the rate management system. This adjustment occurs every five years.

Subd. 6. **Payments for residential support services.** (a) Payments for residential support services, as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22, must be calculated under the methodology in this subdivision.

(b) For supervision provided with direct staff, rates shall be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours and shared and direct nursing hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5;

(6) combine the figures calculated in clauses (4) and (5), and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(7) for employee-related expenses, multiply the direct staffing cost by one plus the add-on for employee-related costs in subdivision 5, paragraph (c);

(8) for client programming and supports, add $2,179 per year adjusted to a daily rate;

(9) for individuals who had previously received an adjustment to rates under section 256B.501, subdivision 4, add $3,120 per year adjusted to a daily rate;

(10) for transportation, if provided, add $2,100 for a standard vehicle, $2,600 for an adapted vehicle, or $3,000 for a full-size adapted van, per year adjusted to an hourly rate;

(11) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (6) to (10);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii) for the total payment amount; and

(12) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

(c) For supervision provided by remote monitoring technology, rates shall be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours and shared and direct nursing hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5. This is defined as the direct staffing cost;

(6) for client programming and supports, add $2,179 per year adjusted to a daily rate;

(7) for individuals who had previously received an adjustment to rates under section 256B.501, subdivision 4, add $3,120 per year adjusted to a daily rate;

(8) for transportation, if provided, add $2,100 for a standard vehicle, $2,600 for an adapted vehicle, or $3,000 for a full-size adapted van, per year adjusted to an hourly rate;

(9) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (5) to (8);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii). This is the total payment amount; and

(10) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

(d) For supervision provided with direct staff in a family foster care setting, rates shall be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5, to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours and shared and direct nursing hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5;

(6) combine the figures calculated in clauses (4) and (5) and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(7) for employee-related expenses, multiply the direct staffing cost by one plus two-thirds of the add-on for employee-related costs in subdivision 5, paragraph (c);

(8) for client programming and supports, add $2,179 per year adjusted to a daily rate;

(9) for individuals who had previously received an adjustment to rates under section 256B.501, subdivision 4, add $3,120 per year adjusted to a daily rate;

(10) for transportation, if provided, add $2,100 for a standard vehicle, $2,600 for an adapted vehicle, or $3,000 for a full-size adapted van per year adjusted to an hourly rate;

(11) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (6) to (10);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus two-thirds of the total in item (ii) for the total payment amount; and

(12) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

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

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5;

(6) for program plan support, multiply the result of clause (5) by one plus the add-on in subdivision 5, paragraph (c);

(7) combine the figures calculated in clauses (5) and (6) and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost by one plus the add-on for employee-related costs in subdivision 5, paragraph (c);

(9) for client programming and supports, multiply the result of clause (8) by one plus ten percent;

(10) for program facility costs, add $31.69 per week adjusted for staffing ratios entered in the rate management system under subdivision 5;

(11) for transportation to and from each individual's residence, add a base of $5.00, plus:

(i) for a one-way trip between zero and ten miles, $7.00 for a vehicle without a lift and $7.77 for a vehicle with a lift;

(ii) for a one-way trip between 11 and 20 miles, $7.87 for a vehicle without a lift and $10.27 for a vehicle with a lift;

(iii) for a one-way trip between 21 and 50 miles, $17.75 for a vehicle without a lift and $50.76 for a vehicle with a lift;

(iv) for a one-way trip of 51 miles or more, $25.50 for a vehicle without a lift and $72.93 for a vehicle with a lift; and

(v) the mileage rate used in these calculations will be adjusted by January 1 of each year by the same percentage change in the IRS mileage rate compared to the IRS mileage rate for the previous year;

(12) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (7) to (11);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii) for the total payment amount; and

(13) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

(b) Adult day bath is reimbursed at $7.01 per 15-minute unit.

Subd. 8. **Payments for unit-based services with programming.** (a) Payments for unit-based services with programming include behavior programming, housing access coordination, in-home family support, independent living skills training, hourly supported living services, and supported employment provided to an individual outside of any day or residential service plan. Services, including the use of monitoring technology, are included.

(b) The rate for individual services must be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5.

If the supervision wage is lower than for direct staff, substitute the direct staff wage in subdivision 5;

(6) for program plan support, multiply the result of clause (5) by one plus the add-on in subdivision 5, paragraph (c);

(7) combine the figures calculated in clauses (5) and (6) and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost by one plus the add-on for employee-related costs in subdivision 5, paragraph (c);

(9) for client programming and supports, multiply the result of clause (8) by one plus 8.6 percent;

(10) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (7) to (9);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii) for the total payment amount; and

(11) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

(c) The rate for shared services must be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5. If the supervision wage is lower than for direct staff, substitute the direct staff wage in subdivision 5;

(6) for program plan support, multiply the result of clause (5) by one plus the add-on in subdivision 5, paragraph (c);

(7) combine the figures calculated in clauses (5) and (6) and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost by one plus the add-on for employee-related costs in subdivision 5, paragraph (c);

(9) for client programming and supports, multiply the result of clause (8) by one plus 8.6 percent;

(10) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (7) to (9);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii) for the total payment amount; and

(11) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

Subd. 9. **Payments for unit-based services without programming.** (a) Payments for unit-based services without programming include night supervision, personal support, respite, and companion care provided to an individual outside of any day or residential service plan. Services, including the use of monitoring technology, are included.

