

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 727

(SENATE AUTHORS: UTKE, Hayden, Hoffman, Abeler and Eaton)

DATE	D-PG	OFFICIAL STATUS
02/06/2017	531	Introduction and first reading
		Referred to Human Services Reform Finance and Policy
03/22/2018	6929	Author added Eaton

1.1 A bill for an act

1.2 relating to human services; modifying the disability waiver rate system; amending

1.3 Minnesota Statutes 2016, section 256B.4914, subdivisions 2, 4, 5, 6, 7, 8, 9, 10,

1.4 14, by adding subdivisions; proposing coding for new law in Minnesota Statutes,

1.5 chapter 256B.

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

1.7 Section 1. Minnesota Statutes 2016, section 256B.4914, subdivision 2, is amended to read:

1.8 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the

1.9 meanings given them, unless the context clearly indicates otherwise.

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

1.11 (c) "Component value" means underlying factors that are part of the cost of providing

1.12 services that are built into the waiver rates methodology to calculate service rates.

1.13 (d) "Customized living tool" means a methodology for setting service rates that delineates

1.14 and documents the amount of each component service included in a recipient's customized

1.15 living service plan.

1.16 (e) "Disability waiver rates system" means a statewide system that establishes rates that

1.17 are based on uniform processes and captures the individualized nature of waiver services

1.18 and recipient needs.

1.19 (f) "Individual staffing" means the time spent as a one-to-one interaction specific to an

1.20 individual recipient by staff to provide direct support and assistance with activities of daily

1.21 living, instrumental activities of daily living, and training to participants, and is based on

1.22 the requirements in each individual's coordinated service and support plan under section

1.23 245D.02, subdivision 4b; any coordinated service and support plan addendum under section

2.1 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
2.2 needs must also be considered.

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

2.5 (h) "Licensing fee" means a direct charge or cost assessed by the commissioner to an
2.6 applicant or license holder to provide disability waiver services. Licensing fees include
2.7 charges to apply for or renew a license granted by the commissioner or, when applicable,
2.8 a county. Licensing fees do not include fines or penalties assessed for noncompliance with
2.9 law or additional charges required to process untimely applications.

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

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

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

2.17 ~~(h)~~ (l) "Recipient" means a person receiving home and community-based services funded
2.18 under any of the disability waivers.

2.19 ~~(h)~~ (m) "Shared staffing" means time spent by employees, not defined under paragraph
2.20 (f), providing or available to provide more than one individual with direct support and
2.21 assistance with activities of daily living as defined under section 256B.0659, subdivision
2.22 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659,
2.23 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and
2.24 training to participants, and is based on the requirements in each individual's coordinated
2.25 service and support plan under section 245D.02, subdivision 4b; any coordinated service
2.26 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and
2.27 provider observation of an individual's service need. Total shared staffing hours are divided
2.28 proportionally by the number of individuals who receive the shared service provisions.

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

2.33 ~~(n)~~ (o) "Unit of service" means the following:

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

3.4 (2) for day services under subdivision 7:

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

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

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

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

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

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

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

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

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

3.21 (4) for unit-based services without programming under subdivision 9:

3.22 (i) for respite services, a unit of service is a day or 15 minutes. When a day rate is
3.23 authorized, any portion of a calendar day when an individual receives services is billable
3.24 as a day; and

3.25 (ii) for all other services, a unit of service is 15 minutes.

3.26 Sec. 2. Minnesota Statutes 2016, section 256B.4914, subdivision 4, is amended to read:

3.27 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and
3.28 community-based waived services, including rate exceptions under subdivision 12, are
3.29 set by the rates management system.

4.1 (b) Data for services under section 256B.4913, subdivision 4a, shall be collected in a
4.2 manner prescribed by the commissioner.

4.3 (c) Data and information in the rates management system may be used to calculate an
4.4 individual's rate.

4.5 (d) Service providers, with information from the community support plan and oversight
4.6 by lead agencies, shall provide values and information needed to calculate an individual's
4.7 rate into the rates management system. The determination of service levels must be part of
4.8 a discussion with members of the support team as defined in section 245D.02, subdivision
4.9 34. This discussion must occur prior to the final establishment of each individual's rate. The
4.10 values and information include:

4.11 (1) shared staffing hours;

4.12 (2) individual staffing hours;

4.13 (3) direct registered nurse hours;

4.14 (4) direct licensed practical nurse hours;

4.15 (5) staffing ratios;

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

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

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

4.21 (9) service hours provided through monitoring technology.

4.22 (e) Updates to individual data must include:

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

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

4.26 (f) Lead agencies shall review and approve all services reflecting each individual's needs,
4.27 and the values to calculate the final payment rate for services with variables under
4.28 subdivisions 6, 7, 8, and 9 for each individual. Lead agencies must notify the individual and
4.29 the service provider of the final agreed-upon values and rate, and provide information that
4.30 is identical to what was entered into the rates management system. If a value used was
4.31 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead

5.1 agencies to correct it. Lead agencies must respond to these requests. When responding to
 5.2 the request, the lead agency must consider:

5.3 (1) meeting the health and welfare needs of the individual or individuals receiving
 5.4 services by service site, identified in their coordinated service and support plan under section
 5.5 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

