

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1624

(SENATE AUTHORS: WESTROM)

DATE	D-PG	OFFICIAL STATUS
04/20/2013	2514	Introduction and first reading Referred to Finance

A bill for an act

relating to human services; providing an increase to nursing facility rates;
amending Minnesota Statutes 2012, section 256B.434, subdivision 19; Laws
2008, chapter 363, article 18, section 3, subdivision 6.

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

Section 1. Minnesota Statutes 2012, section 256B.434, subdivision 19, is amended to read:

Subd. 19. **Nursing facility rate increases beginning October 1, ~~2007~~ 2013.** (a)
For the rate year beginning October 1, ~~2007~~ 2013, the commissioner shall make available
to each nursing facility reimbursed under this section operating payment rate adjustments
equal to ~~1.87~~ five percent of the operating payment rates in effect on September 30, ~~2007~~
2013.

(b) Seventy-five percent of the money resulting from the rate adjustment under
paragraph (a) must be used for increases in compensation-related costs for employees
directly employed by the nursing facility on or after the effective date of the rate
adjustment, except:

(1) the administrator;
(2) persons employed in the central office of a corporation that has an ownership
interest in the nursing facility or exercises control over the nursing facility; and
(3) persons paid by the nursing facility under a management contract.

(c) Two-thirds of the money available under paragraph (b) must be used for wage
increases for all employees directly employed by the nursing facility on or after the
effective date of the rate adjustment, except those listed in paragraph (b), clauses (1) to
(3). The wage adjustment that employees receive under this paragraph must be paid as

an equal hourly percentage wage increase for all eligible employees. All wage increases under this paragraph must be effective on the same date. Only costs associated with the portion of the equal hourly percentage wage increase that goes to all employees shall qualify under this paragraph. Costs associated with wage increases in excess of the amount of the equal hourly percentage wage increase provided to all employees shall be allowed only for meeting the requirements in paragraph (b). This paragraph shall not apply to employees covered by a collective bargaining agreement.

(d) The commissioner shall allow as compensation-related costs all costs for:

(1) wages and salaries;

(2) FICA taxes, Medicare taxes, state and federal unemployment taxes, and workers' compensation;

(3) the employer's share of health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and pensions; and

(4) other benefits provided, subject to the approval of the commissioner.

(e) The portion of the rate adjustment under paragraph (a) that is not subject to the requirements in paragraphs (b) and (c) shall be provided to nursing facilities effective October 1, ~~2007~~ 2013.

(f) Nursing facilities may apply for the portion of the rate adjustment under paragraph (a) that is subject to the requirements in paragraphs (b) and (c). The application must be submitted to the commissioner within six months of the effective date of the rate adjustment, and the nursing facility must provide additional information required by the commissioner within nine months of the effective date of the rate adjustment. The commissioner must respond to all applications within three weeks of receipt. The commissioner may waive the deadlines in this paragraph under extraordinary circumstances, to be determined at the sole discretion of the commissioner. The application must contain:

(1) an estimate of the amounts of money that must be used as specified in paragraphs (b) and (c);

(2) a detailed distribution plan specifying the allowable compensation-related and wage increases the nursing facility will implement to use the funds available in clause (1);

(3) a description of how the nursing facility will notify eligible employees of the contents of the approved application, which must provide for giving each eligible employee a copy of the approved application, excluding the information required in clause (1), or posting a copy of the approved application, excluding the information required in clause (1), for a period of at least six weeks in an area of the nursing facility to which all eligible employees have access; and

(4) instructions for employees who believe they have not received the compensation-related or wage increases specified in clause (2), as approved by the commissioner, and which must include a mailing address, e-mail address, and the telephone number that may be used by the employee to contact the commissioner or the commissioner's representative.

