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# State of Minnesota

## HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **1448**

03/11/2013 Authored by Norton

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

03/13/2013 Adoption of Report: Pass and re-referred to the Committee on Health and Human Services Policy

03/18/2013 Adoption of Report: Pass and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act  
1.2 relating to human services; modifying payment methodologies for home and  
1.3 community-based services; amending Minnesota Statutes 2012, sections  
1.4 256B.4912, subdivisions 2, 3; 256B.4913.

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

1.6 Section 1. Minnesota Statutes 2012, section 256B.4912, subdivision 2, is amended to  
1.7 read:

1.8 Subd. 2. **Payment methodologies.** (a) The commissioner shall establish, as defined  
1.9 under section 256B.4913, statewide payment methodologies that meet federal waiver  
1.10 requirements for home and community-based waiver services for individuals with  
1.11 disabilities. The payment methodologies must abide by the principles of transparency  
1.12 and equitability across the state. The methodologies must involve a uniform process of  
1.13 structuring rates for each service and must promote quality and participant choice.

1.14 (b) As of January 1, 2012, counties shall not implement changes to established  
1.15 processes for rate-setting methodologies for individuals using components of or data  
1.16 from research rates.

1.17 Sec. 2. Minnesota Statutes 2012, section 256B.4912, subdivision 3, is amended to read:

1.18 Subd. 3. **Payment requirements.** The payment methodologies established under  
1.19 this section shall accommodate:

- 1.20 (1) supervision costs;
- 1.21 (2) ~~staffing patterns~~ staff compensation;
- 1.22 (3) staffing and supervisory patterns;
- 1.23 ~~(3)~~ (4) program-related expenses;

- 2.1 ~~(4)~~ (5) general and administrative expenses; and  
2.2 ~~(5)~~ (6) consideration of recipient intensity.

2.3 Sec. 3. Minnesota Statutes 2012, section 256B.4913, is amended to read:

2.4 **256B.4913 PAYMENT METHODOLOGY DEVELOPMENT.**

2.5 Subdivision 1. ~~Research period and rates.~~ (a) For the purposes of this  
2.6 section, "research rate" means a proposed payment rate for the provision of home  
2.7 and community-based waived services to meet federal requirements and assess the  
2.8 implications of changing resources on the provision of services and "research period"  
2.9 means the time period during which the research rate is being assessed by the commissioner.

2.10 (b) The commissioner shall determine and publish initial frameworks and values to  
2.11 generate research rates for individuals receiving home and community-based services.

2.12 (c) The initial values issued by the commissioner shall ensure projected spending  
2.13 for home and community-based services for each service area is equivalent to projected  
2.14 spending under current law in the most recent expenditure forecast.

2.15 (d) The initial values issued shall be based on the most updated information and cost  
2.16 data available on supervision, employee-related costs, client programming and supports,  
2.17 programming planning supports, transportation, administrative overhead, and utilization  
2.18 costs. These service areas are:

2.19 (1) residential services, defined as corporate foster care, family foster care, residential  
2.20 care, supported living services, customized living, and 24-hour customized living;

2.21 (2) day program services, defined as adult day care, day training and habilitation,  
2.22 prevocational services, structured day services, and transportation;

2.23 (3) unit-based services with programming, defined as in-home family support,  
2.24 independent living services, supported living services, supported employment, behavior  
2.25 programming, and housing access coordination; and

2.26 (4) unit-based services without programming, defined as respite, personal support,  
2.27 and night supervision.

2.28 (e) The commissioner shall make available the underlying assessment information,  
2.29 without any identifying information, and the statistical modeling used to generate the  
2.30 initial research rate and calculate budget neutrality.

2.31 Subd. 1a. **Application.** The payment methodologies in this section apply to home  
2.32 and community-based services waivers under sections 256B.092 and 256B.49. This  
2.33 section does not change existing waiver policies and procedures.

2.34 Subd. 1b. **Definitions.** (a) For purposes of this section, the following terms have the  
2.35 meanings given them, unless the context clearly indicates otherwise.

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

3.2 (c) "Component value" means underlying factors that are part of the cost of providing  
3.3 services that are built into the waiver rates methodology to calculate service rates.

3.4 (d) "Customized living tool" means a methodology for setting service rates which  
3.5 delineates and documents the amount of each component service included in a recipient's  
3.6 customized living service plan.

