

This Document can be made available
in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **2153**

03/07/2019 Authored by Schultz, Gruenhagen and Lippert
The bill was read for the first time and referred to the Committee on Ways and Means

- 1.1 A bill for an act
- 1.2 relating to human services; modifying the elderly waiver payment rates; requiring
- 1.3 a report; amending Minnesota Statutes 2018, section 256B.0915, subdivisions 11,
- 1.4 12, 13, 14, 15, 16; repealing Minnesota Statutes 2018, section 256B.0915,
- 1.5 subdivision 17.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2018, section 256B.0915, subdivision 11, is amended to
- 1.8 read:
- 1.9 Subd. 11. **Payment rates; application.** The payment methodologies in subdivisions 12
- 1.10 to 16 apply to:
- 1.11 (1) elderly waiver and elderly waiver customized living and foster care under this section;
- 1.12 (2) alternative care under section 256B.0913;
- 1.13 (3) essential community supports under section 256B.0922, ~~and community access for~~
- 1.14 ~~disability inclusion customized living, brain injury customized living, and elderly waiver~~
- 1.15 ~~foster care and residential care; and~~
- 1.16 (4) the following services, to the extent these services are covered under the home and
- 1.17 community-based services waivers under sections 256B.092 and 256B.49:
- 1.18 (i) customized living;
- 1.19 (ii) chore services;
- 1.20 (iii) home-delivered meals;
- 1.21 (iv) homemaker/assistance with personal care;

2.1 (v) homemaker/cleaning; and

2.2 (vi) homemaker/home management.

2.3 **EFFECTIVE DATE.** This section is effective January 1, 2020.

2.4 Sec. 2. Minnesota Statutes 2018, section 256B.0915, subdivision 12, is amended to read:

2.5 Subd. 12. **Payment rates implementation; phase-in inflationary adjustment.** (a)
 2.6 Effective January 1, 2019, All rates and ~~rate components~~ component rates for services under
 2.7 subdivision 11 shall be ~~the sum of ten percent of the rates calculated under subdivisions 13~~
 2.8 ~~to 16 and 90 percent of the rates calculated using the rate methodology in effect as of June~~
 2.9 ~~30, 2017.~~

2.10 (b) On January 1, 2020, and every two years thereafter, the commissioner shall update
 2.11 the base wage index in subdivision 14 based on the most recently available Bureau of Labor
 2.12 Statistics Minneapolis-St. Paul-Bloomington, MN-WI MetroSA data.

2.13 (c) On January 1, 2020, and every two years thereafter, the commissioner shall update
 2.14 the payroll tax and benefit factor in subdivision 15 based on the most recently available
 2.15 nursing facility cost report data.

2.16 **EFFECTIVE DATE.** This section is effective January 1, 2020.

2.17 Sec. 3. Minnesota Statutes 2018, section 256B.0915, subdivision 13, is amended to read:

2.18 Subd. 13. **Payment rates; establishment.** (a) When establishing the base wages
 2.19 according to subdivision 14, the commissioner shall use standard occupational classification
 2.20 (SOC) codes from the Bureau of Labor Statistics as defined in the edition of the Occupational
 2.21 Handbook published immediately prior to ~~January 1, 2019~~ the implementation or
 2.22 recalculation of rates, using Minnesota-specific wages taken from job descriptions.

2.23 ~~(b) Beginning January 1, 2019, and every January 1 thereafter,~~ The commissioner shall
 2.24 establish factors, component rates, and rates according to subdivisions 15 and 16, using
 2.25 base wages established according to ~~paragraph (a) and~~ subdivision 14.

2.26 **EFFECTIVE DATE.** This section is effective January 1, 2020.

