

(SENATE AUTHORS: MICHEL)

DATE	D-PG	OFFICIAL STATUS
03/05/2012	4108	Introduction and first reading Referred to Health and Human Services

1.1 A bill for an act

1.2 relating to human services; modifying group residential housing; amending

1.3 Minnesota Statutes 2010, sections 256I.03, subdivision 2; 256I.04, subdivisions

1.4 1, 1b, 1c, 2; 256I.05, subdivisions 1, 1c, 1d, 1e, 1g, 1h, 1i, 1j, 1k, 1l, 1m, 1n, 3;

1.5 256I.06, subdivisions 1, 2, 7, 8; Minnesota Statutes 2011 Supplement, section

1.6 256I.05, subdivision 1a; proposing coding for new law in Minnesota Statutes,

1.7 chapter 256I; repealing Minnesota Statutes 2010, section 256I.04, subdivision 3.

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

1.9 Section 1. Minnesota Statutes 2010, section 256I.03, subdivision 2, is amended to read:

1.10 Subd. 2. **Group residential housing rate.** "Group residential housing rate" means

1.11 a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs

1.12 necessary to provide room and board for eligible individuals. Group residential housing

1.13 rate does not include payments for foster care for children who are not blind, child

1.14 welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical

1.15 supplies, program costs, or other social services. The rate is ~~negotiated by the county~~

1.16 ~~agency set by the commissioner~~ according to the provisions of sections 256I.01 to 256I.06.

1.17 Sec. 2. Minnesota Statutes 2010, section 256I.04, subdivision 1, is amended to read:

1.18 Subdivision 1. **Individual eligibility requirements.** An individual is eligible for

1.19 and entitled to a group residential housing payment ~~to be made on the individual's behalf~~

1.20 if the county agency has approved the individual's residence in a group residential housing

1.21 setting and the individual meets the requirements in paragraph (a) or (b).

1.22 (a) The individual is aged, blind, or is over 18 years of age and disabled as determined

1.23 under the criteria used by the title II program of the Social Security Act, and meets the

1.24 resource restrictions and standards of the supplemental security income program, and the

individual's countable income after deducting the (1) exclusions and disregards of the SSI program, (2) the medical assistance personal needs allowance under section 256B.35, and (3) an amount equal to the income actually made available to a community spouse by an elderly waiver recipient under the provisions of sections 256B.0575, paragraph (a), clause (4), and 256B.058, subdivision 2, is less than the ~~monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides~~ maximum group residential housing rate set by the commissioner.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), and the individual's resources are less than the standards specified by section 256D.08, and the individual's countable income as determined under sections 256D.01 to 256D.21, less the medical assistance personal needs allowance under section 256B.35 is less than the ~~monthly rate specified in the county agency's agreement with the provider of group residential housing in which the individual resides~~ maximum group residential housing rate set by the commissioner.

Sec. 3. Minnesota Statutes 2010, section 256I.04, subdivision 1b, is amended to read:

Subd. 1b. **Optional state supplements to SSI.** Group residential housing payments made ~~on behalf of~~ to persons eligible under subdivision 1, paragraph (a), are optional state supplements to the SSI program.

Sec. 4. Minnesota Statutes 2010, section 256I.04, subdivision 1c, is amended to read:

Subd. 1c. **Interim assistance.** Group residential housing payments made ~~on behalf of~~ to persons eligible under subdivision 1, paragraph (b), are considered interim assistance payments to applicants for the federal SSI program.

Sec. 5. Minnesota Statutes 2010, section 256I.04, subdivision 2, is amended to read:

Subd. 2. **Date of eligibility.** An individual who has met the eligibility requirements of subdivision 1, shall ~~have receive~~ receive a group residential housing payment ~~made on the individual's behalf from~~ on the first day of the month in which a signed application form is received by a county agency, or the first day of the month in which all eligibility factors have been met, whichever is later.

Sec. 6. **[256I.045] PROTECTIVE PAYMENTS.**

Subdivision 1. **Need for protective payee.** The county agency shall determine whether a recipient needs a protective payee when a physical or mental condition renders the recipient unable to manage funds and when payments to the recipient would be

contrary to the recipient's welfare. The determination of representative payment by the Social Security Administration for the recipient is sufficient reason for protective payment of Minnesota supplemental aid payments. The criteria used to determine a person's need for a protective payee are the criteria used in the Supplemental Security Income program to determine if a person is incapable of managing or directing the management of the person's money. If the need for protective payment is likely to continue beyond two years, the county agency shall seek judicial appointment of a guardian or other legal representative.