3.7 (e) "Disability Waiver Rates System" means a statewide system which establishes  
3.8 rates that are based on uniform processes and captures the individualized nature of waiver  
3.9 services and recipient needs.

3.10 (f) "Median" means the amount that divides distribution into two equal groups, half  
3.11 above the median and half below the median.

3.12 (g) "Payment" or "rate" means reimbursement to an eligible provider for services  
3.13 provided to a qualified individual based on an approved service authorization.

3.14 (h) "Rates management system" means a Web-based software application that uses  
3.15 a framework and component values, as determined by the commissioner, to establish  
3.16 service rates.

3.17 (i) "Recipient" means a person receiving home and community-based services  
3.18 funded under any of the disability waivers.

3.19 Subd. 1c. **Applicable services.** Applicable services are those authorized under the  
3.20 state's home and community-based services waivers under sections 256B.092 and 256B.49,  
3.21 including as defined in the federally approved home and community-based services plan:

3.22 (1) 24-hour customized living;

3.23 (2) adult day care;

3.24 (3) adult day care bath;

3.25 (4) behavioral programming;

3.26 (5) companion services;

3.27 (6) customized living;

3.28 (7) day training and habilitation;

3.29 (8) housing access coordination;

3.30 (9) independent living skills;

3.31 (10) in-home family support;

3.32 (11) night supervision;

3.33 (12) personal support;

3.34 (13) prevocational services;

3.35 (14) residential care services;

3.36 (15) residential support services;

4.1 (16) respite services;  
4.2 (17) structured day services;  
4.3 (18) supported employment services;  
4.4 (19) supported living services;  
4.5 (20) transportation services; and  
4.6 (21) other services as approved by the federal government in the state home and  
4.7 community-based services plan.

4.8 Subd. 2. **Framework values.** ~~(a) The commissioner shall propose legislation with~~  
4.9 ~~the specific payment methodology frameworks, process for calculation, and specific~~  
4.10 ~~values to populate the frameworks by February 15, 2013.~~

4.11 ~~(b) The commissioner shall provide underlying data and information used to~~  
4.12 ~~formulate the final frameworks and values to the existing stakeholder workgroup by~~  
4.13 ~~January 15, 2013.~~

4.14 ~~(c) The commissioner shall provide recommendations for the final frameworks~~  
4.15 ~~and values, and the basis for the recommendations, to the legislative committees with~~  
4.16 ~~jurisdiction over health and human services finance by February 15, 2013.~~

4.17 ~~(d) The commissioner shall review the following topics during the research period~~  
4.18 ~~and propose, as necessary, recommendations to address the following research questions:~~

4.19 ~~(1) underlying differences in the cost to provide services throughout the state;~~  
4.20 ~~(2) a data-driven process for determining labor costs and customizations for staffing~~  
4.21 ~~classifications included in each rate framework based on the services performed;~~

4.22 ~~(3) the allocation of resources previously established under section 256B.501,~~  
4.23 ~~subdivision 4b;~~

4.24 ~~(4) further definition and development of unit-based services;~~

4.25 ~~(5) the impact of splitting the allocation of resources for unit-based services for those~~  
4.26 ~~with programming aspects and those without;~~

4.27 ~~(6) linking assessment criteria to future assessment processes for determination~~  
4.28 ~~of customizations;~~

4.29 ~~(7) recognition of cost differences in the use of monitoring technology where it is~~  
4.30 ~~appropriate to substitute for supervision;~~

4.31 ~~(8) implications for day services of reimbursement based on a unit rate and a daily~~  
4.32 ~~rate;~~

4.33 ~~(9) a definition of shared and individual staffing for unit-based services;~~

4.34 ~~(10) the underlying costs of providing transportation associated with day services; and~~

4.35 ~~(11) an exception process for individuals with exceptional needs that cannot be met~~  
4.36 ~~under the initial research rate, and an alternative payment structure for those individuals.~~

(e) The commissioner shall develop a comprehensive plan based on information gathered during the research period that uses statistically reliable and valid assessment data to refine payment methodologies.

(f) The commissioner shall make recommendations and provide underlying data and information used to formulate these research recommendations to the existing stakeholder workgroup by January 15, 2013.