2.27 Sec. 4. Minnesota Statutes 2018, section 256B.0915, subdivision 14, is amended to read:

2.28 Subd. 14. **Payment rates; base wage index.** (a) Base wages are calculated for customized
 2.29 living, and foster care, and residential care component services as follows:

3.1 (1) the home management and support services base wage equals 33.33 percent of the
 3.2 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home
 3.3 care aide (SOC code 39-9021); 33.33 percent of the Minneapolis-St. Paul-Bloomington,
 3.4 MN-WI MetroSA average wage for food preparation workers (SOC code 35-2021); and
 3.5 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage
 3.6 for maids and housekeeping cleaners (SOC code 37-2012);

3.7 (2) the home care aide base wage equals ~~50~~ 75 percent of the Minneapolis-St.
 3.8 Paul-Bloomington, MN-WI MetroSA average wage for home health aides (SOC code
 3.9 31-1011); and ~~50~~ 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 3.10 average wage for nursing assistants (SOC code 31-1014);

3.11 (3) the home health aide base wage equals ~~20~~ 33.33 percent of the Minneapolis-St.
 3.12 Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed
 3.13 vocational nurses (SOC code 29-2061); and ~~80~~ 33.33 percent of the Minneapolis-St.
 3.14 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
 3.15 31-1014); and 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 3.16 average wage for home health aides (SOC code 31-1011); and

3.17 (4) the medication setups by licensed practical nurse base wage equals ~~ten~~ 25 percent
 3.18 of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed
 3.19 practical and licensed vocational nurses (SOC code 29-2061); and ~~90~~ 75 percent of the
 3.20 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses
 3.21 (SOC code 29-1141).

3.22 (b) Base wages are calculated for the following services as follows:

3.23 (1) the chore services base wage equals ~~100~~ 50 percent of the Minneapolis-St.
 3.24 Paul-Bloomington, MN-WI MetroSA average wage for landscaping and groundskeeping
 3.25 workers (SOC code 37-3011); and 50 percent of the Minneapolis-St. Paul-Bloomington,
 3.26 MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

3.27 (2) the companion services base wage equals ~~50~~ 80 percent of the Minneapolis-St.
 3.28 Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aides (SOC
 3.29 code 39-9021); and ~~50~~ 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 3.30 MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

3.31 (3) the ~~homemaker services and assistance~~ homemaker/assistance with personal care
 3.32 base wage equals ~~60~~ 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 3.33 average wage for personal and home care aide (SOC code 39-9021); ~~20~~ and 50 percent of
 3.34 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants

4.1 (SOC code 31-1014); and ~~20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI~~
 4.2 ~~MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);~~

4.3 (4) the ~~homemaker services and cleaning~~ homemaker/cleaning base wage equals ~~60~~
 4.4 ~~percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for~~
 4.5 ~~personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St.~~
 4.6 ~~Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code~~
 4.7 ~~31-1014); and 20~~ 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 4.8 average wage for maids and housekeeping cleaners (SOC code 37-2012);

4.9 (5) the ~~homemaker services and home management~~ homemaker/home management base
 4.10 wage equals ~~60~~ 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 4.11 average wage for personal and home care aide (SOC code 39-9021); ~~20~~ and 50 percent of
 4.12 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
 4.13 (SOC code 31-1014); and ~~20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI~~
 4.14 ~~MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);~~

4.15 (6) the in-home respite care services base wage equals ~~five~~ 15 percent of the
 4.16 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses
 4.17 (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 4.18 average wage for ~~nursing assistants (SOC code 31-1014)~~ home health aides (SOC code
 4.19 31-1011); and ~~20~~ ten percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 4.20 average wage for licensed practical and licensed vocational nurses (SOC code 29-2061);

4.21 (7) the out-of-home respite care services base wage equals ~~five~~ 15 percent of the
 4.22 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses
 4.23 (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 4.24 average wage for ~~nursing assistants (SOC code 31-1014)~~ home health aides (SOC code
 4.25 31-1011); and ~~20~~ ten percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 4.26 average wage for licensed practical and licensed vocational nurses (SOC code 29-2061);
 4.27 ~~and~~