5.6 (2) meeting the requirements for staffing under subdivision 2, paragraphs (f), ~~(i)~~ (j), and
 5.7 ~~(m)~~ (n); and meeting or exceeding the licensing standards for staffing required under section
 5.8 245D.09, subdivision 1; and

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

5.11 Sec. 3. Minnesota Statutes 2016, section 256B.4914, subdivision 5, is amended to read:

5.12 Subd. 5. **Base wage index and standard component values.** (a) The base wage index
 5.13 is established to determine staffing costs associated with providing services to individuals
 5.14 receiving home and community-based services. For purposes of developing and calculating
 5.15 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
 5.16 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
 5.17 the most recent edition of the Occupational Handbook must be used. The base wage index
 5.18 must be calculated as follows:

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

5.20 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
 5.21 health aide (SOC code 39-9021); 30 percent of the median wage for ~~nursing aide orderlies~~
 5.22 (SOC code ~~31-1012~~ 31-1015); and 20 percent of the median wage for social and human
 5.23 services aide (SOC code 21-1093); and

5.24 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
 5.25 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
 5.26 (SOC code 39-9021); 20 percent of the median wage for ~~nursing aide orderlies~~ (SOC code
 5.27 ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric technician (SOC code
 5.28 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
 5.29 21-1093);

5.30 (2) for day services, 20 percent of the median wage for ~~nursing aide orderlies~~ (SOC code
 5.31 ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric technician (SOC code
 5.32 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
 5.33 21-1093);

6.1 (3) for residential asleep-overnight staff, the wage ~~will be \$7.66 per hour~~ is the minimum
 6.2 wage in Minnesota for large employers, except in a family foster care setting, the wage is
 6.3 ~~\$2.80 per hour~~ 36 percent of the minimum wage in Minnesota for large employers;

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

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

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

6.10 (7) for supportive living services staff, 20 percent of the median wage for ~~nursing aide~~
 6.11 orderlies (SOC code ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric
 6.12 technician (SOC code 29-2053); and 60 percent of the median wage for social and human
 6.13 services aide (SOC code 21-1093);

6.14 (8) for housing access coordination staff, ~~50~~ 100 percent of the median wage for
 6.15 community and social services specialist (SOC code 21-1099); ~~and 50 percent of the median~~
 6.16 ~~wage for social and human services aide (SOC code 21-1093);~~

6.17 (9) for in-home family support staff, 20 percent of the median wage for ~~nursing aide~~
 6.18 orderlies (SOC code ~~31-1012~~ 31-1015); 30 percent of the median wage for community
 6.19 social service specialist (SOC code 21-1099); 40 percent of the median wage for social and
 6.20 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
 6.21 technician (SOC code 29-2053);

6.22 (10) for independent living skills staff, ~~40~~ 50 percent of the median wage for community
 6.23 social service specialist (SOC code 21-1099); 50 percent of the median wage for ~~social and~~
 6.24 ~~human services aide~~ rehabilitation counselor (SOC code ~~21-1093~~ 21-1015); ~~and ten percent~~
 6.25 ~~of the median wage for psychiatric technician (SOC code 29-2053);~~

6.26 (11) for ~~supported~~ employment supports staff, 20 percent of the median wage for nursing
 6.27 ~~aide~~ assistant (SOC code ~~31-1012~~ 31-1014); 20 percent of the median wage for psychiatric
 6.28 technician (SOC code 29-2053); and 60 percent of the median wage for social and human
 6.29 services ~~aide~~ assistant (SOC code 21-1093);

6.30 (12) for employment exploration services staff, 60 percent of the median wage for social
 6.31 and human services assistant (SOC code 21-1093); 20 percent of the median wage for
 6.32 psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for nursing
 6.33 assistant (SOC code 31-1014);

7.1 (13) for employment development services staff, 50 percent of the median wage for
 7.2 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
 7.3 of the median wage for community and social services specialist (SOC code 21-1099);

7.4 ~~(12)~~ (14) for adult companion staff, 50 percent of the median wage for personal and
 7.5 home care aide (SOC code 39-9021); and 50 percent of the median wage for ~~nursing aides,~~
 7.6 ~~orderlies, and attendants~~ (SOC code ~~31-1012~~ 31-1015);

7.7 ~~(13)~~ (15) for night supervision staff, 20 percent of the median wage for home health
 7.8 aide (SOC code 31-1011); 20 percent of the median wage for personal and home health
 7.9 aide (SOC code 39-9021); 20 percent of the median wage for ~~nursing aide~~ orderlies (SOC
 7.10 code ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric technician (SOC
 7.11 code 29-2053); and 20 percent of the median wage for social and human services aide (SOC
 7.12 code 21-1093);

7.13 ~~(14)~~ (16) for respite staff, 50 percent of the median wage for personal and home care
 7.14 aide (SOC code 39-9021); and 50 percent of the median wage for ~~nursing aides,~~ orderlies;
 7.15 ~~and attendants~~ (SOC code ~~31-1012~~ 31-1015);

7.16 ~~(15)~~ (17) for personal support staff, 50 percent of the median wage for personal and
 7.17 home care aide (SOC code 39-9021); and 50 percent of the median wage for ~~nursing aides,~~
 7.18 ~~orderlies, and attendants~~ (SOC code ~~31-1012~~ 31-1015);

7.19 ~~(16)~~ (18) for supervisory staff, ~~the basic wage is \$17.43 per hour~~ 100 percent of the
 7.20 median wage for community and social services specialist (SOC code 21-1099), with the
 7.21 exception of the supervisor of behavior professional, behavior analyst, and behavior
 7.22 specialists, which ~~must be \$30.75 per hour~~ is 100 percent of the median wage for clinical
 7.23 counseling and school psychologist (SOC code 19-3031);

7.24 ~~(17)~~ (19) for registered nurse staff, ~~the basic wage is \$30.82 per hour~~ 100 percent of the
 7.25 median wage for registered nurses (SOC code 29-1141); and

7.26 ~~(18)~~ (20) for licensed practical nurse staff, ~~the basic wage is \$18.64 per hour~~ 100 percent
 7.27 of the median wage for licensed practical nurses (SOC code 29-2061).