**Subd. 3. Data collection.** (a) The commissioner shall conduct any necessary research and gather additional data for the further development and refinement of payment methodology components. These include but are not limited to:

- (1) levels of service utilization and patterns of use;
- (2) staffing patterns for each service;
- (3) profiles of individual service needs; and
- (4) cost factors involved in providing transportation services.

(b) The commissioner shall provide this information to the existing stakeholder workgroup by January 15, 2013.

**Subd. 4. Rate stabilization adjustment.** Beginning January 1, 2014, the commissioner shall adjust individual rates determined by the new payment methodology so that the new rate varies no more than one percent per year from the rate effective on December 31 of the prior calendar year. This adjustment is made annually and is effective for three calendar years from the date of implementation. This subdivision expires January 1, 2017.

**Subd. 4a. Rate stabilization adjustment.** (a) The commissioner of human services shall adjust individual reimbursement rates by no more than 1.0 percent per year effective January 1, 2014. Rates must be adjusted using the new payment methodology so that the new unit rate varies no more than 1.0 percent per year from the rate effective December 1 of the prior calendar year. This adjustment is made annually for three calendar years from the date of implementation.

(b) Rate stabilization adjustment applies to services that are authorized in a recipient's service plan prior to January 1, 2014.

(c) Exemptions shall be made only when there is a significant change in the recipient's assessed needs which results in a service authorization change. Exemption adjustments shall be limited to the difference in the authorized framework rate specific to change in assessed need. Exemptions shall be managed within lead agencies' budgets per existing allocation procedures which govern county waiver budget allocation.

(d) This subdivision expires January 1, 2017.

6.1 Subd. 5. **Stakeholder consultation.** The commissioner shall continue consultation  
6.2 on regular intervals, with the existing stakeholder group established as part of the  
6.3 rate-setting methodology process and others to gather input, concerns, and data, and  
6.4 ~~exchange ideas for to assist in the legislative proposals for full implementation of the new~~  
6.5 rate payment system and to make pertinent information available to the public through  
6.6 the department's Web site.

6.7 Subd. 6. **Implementation.** (a) The commissioner ~~may~~ shall implement changes  
6.8 ~~no sooner than on~~ January 1, 2014, to payment rates for individuals receiving home and  
6.9 community-based waived services after the enactment of legislation that establishes  
6.10 specific payment methodology frameworks, processes for rate calculations, and specific  
6.11 values to populate the ~~payment methodology frameworks~~ disability waiver rates system.

6.12 (b) Rates shall be determined using component values as provided under this  
6.13 section. Lead agencies, in consultation with provider agencies, shall enter person-specific  
6.14 information into a rate management system developed by the commissioner. The rate  
6.15 management system must calculate rates that lead agencies must use as the basis for  
6.16 authorizing services on behalf of disability waiver recipients subject to the requirements  
6.17 of subdivision 4.

6.18 (c) On January 1, 2014, all new service authorizations must use the disability waiver  
6.19 rates system. Beginning January 1, 2014, all renewing individual service plans must use the  
6.20 disability waiver rates system as reassessment and reauthorization occurs. By December  
6.21 31, 2014, data for all recipients must be entered into the disability waiver rates system.

6.22 (d) Beginning January 1, 2014, through implementation, the commissioner shall  
6.23 make adjustments to lead agency waiver budgets per the federally approved home and  
6.24 community-based services waiver plans for people with disabilities as authorized under  
6.25 sections 256B.092 and 256B.49.

6.26 Subd. 7. **Uniform payment methodology.** The commissioner shall determine  
6.27 a uniform methodology to meet the individualized service plan for recipients with  
6.28 disabilities as funded under the waiver plan for home and community-based services  
6.29 under sections 256B.092 and 256B.49. The commissioner shall use the component values,  
6.30 with consideration of recipient needs, to determine the service payment rate under this  
6.31 section. The payment methodology for customized living, 24-hour customized living, and  
6.32 residential care services shall be the customized living tool. Revisions to the customized  
6.33 living tool shall be made to reflect services and activities unique to disability-related  
6.34 recipient needs.

7.1        Subd. 8. **Payments for residential services.** (a) Payments for residential support  
7.2 services as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22,  
7.3 must be calculated as follows:

7.4        (1) Determine the number of units of service to meet a recipient's needs.

7.5        (2) Personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics  
7.6 national and Minnesota-specific rates or rates derived by the commissioner as provided in  
7.7 paragraph (c). This is defined as the direct care rate.