Subd. 2. **Establishing protective payment.** When the county agency determines that a recipient needs a protective payee, the county agency shall appoint a payee. The county agency shall consider the recipient's preference of protective payee. The protective payee must have an interest in or concern for the welfare of the recipient. The protective payee must be capable of and willing to provide the required assistance. A vendor of goods or services, including the recipient's landlord, shall not serve as protective payee. The county agency shall reconsider the need for a protective payee at least annually.

Subd. 3. **Protective payee for payments made by Social Security Administration.** If the assistance unit receives benefits from the Social Security Administration, the county agency shall also petition the Social Security Administration to establish a representative payee for those benefits.

Sec. 7. Minnesota Statutes 2010, section 256I.05, subdivision 1, is amended to read:

Subdivision 1. **Maximum rates.** Monthly room and board rates ~~negotiated by a county agency~~ set by the commissioner for a recipient living in group residential housing must not exceed the MSA equivalent rate specified under section 256I.03, subdivision 5.

Sec. 8. Minnesota Statutes 2011 Supplement, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **Supplementary service rates.** (a) ~~Subject to the provisions of section 256I.04, subdivision 3, The county agency commissioner may negotiate~~ set a payment rate not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the Department of Health, or licensed by the Department of Human Services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0659, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If

funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0659, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

~~(d) Counties must not negotiate supplementary service rates with providers of~~ In order to receive a supplementary service rate, group residential housing providers that are licensed as board and lodging with special services ~~and that do not~~ must encourage a policy of sobriety on their premises.

Sec. 9. Minnesota Statutes 2010, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. **Rate increases.** ~~A county agency may not increase~~ The rates ~~negotiated~~ paid for group residential housing must not be increased above those in effect on June 30, 1993, except as provided in paragraphs (a) to (g).

(a) ~~A county~~ The commissioner may increase the rates for group residential housing settings to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) ~~A county agency~~ The commissioner may increase the rates for residents in adult foster care whose difficulty of care has increased. The total group residential housing rate

for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. ~~County agencies~~ The commissioner must not include nor increase group residential housing difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When a group residential housing rate is used to pay for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences have received the prior approval of the county agency's social service staff. Prior approval is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the group residential housing establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

~~(f) Until June 30, 1994, a county agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0050 to 9549.0058.~~

~~(g) For the rate year beginning July 1, 1996, a county agency may increase the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in a residence that meets the following criteria:~~

- ~~(1) it is licensed by the commissioner of health as a boarding care home;~~
- ~~(2) it is not certified for the purposes of the medical assistance program;~~
- ~~(3) at least 50 percent of its residents have a primary diagnosis of mental illness;~~
- ~~(4) it has at least 17 beds; and~~

~~(5) it provides medication administration to residents.~~

~~The rate following an increase under this paragraph must not exceed an amount equivalent to the average 1995 medical assistance payment for nursing home resident class A under the age of 65, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0010 to 9549.0080.~~

Sec. 10. Minnesota Statutes 2010, section 256I.05, subdivision 1d, is amended to read:

Subd. 1d. **Certain facilities for mental illness or chemical dependency; rates.**

Notwithstanding the provisions of subdivisions 1a and 1c, ~~a county agency may negotiate~~ the commissioner may set a supplementary service rate in addition to the board and lodging rate for facilities licensed and registered by the Minnesota Department of Health under section 157.17 prior to December 31, 1996, if the facility meets the following criteria:

(1) at least 75 percent of the residents have a primary diagnosis of mental illness, chemical dependency, or both, and have related special needs;

(2) the facility provides 24-hour, on-site, year-round supportive services by qualified staff capable of intervention in a crisis of persons with late-state inebriety or mental illness who are vulnerable to abuse or neglect;

(3) the services at the facility include, but are not limited to:

(i) secure central storage of medication;

(ii) reminders and monitoring of medication for self-administration;

(iii) support for developing an individual medical and social service plan, updating the plan, and monitoring compliance with the plan; and

(iv) assistance with setting up meetings, appointments, and transportation to access medical, chemical health, and mental health service providers;

(4) each resident has a documented need for at least one of the services provided;

(5) each resident has been offered an opportunity to apply for admission to a licensed residential treatment program for mental illness, chemical dependency, or both, have refused that offer, and the offer and their refusal has been documented to writing; and

(6) the residents are not eligible for home and community-based services waivers because of their unique need for community support.