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

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

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

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

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

- 8.1 (5) program-related expense ratio: 1.3 percent; and
- 8.2 (6) absence and utilization factor ratio: 3.9 percent.
- 8.3 (c) Component values for family foster care are:
- 8.4 (1) supervisory span of control ratio: 11 percent;
- 8.5 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.6 (3) employee-related cost ratio: 23.6 percent;
- 8.7 (4) general administrative support ratio: 3.3 percent;
- 8.8 (5) program-related expense ratio: 1.3 percent; and
- 8.9 (6) absence factor: 1.7 percent.
- 8.10 (d) Component values for day services for all services are:
- 8.11 (1) supervisory span of control ratio: 11 percent;
- 8.12 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.13 (3) employee-related cost ratio: 23.6 percent;
- 8.14 (4) program plan support ratio: 5.6 percent;
- 8.15 (5) client programming and support ratio: ten percent;
- 8.16 (6) general administrative support ratio: 13.25 percent;
- 8.17 (7) program-related expense ratio: 1.8 percent; ~~and~~
- 8.18 (8) absence and utilization factor ratio: ~~3.9~~ 9.4 percent; and
- 8.19 (9) recipient fixed cost factor to calculate the payment rate for each staffing ratio: 0.1951.
- 8.20 (e) Component values for unit-based services with programming are:
- 8.21 (1) supervisory span of control ratio: 11 percent;
- 8.22 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.23 (3) employee-related cost ratio: 23.6 percent;
- 8.24 (4) program plan supports ratio: 3.1 percent;
- 8.25 (5) client programming and supports ratio: 8.6 percent;
- 8.26 (6) general administrative support ratio: 13.25 percent;
- 8.27 (7) program-related expense ratio: 6.1 percent; and

- 9.1 (8) absence and utilization factor ratio: 3.9 percent.
- 9.2 (f) Component values for unit-based services without programming except respite are:
- 9.3 (1) supervisory span of control ratio: 11 percent;
- 9.4 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 9.5 (3) employee-related cost ratio: 23.6 percent;
- 9.6 (4) program plan support ratio: 3.1 percent;
- 9.7 (5) client programming and support ratio: 8.6 percent;
- 9.8 (6) general administrative support ratio: 13.25 percent;
- 9.9 (7) program-related expense ratio: 6.1 percent; and
- 9.10 (8) absence and utilization factor ratio: 3.9 percent.
- 9.11 (g) Component values for unit-based services without programming for respite are:
- 9.12 (1) supervisory span of control ratio: 11 percent;
- 9.13 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 9.14 (3) employee-related cost ratio: 23.6 percent;
- 9.15 (4) general administrative support ratio: 13.25 percent;
- 9.16 (5) program-related expense ratio: 6.1 percent; and
- 9.17 (6) absence and utilization factor ratio: 3.9 percent.
- 9.18 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
- 9.19 (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor
- 9.20 Statistics available on December 31, 2016. The commissioner shall publish these updated
- 9.21 values and load them into the rate management system. This adjustment occurs every ~~five~~
- 9.22 two years. For adjustments ~~in 2021~~ on July 1, 2019, and beyond, the commissioner shall
- 9.23 use the data available on December 31 of the prior calendar year ~~five years prior~~.
- 9.24 (i) On July 1, 2017, the commissioner shall update the framework components in
- 9.25 paragraphs (b) to (g); subdivision 6, clauses (8) and (9); and subdivision 7, clauses (16) and
- 9.26 (17), for changes in the Consumer Price Index. The commissioner will adjust these values
- 9.27 higher or lower by the percentage change in the Consumer Price Index-All Items, United
- 9.28 States city average (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner
- 9.29 shall publish these updated values and load them into the rate management system. This
- 9.30 adjustment occurs every ~~five~~ two years. For adjustments ~~in 2021~~ on July 1, 2019, and

10.1 beyond, the commissioner shall use the data available on January 1 of the calendar year
10.2 ~~four~~ two years prior and January 1 of the current calendar year.