7.8        (3) For a recipient requiring customization for deaf and hard-of-hearing language  
7.9 accessibility under subdivision 15, add the customization rate provided in subdivision 15  
7.10 to the result of clause (2). This is defined as the customized direct care rate.

7.11        (4) Multiply the number of residential services direct staff hours by the appropriate  
7.12 staff wage in paragraph (c) or the customized direct care rate.

7.13        (5) Multiply the number of direct staff hours by the product of the supervision  
7.14 span of control ratio in paragraph (d), clause (1), and the supervision wage in paragraph  
7.15 (c), clause (5).

7.16        (6) Combine the results of clauses (4) and (5), and multiply the result by one plus  
7.17 the employee vacation, sick, and training allowance ratio in paragraph (d), clause (2).  
7.18 This is defined as the direct staffing cost.

7.19        (7) For employee-related expenses, multiply the direct staffing cost by one plus the  
7.20 employee-related cost ratio in paragraph (d), clause (3).

7.21        (8) For client programming and supports, the commissioner shall add \$2,179 per  
7.22 year adjusted to an hourly rate.

7.23        (9) For transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if  
7.24 customized for adapted transport per year adjusted to an hourly rate.

7.25        (b) The total rate shall be calculated using the following steps:

7.26        (1) Subtotal paragraph (a), clauses (7) to (9).

7.27        (2) Sum the standard general and administrative rate, the program-related expense  
7.28 ratio, and the absence and utilization ratio.

7.29        (3) Divide the result of clause (1) by one minus the result of clause (2). This is  
7.30 the total payment amount.

7.31        (c)(1) The base wage index is established to determine staffing costs associated with  
7.32 providing services to individuals receiving home and community-based services. For  
7.33 purposes of developing and calculating the proposed base wage, Minnesota-specific wages  
7.34 taken from job descriptions and standard occupational classification (SOC) codes from  
7.35 the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational

Outlook Handbook, shall be used. The base wage index shall be calculated as provided in clauses (2) to (5).

(2) The base wage index for residential direct basic care services is:

(i) 50 percent of the median wage for personal and home health aide (SOC code 39-9021);

(ii) 30 percent of the median wage for nursing aide (SOC code 31-1012); and

(iii) 20 percent of the median wage for social and human services aide (SOC code 21-1093).

(3) The base wage index for residential direct care intensive services is:

(i) 20 percent of the median wage for home health aide (SOC code 31-1011);

(ii) 20 percent of the median wage for personal and home health aide (SOC code 39-9021);

(iii) 20 percent of the median wage for nursing aide (SOC code 31-1012);

(iv) 20 percent of the median wage for psychiatric technician (SOC code 29-2053);

and

(v) 20 percent of the median wage for social and human services aide (SOC code 21-1093).

(4) When residential direct care basic services are provided during normal sleeping hours, the basic wage is \$7.66 per hour, except in a family foster care setting the wage is \$2.80 per hour.

(5) For supervisory staff, the basic wage is \$17.43 per hour.

(d) Component values for residential support services, excluding family foster care, are:

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

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

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

(4) general administrative support ratio: 13.25 percent;

(5) program-related expense ratio: 1.3 percent; and

(6) absence and utilization factor ratio: 3.9 percent.

(e) Component values for family foster care are:

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

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

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

(4) general administrative support ratio: 3.3 percent; and

(5) program-related expense ratio: 1.3 percent.



(f) The commissioner shall revise the wage rates in the manner provided in subdivision 12.

Subd. 9. **Payments for day programs.** (a) Payments for services with day programs, including adult day care, day treatment and habilitation, prevocational services, and structured day services must be calculated as follows:

(1) Determine the number of units of service to meet a recipient's needs.

(2) Personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b).

(3) For a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 15, add the customization rate provided in subdivision 15 to the result of clause (2). This is defined as the customized direct care rate.

(4) Multiply the number of day program direct staff hours by the appropriate staff wage in paragraph (b) or the customized direct care rate.

(5) Multiply the number of day direct staff hours by the product of the supervision span of control ratio in paragraph (c), clause (1), and the supervision wage in paragraph (b), clause (3).

(6) Combine the results of clauses (4) and (5), and multiply the result by one plus the employee vacation, sick, and training allowance ratio in paragraph (c), clause (2). This is defined as the direct staffing rate.