Until June 30, 2002, the supplementary service rate of qualifying facilities under this subdivision may be increased by up to 15 percent of the supplementary service rate in effect on January 1, 2001, for the facility. Qualifying facilities with no supplementary service rate may negotiate a supplementary service rate not to exceed \$300 per month.

Sec. 11. Minnesota Statutes 2010, section 256I.05, subdivision 1e, is amended to read:

Subd. 1e. **Supplementary rate for certain facilities.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2005, ~~a county agency~~ the commissioner shall negotiate set a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a group residential housing provider that:

(1) is located in Hennepin County and has had a group residential housing contract with the county since June 1996;

(2) operates in three separate locations a 75-bed facility, a 50-bed facility, and a 26-bed facility; and

(3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

Sec. 12. Minnesota Statutes 2010, section 256I.05, subdivision 1g, is amended to read:

Subd. 1g. **Supplementary service rate for certain facilities.** On or after July 1, 2005, ~~a county agency may negotiate~~ the commissioner may set a supplementary service rate for recipients of assistance under section 256I.04, subdivision 1, paragraph (b), who relocate from a homeless shelter licensed and registered prior to December 31, 1996, by the Minnesota Department of Health under section 157.17, to a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, not to exceed \$456.75.

Sec. 13. Minnesota Statutes 2010, section 256I.05, subdivision 1h, is amended to read:

Subd. 1h. **Supplementary rate for certain facilities serving chemically dependent males.** Notwithstanding subdivisions 1a and 1c, beginning July 1, 2007, ~~a county agency shall negotiate~~ the commissioner shall set a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$737.87 per month, including any legislatively authorized inflationary adjustments, for a group residential housing provider that:

(1) is located in Ramsey County and has had a group residential housing contract with the county since 1982 and has been licensed as a board and lodge facility with special services since 1979; and

(2) serves recovering and chemically dependent males, providing 24-hour-a-day supervision.

Sec. 14. Minnesota Statutes 2010, section 256I.05, subdivision 1i, is amended to read:

Subd. 1i. **Supplementary rate for certain facilities; Hennepin County.**

Notwithstanding the provisions of subdivisions 1a and 1c, ~~a county agency shall negotiate~~  
the commissioner shall set a supplementary rate in addition to the rate specified in  
subdivision 1, not to exceed \$700 per month, including any legislatively authorized  
inflationary adjustments, up to the available appropriation, for a facility located in  
Hennepin County with a capacity of up to 48 beds that has been licensed since 1978 as a  
board and lodging facility and that until August 1, 2007, operated as a licensed chemical  
dependency treatment program.

Sec. 15. Minnesota Statutes 2010, section 256I.05, subdivision 1j, is amended to read:

Subd. 1j. **Supplementary rate for certain facilities; Crow Wing County.**

Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2007, ~~a~~  
~~county agency shall negotiate~~ the commissioner shall set a supplementary rate in addition  
to the rate specified in subdivision 1, not to exceed \$700 per month, including any  
legislatively authorized inflationary adjustments, for a new 65-bed facility in Crow Wing  
County that will serve chemically dependent persons operated by a group residential  
housing provider that currently operates a 304-bed facility in Minneapolis and a 44-bed  
facility in Duluth which opened in January of 2006.

Sec. 16. Minnesota Statutes 2010, section 256I.05, subdivision 1k, is amended to read:

Subd. 1k. **Supplementary rate for certain facilities; Stearns, Sherburne, or  
Benton County.** Notwithstanding the provisions of this section, beginning July 1, 2009,  
~~a county agency shall negotiate~~ the commissioner shall set a supplementary service  
rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month,  
including any legislatively authorized inflationary adjustments, for a group residential  
housing provider located in Stearns, Sherburne, or Benton County that operates a 40-bed  
facility, that received financing through the Minnesota Housing Finance Agency Ending  
Long-Term Homelessness Initiative and serves chemically dependent clientele, providing  
24-hour-a-day supervision.

Sec. 17. Minnesota Statutes 2010, section 256I.05, subdivision 1l, is amended to read:

Subd. 1l. **Supplementary rate for certain facilities; St. Louis County.**

Notwithstanding the provisions of this section, beginning July 1, 2007, ~~a county agency~~  
~~shall negotiate~~ the commissioner shall set a supplementary service rate in addition to the  
rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively  
authorized inflationary adjustments, for a group residential housing provider located



in St. Louis County that operates a 30-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves chemically dependent clientele, providing 24-hour-a-day supervision.

