

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 800

(SENATE AUTHORS: BENSON and Abeler)

DATE	D-PG	OFFICIAL STATUS
02/09/2017	554	Introduction and first reading
		Referred to Health and Human Services Finance and Policy
03/27/2017	1966	Author added Abeler
03/28/2017		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act

1.2 relating to human services; correcting obsolete cross-references related to the

1.3 nursing facility payment system; amending Minnesota Statutes 2016, sections

1.4 256B.0915, subdivision 3e; 256B.431, subdivision 30.

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

1.6 Section 1. Minnesota Statutes 2016, section 256B.0915, subdivision 3e, is amended to

1.7 read:

1.8 Subd. 3e. **Customized living service rate.** (a) Payment for customized living services

1.9 shall be a monthly rate authorized by the lead agency within the parameters established by

1.10 the commissioner. The payment agreement must delineate the amount of each component

1.11 service included in the recipient's customized living service plan. The lead agency, with

1.12 input from the provider of customized living services, shall ensure that there is a documented

1.13 need within the parameters established by the commissioner for all component customized

1.14 living services authorized.

1.15 (b) The payment rate must be based on the amount of component services to be provided

1.16 utilizing component rates established by the commissioner. Counties and tribes shall use

1.17 tools issued by the commissioner to develop and document customized living service plans

1.18 and rates.

1.19 (c) Component service rates must not exceed payment rates for comparable elderly

1.20 waiver or medical assistance services and must reflect economies of scale. Customized

1.21 living services must not include rent or raw food costs.

1.22 (d) With the exception of individuals described in subdivision 3a, paragraph (b), the

1.23 individualized monthly authorized payment for the customized living service plan shall not

2.1 exceed 50 percent of the greater of either the statewide or any of the geographic groups'
2.2 weighted average monthly nursing facility rate of the case mix resident class to which the
2.3 elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0051
2.4 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph
2.5 (a). Effective on July 1 of the state fiscal year in which the resident assessment system as
2.6 described in section ~~256B.438~~ 256R.17 for nursing home rate determination is implemented
2.7 and July 1 of each subsequent state fiscal year, the individualized monthly authorized
2.8 payment for the services described in this clause shall not exceed the limit which was in
2.9 effect on June 30 of the previous state fiscal year updated annually based on legislatively
2.10 adopted changes to all service rate maximums for home and community-based service
2.11 providers.

2.12 (e) Effective July 1, 2011, the individualized monthly payment for the customized living
2.13 service plan for individuals described in subdivision 3a, paragraph (b), must be the monthly
2.14 authorized payment limit for customized living for individuals classified as case mix A,
2.15 reduced by 25 percent. This rate limit must be applied to all new participants enrolled in
2.16 the program on or after July 1, 2011, who meet the criteria described in subdivision 3a,
2.17 paragraph (b). This monthly limit also applies to all other participants who meet the criteria
2.18 described in subdivision 3a, paragraph (b), at reassessment.

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

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

2.27 (h) Effective July 1, 2016, and each July 1 thereafter, individualized service rate limits
2.28 for customized living services under this subdivision shall be increased by the difference
2.29 between any legislatively adopted home and community-based provider rate increases
2.30 effective on July 1 or since the previous July 1 and the average statewide percentage increase
2.31 in nursing facility operating payment rates under sections ~~256B.431, and 256B.434,~~ and
2.32 ~~256B.441~~ chapter 256R, effective the previous January 1. This paragraph shall only apply
2.33 if the average statewide percentage increase in nursing facility operating payment rates is
2.34 greater than any legislatively adopted home and community-based provider rate increases
2.35 effective on July 1, or occurring since the previous July 1.

3.1 Sec. 2. Minnesota Statutes 2016, section 256B.431, subdivision 30, is amended to read:

3.2 Subd. 30. **Bed layaway and delicensure.** (a) For rate years beginning on or after July
3.3 1, 2000, a nursing facility reimbursed under this section which has placed beds on layaway
3.4 shall, for purposes of application of the downsizing incentive in subdivision 3a, paragraph
3.5 (c), and calculation of the rental per diem, have those beds given the same effect as if the
3.6 beds had been delicensed so long as the beds remain on layaway. At the time of a layaway,
3.7 a facility may change its single bed election for use in calculating capacity days under
3.8 Minnesota Rules, part 9549.0060, subpart 11. The property payment rate increase shall be
3.9 effective the first day of the month following the month in which the layaway of the beds
3.10 becomes effective under section 144A.071, subdivision 4b.