(g) The commissioner shall ensure that cost increases in distribution plans under paragraph (f), clause (2), that may be included in approved applications, comply with the following requirements:

(1) costs to be incurred during the applicable rate year resulting from wage and salary increases effective after October 1, ~~2006~~ 2012, and prior to the first day of the nursing facility's payroll period that includes October 1, ~~2007~~ 2013, shall be allowed if they were not used in the prior year's application;

(2) a portion of the costs resulting from tenure-related wage or salary increases may be considered to be allowable wage increases, according to formulas that the commissioner shall provide, where employee retention is above the average statewide rate of retention of direct care employees;

(3) the annualized amount of increases in costs for the employer's share of health and dental insurance, life insurance, disability insurance, and workers' compensation shall be allowable compensation-related increases if they are effective on or after April 1, ~~2007~~ 2013, and prior to April 1, ~~2008~~ 2014; and

(4) for nursing facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the application only upon receipt of a letter of acceptance of the distribution plan, in regard to members of the bargaining unit, signed by the exclusive bargaining agent and dated after May ~~25, 2007~~ 20, 2013. Upon receipt of the letter of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

(h) The commissioner shall review applications received under paragraph (f) and shall provide the portion of the rate adjustment under paragraphs (b) and (c) if the requirements of this subdivision have been met. The rate adjustment shall be effective October 1. Notwithstanding paragraph (a), if the approved application distributes less money than is available, the amount of the rate adjustment shall be reduced so that the amount of money made available is equal to the amount to be distributed.

Sec. 2. Laws 2008, chapter 363, article 18, section 3, subdivision 6, is amended to read:
Subd. 6. **Continuing Care Grants**

(a) **Aging and Adult Services Grants** -0- (337,000)

4.1 **Base Adjustment.** The general fund base is
4.2 increased by \$71,000 in fiscal year 2010 and
4.3 \$70,000 in fiscal year 2011.

4.4 **Grants Reduction.** Effective July 1, 2008,
4.5 base level funding for nonforecast, general
4.6 fund aging and adult services state grants
4.7 issued under this paragraph shall be reduced
4.8 by 1.8 percent at the allotment level.

4.9 **Aging and Adult Services Adjustments.**
4.10 For the fiscal year ending June 30, 2009,
4.11 the commissioner may allocate each grant
4.12 affected by rate changes under this section in
4.13 such a manner across the fiscal year to achieve
4.14 the necessary cost savings and minimize
4.15 disruption to grantees. To implement this
4.16 paragraph, the commissioner may waive the
4.17 requirements of Laws 2007, chapter 147,
4.18 article 7, section 71, including the employee
4.19 compensation-related cost requirements.

4.20 **Living-At-Home/Block Nurse Program**
4.21 **Funding.** Notwithstanding the provisions
4.22 of Minnesota Statutes, section 256B.0917,
4.23 subdivision 8, for the fiscal year beginning
4.24 July 1, 2008, the commissioner of human
4.25 services shall transfer \$240,000 from the
4.26 community service grant program under
4.27 Minnesota Statutes, section 256B.0917,
4.28 subdivision 13, to the living-at-home/block
4.29 nurse program under Minnesota Statutes,
4.30 section 256B.0917, subdivision 8, to provide
4.31 \$20,000 each for 12 living-at-home/block
4.32 nurse programs currently operating without
4.33 base funding. This is onetime funding.

4.34 (b) **Alternative Care Grants** -0- (198,000)