10.3 Sec. 4. Minnesota Statutes 2016, section 256B.4914, subdivision 6, is amended to read:

10.4 Subd. 6. **Payments for residential support services.** (a) Payments for residential support
10.5 services, as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22,
10.6 must be calculated as follows:

10.7 (1) determine the number of shared staffing and individual direct staff hours to meet a
10.8 recipient's needs provided on site or through monitoring technology;

10.9 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
10.10 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
10.11 5. This is defined as the direct-care rate;

10.12 (3) for a recipient requiring customization for deaf and hard-of-hearing language
10.13 accessibility under subdivision 12, add the customization rate provided in subdivision 12
10.14 to the result of clause (2). This is defined as the customized direct-care rate;

10.15 (4) multiply the number of shared and individual direct staff hours provided on site or
10.16 through monitoring technology and nursing hours by the appropriate staff wages in
10.17 subdivision 5, paragraph (a), or the customized direct-care rate;

10.18 (5) multiply the number of shared and individual direct staff hours provided on site or
10.19 through monitoring technology and nursing hours by the product of the supervision span
10.20 of control ratio in subdivision 5, paragraph (b), clause (1), and the appropriate supervision
10.21 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

10.22 (6) combine the results of clauses (4) and (5), excluding any shared and individual direct
10.23 staff hours provided through monitoring technology, and multiply the result by one plus
10.24 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b),
10.25 clause (2). This is defined as the direct staffing cost;

10.26 (7) for employee-related expenses, multiply the direct staffing cost, excluding any shared
10.27 and individual direct staff hours provided through monitoring technology, by one plus the
10.28 employee-related cost ratio in subdivision 5, paragraph (b), clause (3);

10.29 (8) for client programming and supports, the commissioner shall add \$2,179; and

10.30 (9) for transportation, if provided, the commissioner shall ~~add \$1,680, or \$3,000~~ allocate
10.31 to each program's residential site \$6,720, or \$12,000 if customized for adapted transport,

11.1 based on the resident with the highest assessed need. The commissioner shall divide the
11.2 transportation allocation by the site's actual occupancy, and add that sum to the total rate.

11.3 (b) The total rate must be calculated using the following steps:

11.4 (1) subtotal paragraph (a), clauses (7) to (9), and the direct staffing cost of any shared
11.5 and individual direct staff hours provided through monitoring technology that was excluded
11.6 in clause (7);

11.7 (2) sum the standard general and administrative rate, the program-related expense ratio,
11.8 and the absence and utilization ratio;

11.9 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
11.10 payment amount; and

11.11 (4) adjust the result of clause (3) by a factor to be determined by the commissioner to
11.12 adjust for regional differences in the cost of providing services.

11.13 (c) The payment methodology for customized living, 24-hour customized living, and
11.14 residential care services must be the customized living tool. Revisions to the customized
11.15 living tool must be made to reflect the services and activities unique to disability-related
11.16 recipient needs.

11.17 (d) For individuals enrolled prior to January 1, 2014, the days of service authorized must
11.18 meet or exceed the days of service used to convert service agreements in effect on December
11.19 1, 2013, and must not result in a reduction in spending or service utilization due to conversion
11.20 during the implementation period under section 256B.4913, subdivision 4a. If during the
11.21 implementation period, an individual's historical rate, including adjustments required under
11.22 section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate
11.23 determined in this subdivision, the number of days authorized for the individual is 365.

11.24 (e) The number of days authorized for all individuals enrolling after January 1, 2014,
11.25 in residential services must include every day that services start and end.

11.26 Sec. 5. Minnesota Statutes 2016, section 256B.4914, subdivision 7, is amended to read:

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

11.30 (1) determine the number of units of service and staffing ratio to meet a recipient's needs:

11.31 (i) the staffing ratios for the units of service provided to a recipient in a typical week
11.32 must be averaged to determine an individual's staffing ratio; and

12.1 (ii) the commissioner, in consultation with service providers, shall develop a uniform
12.2 staffing ratio worksheet to be used to determine staffing ratios under this subdivision;

12.3 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
12.4 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
12.5 5;

12.6 (3) for a recipient requiring customization for deaf and hard-of-hearing language
12.7 accessibility under subdivision 12, add the customization rate provided in subdivision 12
12.8 to the result of clause (2). This is defined as the customized direct-care rate;

12.9 (4) multiply the number of day program direct staff hours and nursing hours by the
12.10 appropriate staff wage in subdivision 5, paragraph (a), or the customized direct-care rate;

12.11 (5) multiply the number of day direct staff hours by the product of the supervision span
12.12 of control ratio in subdivision 5, paragraph (d), clause (1), and the appropriate supervision
12.13 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

12.14 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
12.15 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (d), clause
12.16 (2). This is defined as the direct staffing rate;

12.17 (7) for program plan support, multiply the result of clause (6) by one plus the program
12.18 plan support ratio in subdivision 5, paragraph (d), clause (4);

12.19 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
12.20 employee-related cost ratio in subdivision 5, paragraph (d), clause (3);

12.21 (9) for client programming and supports, multiply the result of clause (8) by one plus
12.22 the client programming and support ratio in subdivision 5, paragraph (d), clause (5);

12.23 (10) for program facility costs, add \$19.30 per week with consideration of staffing ratios
12.24 to meet individual needs;

12.25 (11) for adult day bath services, add \$7.01 per 15 minute unit;

12.26 (12) this is the subtotal rate;

12.27 (13) sum the standard general and administrative rate, the program-related expense ratio,
12.28 and the absence and utilization factor ratio;

12.29 (14) divide the result of clause (12) by one minus the result of clause (13). This is the
12.30 total payment amount;

13.1 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
13.2 to adjust for regional differences in the cost of providing services;

13.3 (16) for transportation, if provided as part of, for day training and habilitation programs
13.4 for an individual who does not require a lift, add:

13.5 (i) \$10.50 for a trip between zero and ten miles for a nonshared ride in a vehicle without
13.6 a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a shared ride in a
13.7 vehicle with a lift;

13.8 (ii) \$15.75 for a trip between 11 and 20 miles for a nonshared ride in a vehicle without
13.9 a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88 for a shared ride in a
13.10 vehicle with a lift;

13.11 (iii) \$25.75 for a trip between 21 and 50 miles for a nonshared ride in a vehicle without
13.12 a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88 for a shared ride in a
13.13 vehicle with a lift; or

13.14 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
13.15 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
13.16 with a lift;

13.17 (17) for transportation, if provided as part of for day training and habilitation programs
13.18 for an individual who ~~does require~~ requires a lift, add:

13.19 (i) \$19.05 for a trip between zero and ten miles for a nonshared ride in a vehicle with a
13.20 lift, and \$15.05 for a shared ride in a vehicle with a lift;

13.21 (ii) \$32.16 for a trip between 11 and 20 miles for a nonshared ride in a vehicle with a
13.22 lift, and \$28.16 for a shared ride in a vehicle with a lift;

13.23 (iii) \$58.76 for a trip between 21 and 50 miles for a nonshared ride in a vehicle with a
13.24 lift, and \$58.76 for a shared ride in a vehicle with a lift; or

13.25 (iv) \$80.93 for a trip of 51 miles or more for a nonshared ride in a vehicle with a lift,
13.26 and \$80.93 for a shared ride in a vehicle with a lift.

13.27 Sec. 6. Minnesota Statutes 2016, section 256B.4914, subdivision 8, is amended to read:

13.28 Subd. 8. **Payments for unit-based services with programming.** (a) Payments for
13.29 unit-based services with programming, including behavior programming, housing access
13.30 coordination, in-home family support, independent living skills training, hourly supported
13.31 living services, and supported employment provided to an individual outside of any day or

14.1 residential service plan must be calculated as follows, unless the services are authorized
14.2 separately under subdivision 6 or 7:

14.3 (1) determine the number of units of service to meet a recipient's needs;

14.4 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
14.5 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
14.6 5;

14.7 (3) for a recipient requiring customization for deaf and hard-of-hearing language
14.8 accessibility under subdivision 12, add the customization rate provided in subdivision 12
14.9 to the result of clause (2). This is defined as the customized direct-care rate;

14.10 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
14.11 5, paragraph (a), or the customized direct-care rate;

14.12 (5) multiply the number of direct staff hours by the product of the supervision span of
14.13 control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision
14.14 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

14.15 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
14.16 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (e), clause
14.17 (2). This is defined as the direct staffing rate;

14.18 (7) for program plan support, multiply the result of clause (6) by one plus the program
14.19 plan supports ratio in subdivision 5, paragraph (e), clause (4);

14.20 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
14.21 employee-related cost ratio in subdivision 5, paragraph (e), clause (3);

14.22 (9) for client programming and supports, multiply the result of clause (8) by one plus
14.23 the client programming and supports ratio in subdivision 5, paragraph (e), clause (5);

14.24 (10) this is the subtotal rate;

14.25 (11) sum the standard general and administrative rate, the program-related expense ratio,
14.26 and the absence and utilization factor ratio;

14.27 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
14.28 total payment amount;

14.29 (13) for supported employment provided in a shared manner, divide the total payment
14.30 amount in clause (12) by the number of service recipients, not to exceed three. For
14.31 independent living skills training provided in a shared manner, divide the total payment
14.32 amount in clause (12) by the number of service recipients, not to exceed two; and

15.1 (14) adjust the result of clause (13) by a factor to be determined by the commissioner
15.2 to adjust for regional differences in the cost of providing services.

15.3 (b) All activities mandated in sections 245D.04, 245D.05, 245D.06, 245D.061, 245D.07,
15.4 245D.071, and 245D.081, and in Minnesota Rules, parts 9544.0040, 9544.0050, 9544.0110,
15.5 and 9544.0120, are billable services.

15.6 Sec. 7. Minnesota Statutes 2016, section 256B.4914, subdivision 9, is amended to read:

15.7 Subd. 9. **Payments for unit-based services without programming.** (a) Payments for
15.8 unit-based services without programming, including night supervision, personal support,
15.9 respite, and companion care provided to an individual outside of any day or residential
15.10 service plan must be calculated as follows unless the services are authorized separately
15.11 under subdivision 6 or 7:

15.12 (1) for all services except respite, determine the number of units of service to meet a
15.13 recipient's needs;

15.14 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
15.15 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

15.16 (3) for a recipient requiring customization for deaf and hard-of-hearing language
15.17 accessibility under subdivision 12, add the customization rate provided in subdivision 12
15.18 to the result of clause (2). This is defined as the customized direct care rate;

15.19 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
15.20 5 or the customized direct care rate;

15.21 (5) multiply the number of direct staff hours by the product of the supervision span of
15.22 control ratio in subdivision 5, paragraph (f), clause (1), and the appropriate supervision
15.23 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

15.24 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
15.25 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (f), clause
15.26 (2). This is defined as the direct staffing rate;

15.27 (7) for program plan support, multiply the result of clause (6) by one plus the program
15.28 plan support ratio in subdivision 5, paragraph (f), clause (4);