(7) For program plan support, multiply the result of clause (6) by one plus the program plan support ratio in paragraph (c), clause (4).

(8) For employee-related expenses, multiply the result of clause (7) by one plus the employee-related cost ratio in paragraph (c), clause (3).

(9) For client programming and supports, multiply the result of clause (8) by one plus the client programming and support ratio in paragraph (c), clause (5).

(10) For program facility costs, add \$8.30 per week with consideration of staffing ratios to meet individual needs.

(11) For adult day bath services, add \$7.01 per 15 minute unit.

(12) This is the subtotal rate.

(13) Sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization factor ratio.

(14) Divide the result of clause (12) by one minus the result of clause (13). This is the total payment amount.

(15) For transportation provided as part of day training and habilitation, add a base of \$2.52 plus:

(i) \$2.50 for a trip between zero to ten miles without a lift or \$7.05 with a lift;

- 10.1 (ii) \$7.75 for a trip between 11 and 20 miles without a lift or \$22.16 with a lift;  
10.2 (iii) \$17.75 for a trip between 21 and 50 miles without a lift and \$50.76 with a lift;  
10.3 (iv) \$25.50 for a trip of 51 miles or more without a lift and \$72.93 with a lift; and  
10.4 (v) divide by six for a shared trip.

10.5 (b)(1) The base wage index is established to determine staffing costs associated with  
10.6 providing services to individuals receiving home and community-based services. For  
10.7 purposes of developing and calculating the proposed base wage, Minnesota-specific wages  
10.8 taken from job descriptions and standard occupational classification (SOC) codes from  
10.9 the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational  
10.10 Outlook Handbook, shall be used. The base wage index shall be calculated as provided in  
10.11 clauses (2) and (3).

10.12 (2) The base wage index for direct services is:

- 10.13 (i) 20 percent of the median wage for nursing aide (SOC code 31-1012);  
10.14 (ii) 20 percent of the median wage for psychiatric technician (SOC code 29-2053);  
10.15 and  
10.16 (iii) 60 percent of the median wage for social and human services aide (SOC code  
10.17 21-1093).

10.18 (3) For supervisory staff, the base wage index is \$17.43 per hour.

10.19 (c) Component values for day services for all services are:

- 10.20 (1) supervisory span of control ratio: 11 percent;  
10.21 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;  
10.22 (3) employee-related cost ratio: 23.6 percent;  
10.23 (4) program plan support ratio: 5.6 percent;  
10.24 (5) client programming and support ratio: 10 percent;  
10.25 (6) general administrative support ratio: 13.25 percent;  
10.26 (7) program-related expense ratio: 1.8 percent; and  
10.27 (8) absence and utilization factor ratio: 3.9 percent.

10.28 (d) The commissioner shall revise the wage rates in the manner provided in  
10.29 subdivision 12.

10.30 Subd. 10. **Payments for unit-based with program services.** (a) Payments for  
10.31 unit-based with program services, including behavior programming, housing access  
10.32 coordination, in-home family support, independent living skills training, hourly supported  
10.33 living services, and supported employment provided to an individual outside of any day or  
10.34 residential service plan must be calculated as follows, unless the services are authorized  
10.35 separately under subdivisions 8 and 9:

- 10.36 (1) Determine the number of units of service to meet a recipient's needs.

11.1 (2) Personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics  
11.2 Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b).

11.3 (3) For a recipient requiring customization for deaf and hard-of-hearing language  
11.4 accessibility under subdivision 15, add the customization rate provided in subdivision 15  
11.5 to the result of clause (2). This is defined as the customized direct care rate.

11.6 (4) Multiply the number of direct staff hours by the appropriate staff wage in  
11.7 paragraph (b) or the customized direct care rate.

11.8 (5) Multiply the number of direct staff hours by the product of the supervision  
11.9 span of control ratio in paragraph (c), clause (1), and the supervision wage in paragraph  
11.10 (b), clause (10).

11.11 (6) Combine the results of clauses (4) and (5), and multiply the result by one plus  
11.12 the employee vacation, sick, and training allowance ratio in paragraph (c), clause (2).  
11.13 This is defined as the direct staffing rate.

11.14 (7) For program plan support, multiply the result of clause (6) by one plus the  
11.15 program plan supports ratio in paragraph (c), clause (4).