4.35 This reduction is onetime.

5.1	(c) MA Long-Term Care Facilities Grants	(2,306,000)	3,045,000
5.2	Nursing Facility Rate Increase. (a) For		
5.3	the rate year beginning October 1, 2008,		
5.4	the commissioner shall make available		
5.5	to each nursing facility reimbursed under		
5.6	Minnesota Statutes, section 256B.434,		
5.7	operating payment rate adjustments equal to		
5.8	1.00 percent of the operating payment rates		
5.9	determined by the blending in Minnesota		
5.10	Statutes, section 256B.441, subdivision 55,		
5.11	paragraph (a).		
5.12	(b) Seventy-five percent of the money		
5.13	resulting from the rate adjustment under		
5.14	paragraph (a) must be used for increases in		
5.15	compensation-related costs for employees		
5.16	directly employed by the nursing facility		
5.17	on or after the effective date of the rate		
5.18	adjustment, except:		
5.19	(1) the administrator;		
5.20	(2) persons employed in the central office of		
5.21	a corporation that has an ownership interest		
5.22	in the nursing facility or exercises control		
5.23	over the nursing facility; and		
5.24	(3) persons paid by the nursing facility under		
5.25	a management contract.		
5.26	(c) Two-thirds of the money available		
5.27	under paragraph (b) must be used for wage		
5.28	increases for all employees directly employed		
5.29	by the nursing facility on or after the effective		
5.30	date of the rate adjustment, except those		
5.31	listed in paragraph (b), clauses (1) to (3).		
5.32	The wage adjustment that employees receive		
5.33	under this paragraph must be paid as an		
5.34	equal hourly percentage wage increase for all		

6.1 eligible employees. ~~All wage increases under~~
6.2 ~~this paragraph must be effective on the same~~
6.3 ~~date. Only costs associated with the portion~~
6.4 ~~of the equal hourly percentage wage increase~~
6.5 ~~that goes to all employees shall qualify under~~
6.6 ~~this paragraph. Costs associated with wage~~
6.7 ~~increases in excess of the amount of the equal~~
6.8 ~~hourly percentage wage increase provided~~
6.9 ~~to all employees shall be allowed only for~~
6.10 ~~meeting the requirements in paragraph (b).~~
6.11 ~~This paragraph shall not apply to employees~~
6.12 ~~covered by a collective bargaining agreement.~~

6.13 ~~(d) The commissioner shall allow as~~
6.14 ~~compensation-related costs all costs for:~~

6.15 ~~(1) wages and salaries;~~

6.16 ~~(2) FICA taxes, Medicare taxes, state and~~
6.17 ~~federal unemployment taxes, and workers'~~
6.18 ~~compensation;~~

6.19 ~~(3) the employer's share of health and~~
6.20 ~~dental insurance, life insurance, disability~~
6.21 ~~insurance, long-term care insurance, uniform~~
6.22 ~~allowance, and pensions; and~~

6.23 ~~(4) other benefits provided, subject to the~~
6.24 ~~approval of the commissioner.~~

6.25 ~~(e) The portion of the rate adjustment under~~
6.26 ~~paragraph (a) that is not subject to the~~
6.27 ~~requirements in paragraphs (b) and (c) shall~~
6.28 ~~be provided to nursing facilities effective~~
6.29 ~~October 1, 2008.~~

6.30 ~~(f) Nursing facilities may apply for the~~
6.31 ~~portion of the rate adjustment under~~
6.32 ~~paragraph (a) that is subject to the~~
6.33 ~~requirements in paragraphs (b) and (c).~~
6.34 ~~The application must be submitted to the~~

~~7.1 commissioner within six months of the~~
~~7.2 effective date of the rate adjustment, and~~
~~7.3 the nursing facility must provide additional~~
~~7.4 information required by the commissioner~~
~~7.5 within nine months of the effective date~~
~~7.6 of the rate adjustment. The commissioner~~
~~7.7 must respond to all applications within~~
~~7.8 three weeks of receipt. The commissioner~~
~~7.9 may waive the deadlines in this paragraph~~
~~7.10 under extraordinary circumstances, to be~~
~~7.11 determined at the sole discretion of the~~
~~7.12 commissioner. The application must contain:~~
~~7.13 (1) an estimate of the amounts of money that~~
~~7.14 must be used as specified in paragraphs (b)~~
~~7.15 and (c);~~
~~7.16 (2) a detailed distribution plan specifying the~~
~~7.17 allowable compensation-related and wage~~
~~7.18 increases the nursing facility will implement~~
~~7.19 to use the funds available in clause (1);~~
~~7.20 (3) a description of how the nursing facility~~
~~7.21 will notify eligible employees of the contents~~
~~7.22 of the approved application, which must~~
~~7.23 provide for giving each eligible employee a~~
~~7.24 copy of the approved application, excluding~~
~~7.25 the information required in clause (1), or~~
~~7.26 posting a copy of the approved application,~~
~~7.27 excluding the information required in clause~~
~~7.28 (1), for a period of at least six weeks in~~
~~7.29 an area of the nursing facility to which all~~
~~7.30 eligible employees have access; and~~
~~7.31 (4) instructions for employees who~~
~~7.32 believe they have not received the~~
~~7.33 compensation-related or wage increases~~
~~7.34 specified in clause (2), as approved by the~~
~~7.35 commissioner, and which must include a~~