15.29 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
15.30 employee-related cost ratio in subdivision 5, paragraph (f), clause (3);

15.31 (9) for client programming and supports, multiply the result of clause (8) by one plus
15.32 the client programming and support ratio in subdivision 5, paragraph (f), clause (5);

- 16.1 (10) this is the subtotal rate;
- 16.2 (11) sum the standard general and administrative rate, the program-related expense ratio,
16.3 and the absence and utilization factor ratio;
- 16.4 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
16.5 total payment amount;
- 16.6 (13) for respite services, determine the number of day units of service to meet an
16.7 individual's needs;
- 16.8 (14) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
16.9 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;
- 16.10 (15) for a recipient requiring deaf and hard-of-hearing customization under subdivision
16.11 12, add the customization rate provided in subdivision 12 to the result of clause (14). This
16.12 is defined as the customized direct care rate;
- 16.13 (16) multiply the number of direct staff hours by the appropriate staff wage in subdivision
16.14 5, paragraph (a);
- 16.15 (17) multiply the number of direct staff hours by the product of the supervisory span of
16.16 control ratio in subdivision 5, paragraph (g), clause (1), and the appropriate supervision
16.17 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);
- 16.18 (18) combine the results of clauses (16) and (17), and multiply the result by one plus
16.19 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (g),
16.20 clause (2). This is defined as the direct staffing rate;
- 16.21 (19) for employee-related expenses, multiply the result of clause (18) by one plus the
16.22 employee-related cost ratio in subdivision 5, paragraph (g), clause (3);
- 16.23 (20) this is the subtotal rate;
- 16.24 (21) sum the standard general and administrative rate, the program-related expense ratio,
16.25 and the absence and utilization factor ratio;
- 16.26 (22) divide the result of clause (20) by one minus the result of clause (21). This is the
16.27 total payment amount; and
- 16.28 (23) adjust the result of clauses (12) and (22) by a factor to be determined by the
16.29 commissioner to adjust for regional differences in the cost of providing services.

17.1 (b) All activities mandated in sections 245D.04, 245D.05, 245D.06, 245D.061, 245D.07,
17.2 245D.071, and 245D.081, and in Minnesota Rules, parts 9544.0040, 9544.0050, 9544.0110,
17.3 and 9544.0120, are billable services.

17.4 Sec. 8. Minnesota Statutes 2016, section 256B.4914, is amended by adding a subdivision
17.5 to read:

17.6 Subd. 9a. **Licensing fees.** The provider cost of all licensing fees, and any increases
17.7 thereto, shall be automatically added to the service rate as determined under subdivision 6,
17.8 7, 8, or 9. The commissioner shall add the cost of the licensing fees to each service recipient's
17.9 rate by allocating a portion of the licensing fee based on the revenue generated by the
17.10 services provided to the respective service recipient. The rate adjustment is retroactive to
17.11 the date the licensing fees are assessed.

17.12 Sec. 9. Minnesota Statutes 2016, section 256B.4914, subdivision 10, is amended to read:

17.13 Subd. 10. **Updating payment values and additional information.** (a) From January
17.14 1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform
17.15 procedures to refine terms and adjust values used to calculate payment rates in this section.

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

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

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

17.23 (3) the distinct underlying costs for services provided by a license holder under sections
17.24 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
17.25 by a license holder certified under section 245D.33.

17.26 (c) Using a statistically valid set of rates management system data, the commissioner,
17.27 in consultation with stakeholders, shall analyze for each service the average difference in
17.28 the rate on December 31, 2013, and the framework rate at the individual, provider, lead
17.29 agency, and state levels. The commissioner shall issue semiannual reports to the stakeholders
17.30 on the difference in rates by service and by county during the banding period under section
17.31 256B.4913, subdivision 4a. The commissioner shall issue the first report by October 1,
17.32 2014.

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

18.4 (1) values for transportation rates for day services;

18.5 (2) values for transportation rates in residential services;

18.6 (3) values for services where monitoring technology replaces staff time;

18.7 (4) values for indirect services;

18.8 (5) values for nursing;

18.9 (6) component values for independent living skills;

18.10 (7) component values for family foster care that reflect licensing requirements;

18.11 (8) adjustments to other components to replace the budget neutrality factor;

18.12 (9) remote monitoring technology for nonresidential services;

18.13 (10) values for basic and intensive services in residential services;

18.14 (11) values for the facility use rate in day services, and the weightings used in the day
18.15 service ratios and adjustments to those weightings;

18.16 (12) values for workers' compensation as part of employee-related expenses;

18.17 (13) values for unemployment insurance as part of employee-related expenses;

18.18 (14) a component value to reflect costs for individuals with rates previously adjusted
18.19 for the inclusion of group residential housing rate 3 costs, only for any individual enrolled
18.20 as of December 31, 2013; and

18.21 (15) any changes in state or federal law with an impact on the underlying cost of providing
18.22 home and community-based services.

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

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

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

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

19.1 (4) January 15, 2019, with another full report, and a full report once every four years
19.2 thereafter.

19.3 (f) Based on the commissioner's evaluation of the information and data collected in
19.4 paragraphs (b) to (d), the commissioner shall make recommendations to the legislature by
19.5 January 15, 2015, to address any issues identified during the first year of implementation.
19.6 After January 15, 2015, the commissioner may make recommendations to the legislature
19.7 to address potential issues.