4.28 (8) the individual community living support base wage equals ~~20~~ 60 percent of the
 4.29 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~licensed practical~~
 4.30 ~~and licensed vocational nurses (SOC code 29-2061)~~ social and human services aide (SOC
 4.31 code 21-1093); and ~~80~~ 40 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 4.32 MetroSA average wage for nursing assistants (SOC code 31-1014); and

4.33 (9) the adult day service base wage equals 75 percent of the Minneapolis-St.
 4.34 Paul-Bloomington, MN-WI MetroSA average wage for home health aides (SOC code

5.1 31-1011); and 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 5.2 average wage for nursing assistants (SOC code 31-1014).

5.3 (c) Base wages are calculated for the following values as follows:

5.4 (1) the registered nurse base wage equals 100 percent of the Minneapolis-St.
 5.5 Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code
 5.6 29-1141); and

5.7 (2) the ~~social worker~~ unlicensed supervisor base wage equals 100 percent of the
 5.8 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~medical and public~~
 5.9 ~~health social~~ supervisor of personal service workers (SOC code 21-1022 39-1021).

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

5.13 **EFFECTIVE DATE.** This section is effective January 1, 2020.

5.14 Sec. 5. Minnesota Statutes 2018, section 256B.0915, subdivision 15, is amended to read:

5.15 Subd. 15. **Payment rates; factors.** The commissioner shall use the following factors:

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

5.19 (2) the general and administrative factor is ~~the sum of net general and administrative~~
 5.20 ~~expenses minus administrative salaries divided by total operating expenses for all nursing~~
 5.21 ~~facilities on the most recent and available cost report~~ 14.4 percent;

5.22 (3) the program plan support factor is ~~12.8~~ ten percent for the following services to cover
 5.23 the cost of direct service staff needed to provide support for the ~~home and community-based~~
 5.24 service when not engaged in direct contact with clients:

5.25 (i) adult day service;

5.26 (ii) customized living; and

5.27 (iii) foster care;

5.28 (4) the program plan support factor is 15.5 percent for the following services to cover
 5.29 the cost of direct service staff needed to provide support for the service when not engaged
 5.30 in direct contact with clients:

5.31 (i) chore services;

- 6.1 (ii) companion services;
- 6.2 (iii) homemaker/assistance with personal care;
- 6.3 (iv) homemaker/cleaning;
- 6.4 (v) homemaker/home management;
- 6.5 (vi) in-home respite care;
- 6.6 (vii) individual community living support; and
- 6.7 (viii) out-of-home respite care;
- 6.8 (5) the facility and equipment factor for adult day services is 16.2 percent;
- 6.9 (6) the food, supplies, and transportation factor for adult day services is 24 percent;
- 6.10 (7) the supplies and transportation factor for the following services is 1.56 percent:
- 6.11 (i) chore services;
- 6.12 (ii) companion services;
- 6.13 (iii) homemaker/assistance with personal care;
- 6.14 (iv) homemaker/cleaning;
- 6.15 (v) homemaker/home management;
- 6.16 (vi) in-home respite care;
- 6.17 (vii) individual community living support; and
- 6.18 (viii) out-of-home respite care;
- 6.19 (8) the absence factor for the following services is 4.5 percent:
- 6.20 (i) adult day service;
- 6.21 (ii) chore services;
- 6.22 (iii) companion services;
- 6.23 (iv) homemaker/assistance with personal care;
- 6.24 (v) homemaker/cleaning;
- 6.25 (vi) homemaker/home management;
- 6.26 (vii) in-home respite care;
- 6.27 (viii) individual community living support; and

7.1 (ix) out-of-home respite care;

7.2 ~~(4)~~ (9) the registered nurse management and supervision factor equals 15 percent of the
7.3 product of the position's base wage and the sum of the factors in ~~clauses (1) to (3)~~ clause
7.4 (1); and

7.5 ~~(5)~~ (10) the ~~social worker~~ unlicensed supervisor supervision factor equals 15 percent of
7.6 the product of the position's base wage and the sum of the factors in ~~clauses (1) to (3)~~ clause
7.7 (1).