8.1 ~~mailing address, e-mail address, and the~~
8.2 ~~telephone number that may be used by the~~
8.3 ~~employee to contact the commissioner or the~~
8.4 ~~commissioner's representative.~~

8.5 ~~(g) The commissioner shall ensure that~~
8.6 ~~cost increases in distribution plans under~~
8.7 ~~paragraph (f), clause (2), that may be~~
8.8 ~~included in approved applications, comply~~
8.9 ~~with the following requirements:~~

8.10 ~~(1) costs to be incurred during the applicable~~
8.11 ~~rate year resulting from wage and salary~~
8.12 ~~increases effective after October 1, 2007, and~~
8.13 ~~prior to the first day of the nursing facility's~~
8.14 ~~payroll period that includes October 1, 2008,~~
8.15 ~~shall be allowed if they were not used in the~~
8.16 ~~prior year's application;~~

8.17 ~~(2) a portion of the costs resulting from~~
8.18 ~~tenure-related wage or salary increases~~
8.19 ~~may be considered to be allowable wage~~
8.20 ~~increases, according to formulas that the~~
8.21 ~~commissioner shall provide, where employee~~
8.22 ~~retention is above the average statewide rate~~
8.23 ~~of retention of direct care employees;~~

8.24 ~~(3) the annualized amount of increases in~~
8.25 ~~costs for the employer's share of health and~~
8.26 ~~dental insurance, life insurance, disability~~
8.27 ~~insurance, and workers' compensation shall~~
8.28 ~~be allowable compensation-related increases~~
8.29 ~~if they are effective on or after April 1, 2008,~~
8.30 ~~and prior to April 1, 2009; and~~

8.31 ~~(4) for nursing facilities in which employees~~
8.32 ~~are represented by an exclusive bargaining~~
8.33 ~~representative, the commissioner shall~~
8.34 ~~approve the application only upon receipt of~~
8.35 ~~a letter of acceptance of the distribution plan,~~

9.1 ~~in regard to members of the bargaining unit,~~
9.2 ~~signed by the exclusive bargaining agent and~~
9.3 ~~dated after May 25, 2008. Upon receipt of~~
9.4 ~~the letter of acceptance, the commissioner~~
9.5 ~~shall deem all requirements of this rider as~~
9.6 ~~having been met in regard to the members~~
9.7 ~~of the bargaining unit.~~

9.8 ~~(h) The commissioner shall review~~
9.9 ~~applications received under paragraph (f)~~
9.10 ~~and shall provide the portion of the rate~~
9.11 ~~adjustment under paragraphs (b) and (c)~~
9.12 ~~if the requirements of this rider have been~~
9.13 ~~met. The rate adjustment shall be effective~~
9.14 ~~October 1, 2008. Notwithstanding paragraph~~
9.15 ~~(a), if the approved application distributes~~
9.16 ~~less money than is available, the amount of~~
9.17 ~~the rate adjustment shall be reduced so that~~
9.18 ~~the amount of money made available is equal~~
9.19 ~~to the amount to be distributed.~~

9.20 ~~(i) Of the general fund appropriation,~~
9.21 ~~\$2,877,000 in fiscal year 2009 is for the~~
9.22 ~~purposes of paragraphs (a) to (h).~~

9.23 ~~(j) Notwithstanding any contrary provision~~
9.24 ~~of this article, this rider shall not expire.~~

9.25 **Nursing Facility Temporary Rate**

9.26 **Adjustment.** (a) Of the general fund
9.27 appropriation, \$2,877,000 for fiscal year
9.28 2009 is to make available to nursing
9.29 facilities reimbursed under Minnesota
9.30 Statutes, section 256B.434, for the rate year
9.31 beginning October 1, 2008, a temporary
9.32 rate adjustment equal to 1.0 percent of the
9.33 operating payment rates determined by the
9.34 blending in Minnesota Statutes, section
9.35 256B.441, subdivision 55, paragraph (a).