(b) The rate for individual services must be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5;

(6) for program plan support, multiply the result of clause (5) by one plus the add-on in subdivision 5, paragraph (c);

(7) combine the figures calculated in clauses (5) and (6) and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost by one plus the add-on for employee-related costs in subdivision 5, paragraph (c);

(9) for client programming and supports, multiply the result of clause (8) by one plus 6.1 percent;

(10) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (7) to (9);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii) for the total payment amount; and

(11) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

(c) The rate for shared services must be calculated as follows:

(1) units of service are taken from the rate management system;

(2) personnel hourly wage rates are defined by the base wage index in subdivision 5 to define the direct-care rate;

(3) if an individual qualifies for the add-on customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the wage determined in subdivision 5 to define the customized direct-care rate;

(4) multiply the number of shared and direct staff hours by the appropriate staff wage in subdivision 5 or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (c), and the supervision wage in subdivision 5;

(6) for program plan support, multiply the result of clause (5) by one plus the add-on in subdivision 5, paragraph (c);

(7) combine the figures calculated in clauses (5) and (6) and multiply the result by one plus the add-on for the vacation, sick, and training ratio in subdivision 5, paragraph (c), to define the direct staffing cost;

(8) for employee-related expenses, multiply the direct staffing cost by one plus the add-on for employee-related costs in subdivision 5, paragraph (c);

(9) for client programming and supports, multiply the result of clause (8) by one plus 6.1 percent;

(10) the total rate shall be calculated using the following steps:

(i) the subtotal of clauses (7) to (9);

(ii) the sum of the standard general and administrative rate, the program-related expense ratio, the absence and utilization ratio defined in subdivision 5, paragraph (c); and

(iii) divide the result of item (i) by one minus the total in item (ii) for the total payment amount; and

(11) the total rate is adjusted by a onetime adjustment to achieve budget neutrality, as defined in subdivision 14.

Subd. 10. **Updating payment values and additional information.** (a) The commissioner shall develop and implement uniform procedures to refine terms and update recommended changes to values used to calculate payment rates in this section.

(b) The commissioner shall work with stakeholders to assess efficacy of values and payment rates. The commissioner shall report back to the legislature with proposed changes for component values.

(c) By February 15, 2015, the commissioner shall work with stakeholders to jointly collect and analyze data on the following topics:

(1) that rates produced are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that the care and services are available to the general public in the geographic areas as required by section 1902(a)(3)(A) of the Social Security Act;

(2) the cost of an increase in the state or federally required minimum wage and the impact on services;

(3) the cost of complying with the insurance requirements under the Patient Protection and Affordable Care Act, Public Law 111-148, and the impact on services;

(4) the impact of the methodology under section 256B.4914 on spending by county. The commissioner shall compare spending prior to and post implementation;

(5) a survey of providers to determine differences in the underlying cost of care to measure if differences exist by region;

(6) the utilization of transportation services for unit-based services;

(7) detailed data on the number of trips, mileage, and utilization of transportation in all-day services; and

(8) the occurrence of shared arrangements for unit-based services.

(d) The commissioner shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions with primary jurisdiction over health and human services and finance by February 15, 2015, either with legislation or a detailed explanation of why no legislation is recommended to address these topics.

Subd. 11. **Payment implementation.** Upon implementation of the payment methodologies under this section, those payment rates supersede rates established in county contracts for recipients receiving waiver services under sections 256B.092 and 256B.49.

Subd. 12. **Customization of rates for individuals.** For persons determined to have higher needs based on being deaf or hard-of-hearing, the direct-care costs must be increased by an adjustment factor prior to calculating the rate under subdivisions 6, 7, 8, and 9. The customization rate with respect to deaf and hard-of-hearing persons shall be $2.50 per hour for waiver recipients who meet the respective criteria as determined by the commissioner.

Subd. 13. **Rates for individuals with exceptional needs.** (a) Rates determined under subdivisions 6, 7, 8, and 9 are eligible for a rate exception under this subdivision.

(b) Lead agencies shall consider exception requests by an individual or a provider agency.

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

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

(2) an individual's rate determined under subdivisions 6, 7, 8, and 9 results in an individual being discharged.

(d) Exception requests to lead agencies will include the following information:

(1) the level of services needs required by each individual that are not accounted for in subdivisions 6, 7, 8, and 9;

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

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

(4) the duration of the rate exception; and

(5) any contingencies for approval.

(e) Lead agencies shall review exception requests, attach their recommendation, and forward the request to the commissioner for approval.

(f) The commissioner shall evaluate and approve rate exceptions, approve a modified rate exception, or reject the rate exception request. Within 30 calendar days, the commissioner shall notify individual and service providers, and provide justification for each rate exception decision.

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

(h) All aspects of the rate exception process are subject to appeals under section 256B.49.

Subd. 14. **Budget neutrality adjustment.** The commissioner shall calculate the total spending for all home and community-based waiver services under the payments as defined in subdivisions 6, 7, 8, and 9 for all recipients as of July 1, 2013, and compare it to spending for services defined for subdivisions 6, 7, 8, and 9 under current law. If spending for services in one particular subdivision differs, there will be a percentage adjustment to increase or decrease individual rates for the services defined in each subdivision so aggregate spending matches projections under current law.

EFFECTIVE DATE. This section is effective January 1, 2016.