Sec. 18. Minnesota Statutes 2010, section 256I.05, subdivision 1m, is amended to read:

Subd. 1m. **Supplemental rate for certain facilities; Hennepin and Ramsey Counties.** (a) Notwithstanding the provisions of this section, beginning July 1, 2007, ~~a county agency shall negotiate~~ the commissioner shall set a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month or the existing monthly rate, whichever is higher, including any legislatively authorized inflationary adjustments, for a group residential housing provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, which provide community support and serve the mental health needs of individuals who have chronically lived unsheltered, providing 24-hour-per-day supervision.

(b) An individual who has lived in one of the facilities under paragraph (a), who is being transitioned to independent living as part of the program plan continues to be eligible for group residential housing and the supplemental service rate negotiated with the county under paragraph (a).

Sec. 19. Minnesota Statutes 2010, section 256I.05, subdivision 1n, is amended to read:

Subd. 1n. **Supplemental rate; Mahnomen County.** Notwithstanding the provisions of this section, for the rate period July 1, 2010, to June 30, 2011, ~~a county agency shall negotiate~~ the commissioner shall set a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed \$753 per month or the existing rate, including any legislative authorized inflationary adjustments, for a group residential provider located in Mahnomen County that operates a 28-bed facility providing 24-hour care to individuals who are homeless, disabled, chemically dependent, mentally ill, or chronically homeless.

Sec. 20. Minnesota Statutes 2010, section 256I.05, subdivision 3, is amended to read:

Subd. 3. **Limits on rates.** When a group residential housing rate is used to pay for an individual's room and board, the rate payable to the ~~residence~~ individual must not exceed the rate paid by an individual not receiving a group residential housing rate under this chapter.

Sec. 21. Minnesota Statutes 2010, section 256I.06, subdivision 1, is amended to read:

10.1 Subdivision 1. **Monthly payments.** Monthly payments ~~made on an individual's~~  
10.2 ~~behalf~~ for group residential housing must be issued to the individual as a voucher ~~or~~  
10.3 ~~vendor payment.~~

10.4 Sec. 22. Minnesota Statutes 2010, section 256I.06, subdivision 2, is amended to read:

10.5 Subd. 2. **Time of payment.** ~~A county agency~~ The commissioner may make  
10.6 payments to ~~a group residence~~ an individual in advance for an individual whose stay in the  
10.7 group residence is expected to last beyond the calendar month for which the payment is  
10.8 made and who does not expect to receive countable earned income during the month for  
10.9 which the payment is made. Group residential housing payments made by ~~a county agency~~  
10.10 ~~on behalf of the commissioner to~~ an individual who is not expected to remain in the group  
10.11 residence beyond the month for which payment is made must be made subsequent to the  
10.12 individual's departure from the group residence. Group residential housing payments  
10.13 made by ~~a county agency on behalf of the commissioner to~~ an individual with countable  
10.14 earned income must be made subsequent to receipt of a monthly household report form.

10.15 Sec. 23. Minnesota Statutes 2010, section 256I.06, subdivision 7, is amended to read:

10.16 Subd. 7. **Determination of rates.** ~~The county in which a group residence is located~~  
10.17 commissioner will determine the amount of group residential housing rate to be paid ~~on~~  
10.18 ~~behalf of to~~ an individual residing in the ~~a group residence regardless of the individual's~~  
10.19 ~~county of financial responsibility.~~

10.20 Sec. 24. Minnesota Statutes 2010, section 256I.06, subdivision 8, is amended to read:

10.21 Subd. 8. **Amount of group residential housing payment.** The amount of a group  
10.22 residential housing payment to be made ~~on behalf of to~~ an eligible individual is determined  
10.23 by subtracting the individual's countable income under section 256I.04, subdivision 1, for  
10.24 a whole calendar month from the group residential housing charge for that same month.  
10.25 The group residential housing charge is determined by multiplying the group residential  
10.26 housing rate times the period of time the individual was a resident or temporarily absent  
10.27 under section 256I.05, subdivision 1c, paragraph (d).

10.28 Sec. 25. **REPEALER.**

10.29 Minnesota Statutes 2010, section 256I.04, subdivision 3, is repealed.