7.8 **EFFECTIVE DATE.** This section is effective January 1, 2020.

7.9 Sec. 6. Minnesota Statutes 2018, section 256B.0915, subdivision 16, is amended to read:

7.10 Subd. 16. **Payment rates; component rates.** (a) For the purposes of this subdivision,
7.11 the "adjusted base wage" for a position equals the position's base wage plus:

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

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

7.14 ~~(3)~~ (2) the position's base wage multiplied by the applicable program plan support factor;
7.15 and

7.16 (3) the position's base wage multiplied by the absence factor, if applicable.

7.17 (b) For medication setups by licensed nurse, ~~the registered nurse, and social worker~~
7.18 ~~services~~ management and supervision factor, and the unlicensed supervisor supervision
7.19 factor, the component rate ~~for each service or factor value~~ equals the respective position's
7.20 adjusted base wage.

7.21 (c) For home management and support services, home care aide, and home health aide
7.22 services, the component rate for each service equals the sum of the respective position's
7.23 adjusted base wage ~~plus~~ and the registered nurse management and supervision factor
7.24 multiplied by the general and administrative factor and multiplied by the applicable factors
7.25 in subdivision 15, clauses (5) to (7).

7.26 (d) The home management and support services component rate shall be used for payment
7.27 for socialization and transportation component rates under elderly waiver customized living.

7.28 (e) The 15-minute unit rates for chore services and companion services are calculated
7.29 as follows:

8.1 (1) sum the adjusted base wage for the respective position and the ~~social worker~~
 8.2 unlicensed supervisor supervision factor and multiply the result by the general and
 8.3 administrative factor and by the applicable factors in subdivision 15, clauses (5) to (7); and

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

8.5 (f) The 15-minute unit rates for ~~homemaker services and assistance~~ homemaker/assistance
 8.6 with personal care, homemaker services and cleaning homemaker/cleaning, and homemaker
 8.7 services and home management homemaker/home management are calculated as follows:

8.8 (1) sum the adjusted base wage for the respective position and the ~~registered nurse~~
 8.9 management and unlicensed supervisor supervision factor and multiply the result by the
 8.10 general and administrative factor and by the applicable factors in subdivision 15, clauses
 8.11 (5) to (7); and

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

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

8.14 (1) sum the adjusted base wage for in-home respite care services and the registered nurse
 8.15 management and supervision factor and multiply the result by the general and administrative
 8.16 factor and by the applicable factors in subdivision 15, clauses (5) to (7); and

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

8.18 (h) The in-home respite care services daily rate equals the in-home respite care services
 8.19 15-minute unit rate multiplied by 18.

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

8.21 (1) sum the out-of-home respite care services adjusted base wage and the registered
 8.22 nurse management and supervision factor and multiply the result by the general and
 8.23 administrative factor and by the applicable factors in subdivision 15, clauses (5) to (7); and

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

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

8.27 (k) The individual community living support rate is calculated as follows:

8.28 (1) sum the adjusted base wage for ~~the home care aide rate in subdivision 14, paragraph~~
 8.29 ~~(a), clause (2), and the social worker~~ individual community living support and the registered
 8.30 nurse management and supervision factor and multiply the result by the general and
 8.31 administrative factor and by the applicable factors in subdivision 15, clauses (5) to (7); and

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

9.2 (l) The ~~home-delivered~~ home-delivered meals rate equals ~~\$9.30~~ \$8.17. ~~Beginning July~~
 9.3 ~~1, 2018~~; The commissioner shall increase the ~~home-delivered~~ home-delivered meals rate
 9.4 ~~every July 1~~ on January 1, 2020, and every two years thereafter, by the percent increase in
 9.5 the nursing facility dietary per diem using the two most recent and available nursing facility
 9.6 cost reports.