19.8 (g) The commissioner shall implement a regional adjustment factor to all rate calculations
19.9 in subdivisions 6 to 9, effective no later than January 1, 2015. Prior to implementation, the
19.10 commissioner shall consult with stakeholders on the methodology to calculate the adjustment.

19.11 (h) The commissioner shall provide a public notice via LISTSERV in October of each
19.12 year beginning October 1, 2014, containing information detailing legislatively approved
19.13 changes in:

19.14 (1) calculation values including derived wage rates and related employee and
19.15 administrative factors;

19.16 (2) service utilization;

19.17 (3) county and tribal allocation changes; and

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

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

19.21 (i) No later than July 1, 2016, the commissioner shall develop and implement, in
19.22 consultation with stakeholders, a methodology sufficient to determine the shared staffing
19.23 levels necessary to meet, at a minimum, health and welfare needs of individuals who will
19.24 be living together in shared residential settings, and the required shared staffing activities
19.25 described in subdivision 2, paragraph ~~(h)~~ (m). This determination methodology must ensure
19.26 staffing levels are adaptable to meet the needs and desired outcomes for current and
19.27 prospective residents in shared residential settings.

19.28 (j) When the available shared staffing hours in a residential setting are insufficient to
19.29 meet the needs of an individual who enrolled in residential services after January 1, 2014,
19.30 or insufficient to meet the needs of an individual with a service agreement adjustment
19.31 described in section 256B.4913, subdivision 4a, paragraph (f), then individual staffing hours
19.32 shall be used.

20.1 Sec. 10. Minnesota Statutes 2016, section 256B.4914, subdivision 14, is amended to read:

20.2 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead agencies
20.3 must identify individuals with exceptional needs that cannot be met under the disability
20.4 waiver rate system. The commissioner shall use that information to evaluate and, if necessary,
20.5 approve an alternative payment rate for those individuals. Whether granted, denied, or
20.6 modified, the commissioner shall respond to all exception requests in writing. The
20.7 commissioner shall include in the written response the basis for the action and provide
20.8 notification of the right to appeal under paragraph (h).

20.9 (b) Lead agencies must act on an exception request within 30 days and notify the initiator
20.10 of the request of their recommendation in writing. A lead agency shall submit all exception
20.11 requests along with its recommendation to the commissioner.

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

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

20.14 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 is so insufficient
20.15 that it has resulted in an individual receiving a notice of discharge from the individual's
20.16 provider; or

20.17 (3) an individual's service needs, including behavioral changes, require a level of service
20.18 which necessitates a change in provider or which requires the current provider to propose
20.19 service changes beyond those currently authorized.

20.20 (d) Exception requests must include the following information:

20.21 (1) the service needs required by each individual that are not accounted for in subdivisions
20.22 6, 7, 8, and 9;

20.23 (2) the service rate requested and the difference from the rate determined in subdivisions
20.24 6, 7, 8, and 9;

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

20.27 (4) any contingencies for approval.

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

20.30 (f) Individual disability waiver recipients, an interested party, or the license holder that
20.31 would receive the rate exception increase may request that a lead agency submit an exception
20.32 request. A lead agency that denies such a request shall notify the individual waiver recipient,

21.1 interested party, or license holder of its decision and the reasons for denying the request in
21.2 writing no later than 30 days after the request has been made and shall submit its denial to
21.3 the commissioner in accordance with paragraph (b). The reasons for the denial must be
21.4 based on the failure to meet the criteria in paragraph (c).

21.5 (g) The commissioner shall determine whether to approve or deny an exception request
21.6 no more than 30 days after receiving the request. If the commissioner denies the request,
21.7 the commissioner shall notify the lead agency and the individual disability waiver recipient,
21.8 the interested party, and the license holder in writing of the reasons for the denial.

21.9 (h) The individual disability waiver recipient may appeal any denial of an exception
21.10 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
21.11 256.0451. When the denial of an exception request results in the proposed demission of a
21.12 waiver recipient from a residential or day habilitation program, the commissioner shall issue
21.13 a temporary stay of demission, when requested by the disability waiver recipient, consistent
21.14 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
21.15 stay shall remain in effect until the lead agency can provide an informed choice of
21.16 appropriate, alternative services to the disability waiver.

21.17 (i) Providers may petition lead agencies to update values that were entered incorrectly
21.18 or erroneously into the rate management system, based on past service level discussions
21.19 and determination in subdivision 4, without applying for a rate exception.

21.20 (j) The starting date for the rate exception will be the later of the date of the recipient's
21.21 change in support or the date of the request to the lead agency for an exception.

21.22 (k) The commissioner shall track all exception requests received and their dispositions.
21.23 The commissioner shall issue quarterly public exceptions statistical reports, including the
21.24 number of exception requests received and the numbers granted, denied, withdrawn, and
21.25 pending. The report shall include the average amount of time required to process exceptions.

21.26 (l) ~~No later than January 15, 2016,~~ The commissioner shall provide research findings
21.27 on the estimated fiscal impact, the primary cost drivers, and common population
21.28 characteristics of recipients with needs that cannot be met by the framework rates.