10.1 This rate adjustment shall be removed from
10.2 the facility's operating payment rate for the
10.3 rate year beginning October 1, 2009.

10.4 (b) Seventy-five percent of the money
10.5 resulting from the rate adjustment under
10.6 paragraph (a) must be used to provide
10.7 quarterly bonus payments, and to pay
10.8 for associated employer costs and other
10.9 benefits as specified in Minnesota Statutes,
10.10 section 256B.434, subdivision 19, paragraph
10.11 (d), clauses (2) to (4), for all employees
10.12 directly employed by the nursing facility on
10.13 December 31, 2008; March 31, 2009; June
10.14 30, 2009; and September 30, 2009, except:

10.15 (1) the administrator;

10.16 (2) persons employed in the central office of
10.17 a corporation that has an ownership interest
10.18 in the nursing facility or exercises control
10.19 over the nursing facility; and

10.20 (3) persons paid by the nursing facility under
10.21 a management contract.

10.22 (c) Two-thirds of the money available under
10.23 paragraph (b) must be used for an equal
10.24 hourly percentage wage bonus for all eligible
10.25 employees.

10.26 (d) Nursing facilities may apply for the
10.27 portion of the rate adjustment subject to
10.28 paragraphs (b) and (c), and the commissioner
10.29 shall review and act on applications,
10.30 according to the procedures specified in
10.31 Minnesota Statutes, section 256B.434,
10.32 subdivision 19. The portion of the rate
10.33 adjustment under paragraph (a) that is not
10.34 subject to the requirements in paragraphs (b)

11.1 and (c) shall be provided to nursing facilities
 11.2 effective October 1, 2008.

11.3 (e) Notwithstanding any contrary provision
 11.4 in this article, this rider expires December
 11.5 31, 2009.

11.6 **(d) MA Long-Term Care Waivers and Home**
 11.7 **Care Grants**

-0- (10,643,000)

11.8 **Manage Growth in TBI and CADI Waiver.**

11.9 During the fiscal years beginning on July
 11.10 1, 2008, July 1, 2009, and July 1, 2010,
 11.11 the commissioner shall allocate money
 11.12 for home and community-based programs
 11.13 covered under Minnesota Statutes, section
 11.14 256B.49, to ensure a reduction in state
 11.15 spending that is equivalent to limiting the
 11.16 caseload growth of the traumatic brain injury
 11.17 (TBI) waiver to 200 allocations in each
 11.18 year of the biennium and the community
 11.19 alternatives for disabled individuals (CADI)
 11.20 waiver to 1,500 allocations each year of the
 11.21 biennium. Priorities for the allocation of
 11.22 funds must be for individuals anticipated to
 11.23 be discharged from institutional settings or
 11.24 who are at imminent risk of a placement in
 11.25 an institutional setting. Notwithstanding any
 11.26 contrary section in this article, this provision
 11.27 expires June 30, 2011.

11.28 **(e) Mental Health Grants**

-0- (4,823,000)

11.29 **Base Adjustment.** This reduction is onetime.

11.30 **Funding Usage.** Up to 75 percent of the
 11.31 fiscal year 2010 appropriation for adult
 11.32 mental health grants may be used to fund
 11.33 calendar year 2009 allocations for these
 11.34 programs, with the resulting calendar year
 11.35 funding pattern continuing into the future.