3.11 (b) For rate years beginning on or after July 1, 2000, notwithstanding any provision to
3.12 the contrary under section 256B.434, a nursing facility reimbursed under that section which
3.13 has placed beds on layaway shall, for so long as the beds remain on layaway, be allowed
3.14 to:

3.15 (1) aggregate the applicable investment per bed limits based on the number of beds
3.16 licensed immediately prior to entering the alternative payment system;

3.17 (2) retain or change the facility's single bed election for use in calculating capacity days
3.18 under Minnesota Rules, part 9549.0060, subpart 11; and

3.19 (3) establish capacity days based on the number of beds immediately prior to the layaway
3.20 and the number of beds after the layaway.

3.21 The commissioner shall increase the facility's property payment rate by the incremental
3.22 increase in the rental per diem resulting from the recalculation of the facility's rental per
3.23 diem applying only the changes resulting from the layaway of beds and clauses (1), (2), and
3.24 (3). If a facility reimbursed under section 256B.434 completes a moratorium exception
3.25 project after its base year, the base year property rate shall be the moratorium project property
3.26 rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4,
3.27 paragraph (c). The property payment rate increase shall be effective the first day of the
3.28 month following the month in which the layaway of the beds becomes effective.

3.29 (c) If a nursing facility removes a bed from layaway status in accordance with section
3.30 144A.071, subdivision 4b, the commissioner shall establish capacity days based on the
3.31 number of licensed and certified beds in the facility not on layaway and shall reduce the
3.32 nursing facility's property payment rate in accordance with paragraph (b).

4.1 (d) For the rate years beginning on or after July 1, 2000, notwithstanding any provision
4.2 to the contrary under section 256B.434, a nursing facility reimbursed under that section,
4.3 which has delicensed beds after July 1, 2000, by giving notice of the delicensure to the
4.4 commissioner of health according to the notice requirements in section 144A.071, subdivision
4.5 4b, shall be allowed to:

4.6 (1) aggregate the applicable investment per bed limits based on the number of beds
4.7 licensed immediately prior to entering the alternative payment system;

4.8 (2) retain or change the facility's single bed election for use in calculating capacity days
4.9 under Minnesota Rules, part 9549.0060, subpart 11; and

4.10 (3) establish capacity days based on the number of beds immediately prior to the
4.11 delicensure and the number of beds after the delicensure.

4.12 The commissioner shall increase the facility's property payment rate by the incremental
4.13 increase in the rental per diem resulting from the recalculation of the facility's rental per
4.14 diem applying only the changes resulting from the delicensure of beds and clauses (1), (2),
4.15 and (3). If a facility reimbursed under section 256B.434 completes a moratorium exception
4.16 project after its base year, the base year property rate shall be the moratorium project property
4.17 rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4,
4.18 paragraph (c). The property payment rate increase shall be effective the first day of the
4.19 month following the month in which the delicensure of the beds becomes effective.

4.20 (e) For nursing facilities reimbursed under this section or section 256B.434, any beds
4.21 placed on layaway shall not be included in calculating facility occupancy as it pertains to
4.22 leave days defined in Minnesota Rules, part 9505.0415.

4.23 (f) For nursing facilities reimbursed under this section or section 256B.434, the rental
4.24 rate calculated after placing beds on layaway may not be less than the rental rate prior to
4.25 placing beds on layaway.

4.26 (g) A nursing facility receiving a rate adjustment as a result of this section shall comply
4.27 with section ~~256B.47~~ 256R.06, subdivision ~~2~~ 5.

4.28 (h) A facility that does not utilize the space made available as a result of bed layaway
4.29 or delicensure under this subdivision to reduce the number of beds per room or provide
4.30 more common space for nursing facility uses or perform other activities related to the
4.31 operation of the nursing facility shall have its property rate increase calculated under this
4.32 subdivision reduced by the ratio of the square footage made available that is not used for

- 5.1 these purposes to the total square footage made available as a result of bed layaway or
- 5.2 delicensure.