21.29 (m) ~~No later than July 1, 2016,~~ The commissioner shall develop and implement, in
21.30 consultation with stakeholders, a process to determine eligibility for rate exceptions for
21.31 individuals with rates determined under the methodology in section 256B.4913, subdivision
21.32 4a. Determination of eligibility for an exception will occur as annual service renewals are
21.33 completed.

22.1 (n) Approved rate exceptions will be implemented at such time that the individual's rate
 22.2 is no longer banded and remain in effect in all cases until an individual's needs change as
 22.3 defined in paragraph (c).

22.4 (o) For all service recipients who were authorized to receive waiver services on December
 22.5 1, 2013, and have continued to receive those services from the same provider, the
 22.6 commissioner, as an exception, shall adjust individual reimbursement rates so that the unit
 22.7 rate is no lower than 1.0 percent from the rate in effect in section 256B.4913, subdivision
 22.8 4a, paragraph (c), clause (6), for the 12-month period immediately following the time period
 22.9 of section 256B.4913, subdivision 4a, paragraph (c), clause (6). Each January 1, the individual
 22.10 reimbursement rate for those service recipients shall be reduced by 1.0 percent until the
 22.11 adjusted individual rate is equal to the service rate as determined under subdivision 6, 7, 8,
 22.12 or 9.

22.13 (p) For a service recipient who receives a waiver service that has a service rate as
 22.14 determined under subdivision 6, 7, 8, or 9 that is ten percent or more below the historical
 22.15 rate as determined under section 256B.4913, the lead agency shall review whether the
 22.16 service recipient's access to services is impacted by the reduced rate. The lead agency shall
 22.17 meet with the service recipient, the service recipient's legal guardian or legal representative,
 22.18 and relevant health care or service providers to review the service recipient's coordinated
 22.19 service and support plan or addendum to determine if the recipient is able to continue to
 22.20 access equivalent services in the same geographic area as the waiver services that triggered
 22.21 the review. If it is determined that the recipient will likely be denied access to equivalent
 22.22 services, the lead agency shall recommend, and the commissioner shall approve, as an
 22.23 exception under this subdivision, an individual reimbursement rate for that service at an
 22.24 increased level sufficient to provide continued access to the same or equivalent service in
 22.25 the same geographic area.

22.26 **EFFECTIVE DATE.** Paragraphs (o) and (p) are effective January 1, 2020.

22.27 Sec. 11. Minnesota Statutes 2016, section 256B.4914, is amended by adding a subdivision
 22.28 to read:

22.29 **Subd. 17. Prompt issuance of service agreement authorizations.** (a) After rates are
 22.30 generated by the framework, any lead agency responsible for the processing of service
 22.31 authorizations shall promptly and expeditiously transmit all approvals and information
 22.32 necessary for the commissioner to issue the resulting service agreements.

22.33 (b) Service agreements shall be:

23.1 (1) sufficient to implement the services authorized and provided; and

23.2 (2) effective retroactively from the date the license holder initiated any newly authorized
 23.3 service.

23.4 (c) The number of days authorized in any service agreement issued following the end
 23.5 of the banding period provided under section 256B.4913 must include every day that services
 23.6 start and end.

23.7 (d) To implement the disability waiver rate-setting framework, if a lead agency converted
 23.8 any service agreement from a monthly rate or other unit of service that was not compatible
 23.9 with the framework, that conversion must have achieved budget neutrality. A conversion
 23.10 shall not result in a reduction of the funding or services previously available to the recipient
 23.11 under the former service agreement.

23.12 (e) If a license holder has reason to believe that a lead agency set service agreement
 23.13 authorizations in violation of paragraph (c) or (d), the license holder may petition the
 23.14 commissioner for a corrective rate adjustment.

23.15 (f) If a lead agency fails to process service agreement authorizations according to this
 23.16 subdivision, the commissioner may require the agency to submit a corrective action plan
 23.17 or to relinquish to the commissioner its authority to process service agreements.

23.18 **Sec. 12. [256B.4915] DISABILITY WAIVER REIMBURSEMENT RATE**
 23.19 **ADJUSTMENTS.**

23.20 Subdivision 1. **Historical rate.** The commissioner shall adjust the historical rates
 23.21 calculated in section 256B.4913, subdivision 4a, paragraph (b), in effect during the banding
 23.22 period defined in section 256B.4913, subdivision 4a, paragraph (a), for each reimbursement
 23.23 rate increase effective after January 1, 2014.

23.24 Subd. 2. **Residential support services.** The commissioner shall adjust the rates calculated
 23.25 in section 256B.4914, subdivision 6, paragraphs (b) and (c), for each reimbursement rate
 23.26 increase effective between January 1, 2014, and June 30, 2017.

23.27 Subd. 3. **Day programs.** The commissioner shall adjust the rates calculated in section
 23.28 256B.4914, subdivision 7, for each reimbursement rate increase effective between January
 23.29 1, 2014, and June 30, 2017.

23.30 Subd. 4. **Unit-based services with programming.** The commissioner shall adjust the
 23.31 rates calculated in section 256B.4914, subdivision 8, for each reimbursement rate increase
 23.32 effective between January 1, 2014, and June 30, 2017.

- 24.1 Subd. 5. **Unit-based services without programming.** The commissioner shall adjust
- 24.2 the rates calculated in section 256B.4914, subdivision 9, for each reimbursement rate increase
- 24.3 effective between January 1, 2014, and June 30, 2017.