12.1	(f) Chemical Dependency Entitlement Grants	-0-	(2,069,000)
12.2	Payments for Substance Abuse Treatment.		
12.3	For services provided in fiscal year 2009,		
12.4	county-negotiated rates and provider claims		
12.5	to the consolidated chemical dependency		
12.6	fund must not exceed rates charged for		
12.7	services in excess of those in effect on		
12.8	May 31, 2008. If statutes authorize a		
12.9	cost-of-living adjustment during fiscal year		
12.10	2009, then notwithstanding any law to the		
12.11	contrary, fiscal year 2009 rates may not		
12.12	exceed those in effect on May 31, 2008, plus		
12.13	any authorized cost-of-living adjustments.		
12.14	Chemical Dependency Treatment Fund		
12.15	Special Revenue Account. The lesser of		
12.16	the balance of the consolidated chemical		
12.17	dependency treatment fund at the close of		
12.18	the fiscal year 2008, or \$2,784,000 must be		
12.19	transferred and deposited into the general		
12.20	fund by September 1, 2008. The lesser of		
12.21	the balance of the consolidated chemical		
12.22	dependency treatment fund at the close of		
12.23	the fiscal year 2009, or \$2,009,000 must be		
12.24	transferred and deposited into the general		
12.25	fund by September 1, 2009.		
12.26	(g) Chemical Dependency Nonentitlement		
12.27	Grants	-0-	1,967,000
12.28	Base Level Adjustment. The general		
12.29	fund base for chemical dependency		
12.30	nonentitlement treatment grants must be		
12.31	reduced by \$1,686,000 for fiscal year 2010		
12.32	and by \$1,686,000 for fiscal year 2011.		
12.33	White Earth treatment facility. \$2,000,000		
12.34	is appropriated from the general fund to		
12.35	the commissioner of human services for a		

13.1 grant to the White Earth tribe to purchase
13.2 or develop one or more culturally specific
13.3 treatment programs or capital facilities, or
13.4 both, designed to serve youth from native
13.5 cultures. This appropriation is onetime and
13.6 is available until spent.

13.7 **Grants Reduction.** Effective July 1, 2008,
13.8 base level funding for nonforecast, general
13.9 fund chemical dependency nonentitlement
13.10 grants issued under this paragraph shall be
13.11 reduced by 1.8 percent at the allotment level.

13.12 **(h) Other Continuing Care Grants** -0- (4,729,000)

13.13 **Base Level Adjustment.** The general fund
13.14 base is increased by \$7,283,000 in fiscal year
13.15 2010 and \$4,921,000 in fiscal year 2011.

13.16 **Housing Access Grants.** Of the general
13.17 fund appropriation, \$250,000 is appropriated
13.18 in fiscal year 2009 for housing access
13.19 grants under Minnesota Statutes, section
13.20 256B.0658.

13.21 **Funding Usage.** Up to 75 percent of
13.22 the fiscal year 2010 appropriation for
13.23 semi-independent living services grants and
13.24 family support grants may be used to fund
13.25 calendar year 2009 allocations for these
13.26 programs, with the resulting calendar year
13.27 funding pattern continuing into the future.

13.28 **Grants Reduction.** Effective July 1, 2008,
13.29 base level funding for nonforecast, general
13.30 fund other continuing care grants issued
13.31 under this paragraph, except for HIV grants,
13.32 shall be reduced by 1.8 percent at the
13.33 allotment level. HIV grants shall be reduced
13.34 by 1.7 percent at the allotment level effective
13.35 July 1, 2009.

14.1 **Other Continuing Care Grant**

14.2 **Adjustments.** For the fiscal year ending June
14.3 30, 2009, the commissioner may allocate
14.4 each grant affected by rate changes under
14.5 this section in such a manner across the fiscal
14.6 year to achieve the necessary cost savings
14.7 and minimize disruption to grantees. To
14.8 implement this paragraph, the commissioner
14.9 may waive the requirements of Laws 2007,
14.10 chapter 147, article 7, section 71, including
14.11 the employee compensation-related cost
14.12 requirements.