9.7 (m) ~~The adult day services rate is based on the home care aide rate in subdivision 14,~~
 9.8 ~~paragraph (a), clause (2), plus the additional factors from subdivision 15, except that the~~
 9.9 ~~general and administrative factor used shall be 20 percent. The nonregistered nurse portion~~
 9.10 ~~of the rate shall be multiplied by 0.25, to reflect an assumed ratio staffing of one caregiver~~
 9.11 ~~to four clients, and divided by four to determine the 15-minute unit rate. The registered~~
 9.12 ~~nurse portion is divided by four to determine the 15-minute unit rate and \$0.63 per 15-minute~~
 9.13 ~~unit is added to cover the cost of meals. The 15-minute unit rate for adult day services is~~
 9.14 ~~calculated as follows:~~

9.15 (1) divide the adjusted base wage for adult day services by five to reflect an assumed
 9.16 staffing ratio of one to five. Sum the result of this calculation and the registered nurse
 9.17 management and supervision factor and multiply this result by the general and administrative
 9.18 factor and by the applicable factors in subdivision 15, clauses (5) to (7); and

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

9.20 (n) The adult day services bath 15-minute unit rate is ~~the same as the calculation of the~~
 9.21 ~~adult day services 15-minute unit rate without the adjustment for staffing ratio.~~ calculated
 9.22 as follows:

9.23 (1) sum the adjusted base wage for adult day services and the registered nurse
 9.24 management and supervision factor and multiply the result by the general and administrative
 9.25 factor and the applicable factors in subdivision 15, clauses (5) to (7); and

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

9.27 (o) If a bath is authorized for an adult day services client, at least two 15-minute units
 9.28 must be authorized to allow for adequate time to meet client needs. Adult day services may
 9.29 be authorized for up to 48 units, or 12 hours, per day based on client and family caregiver
 9.30 needs.

9.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

10.1 Sec. 7. **EVALUATION OF ELDERLY WAIVER RATE METHODOLOGY.**

10.2 (a) The commissioner of human services, in consultation with stakeholders, shall conduct
10.3 a study to evaluate the following:

10.4 (1) the elderly waiver rate methodology base wage values compared to wages paid by
10.5 service providers;

10.6 (2) the elderly waiver rate methodology nonwage cost factor values compared to nonwage
10.7 costs of service providers; and

10.8 (3) the extent to which nonwage cost factors and factor values should vary by service.

10.9 (b) By January 1, 2021, the commissioner of human services shall submit a report to the
10.10 chairs and ranking minority members of the legislative committees with jurisdiction over
10.11 the elderly waiver program with recommended adjustments to the rate methodologies in
10.12 Minnesota Statutes, section 256B.0915, subdivisions 11 to 16, based on the results of the
10.13 evaluation in paragraph (a).

10.14 Sec. 8. **REPEALER.**

10.15 Minnesota Statutes 2018, section 256B.0915, subdivision 17, is repealed effective January
10.16 1, 2020.

256B.0915 MEDICAID WAIVER FOR ELDERLY SERVICES.

Subd. 17. **Evaluation of rate methodology.** The commissioner, in consultation with stakeholders, shall conduct a study to evaluate the following:

(1) base wages in subdivision 14, to determine if the standard occupational classification codes for each rate and component rate are an appropriate representation of staff who deliver the services; and

(2) factors in subdivision 15, and adjusted base wage calculation in subdivision 16, to determine if the factors and calculations appropriately address nonwage provider costs.

By January 1, 2019, the commissioner shall submit a report to the legislature on the changes to the rate methodology in this statute, based on the results of the evaluation. Where feasible, the report shall address the impact of the new rates on the workforce situation and client access to services. The report should include any changes to the rate calculations methods that the commissioner recommends.