11.16 (8) For employee-related expenses, multiply the result of clause (7) by one plus the  
11.17 employee-related cost ratio in paragraph (c), clause (3).

11.18 (9) For client programming and supports, multiply the result of clause (8) by one  
11.19 plus the client programming and supports ratio in paragraph (c), clause (5).

11.20 (10) This is the subtotal rate.

11.21 (11) Sum the standard general and administrative rate, the program-related expense  
11.22 ratio, and the absence and utilization factor ratio.

11.23 (12) Divide the result of clause (10) by one minus the result of clause (11). This is  
11.24 the total payment amount.

11.25 (b)(1) The base wage index is established to determine staffing costs associated with  
11.26 providing services to individuals receiving home and community-based services. For  
11.27 purposes of developing and calculating the proposed base wage, Minnesota-specific wages  
11.28 taken from job descriptions and standard occupational classification (SOC) codes from  
11.29 the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational  
11.30 Outlook Handbook, shall be used. The base wage index shall be calculated as provided in  
11.31 clauses (2) to (10).

11.32 (2) The base wage index for a behavior program analyst is 100 percent of the median  
11.33 wage for mental health counselor (SOC code 21-1014).

11.34 (3) The base wage index for a behavior program professional is 100 percent of the  
11.35 median wage for clinical counseling and school psychologist (SOC code 19-3031).

- 12.1 (4) The base wage index for a behavior program specialist is 100 percent of the  
12.2 median wage for psychiatric technician (SOC code 29-2053).
- 12.3 (5) The base wage index for hourly supportive living services is:  
12.4 (i) 20 percent of the median wage for nursing aide (SOC code 31-1012);  
12.5 (ii) 20 percent of the median wage for psychiatric technician (SOC code 29-2053);  
12.6 and  
12.7 (iii) 60 percent of the median wage for social and human services aide (SOC code  
12.8 21-1093).
- 12.9 (6) The base wage index for housing access coordinator services is:  
12.10 (i) 50 percent of the median wage for community and social services specialist  
12.11 (SOC code 21-1099); and  
12.12 (ii) 50 percent of the median wage for social and human services aide (SOC code  
12.13 21-1093).
- 12.14 (7) The base wage index for in-home family support services is:  
12.15 (i) 20 percent of the median wage for nursing aide (SOC code 31-1012);  
12.16 (ii) 30 percent of the median wage for community social service specialist (SOC  
12.17 code 21-1099);  
12.18 (iii) 40 percent of the median wage for social and human services aide (SOC code  
12.19 21-1093); and  
12.20 (iv) ten percent of the median wage for psychiatric technician (SOC code 29-2053).
- 12.21 (8) The base wage index for independent living skills is:  
12.22 (i) 40 percent of the median wage for community social service specialist (SOC  
12.23 code 21-1099);  
12.24 (ii) 50 percent of the median wage for social and human services aide (SOC code  
12.25 21-1093); and  
12.26 (iii) ten percent of the median wage for psychiatric technician (SOC code 29-2053).
- 12.27 (9) The base wage index for supported employment services is:  
12.28 (i) 20 percent of the median wage for nursing aide (SOC code 31-1012);  
12.29 (ii) 20 percent of the median wage for psychiatric technician (SOC code 29-2053);  
12.30 and  
12.31 (iii) 60 percent of the median wage for social and human services aide (SOC code  
12.32 21-1093).
- 12.33 (10) For a supervisor, the base wage index is \$17.43 per hour with the exception of the  
12.34 supervision of behavior analysts and behavior specialists which shall be \$30.75 per hour.
- 12.35 (c) Component values for unit-based with program services are:  
12.36 (1) supervisory span of control ratio: 11 percent;

- 13.1 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;  
13.2 (3) employee-related cost ratio: 23.6 percent;  
13.3 (4) program plan supports ratio: 3.1 percent;  
13.4 (5) client programming and supports ratio: 8.6 percent;  
13.5 (6) general administrative support ratio: 13.25 percent;  
13.6 (7) program-related expense ratio: 6.1 percent; and  
13.7 (8) absence and utilization factor ratio: 3.9 percent.  
13.8 (d) The commissioner shall revise the wage rates in the manner provided in  
13.9 subdivision 12.

13.10 Subd. 11. **Payments for unit-based without program services.** (a) Payments  
13.11 for unit-based without program services including night supervision, personal support,  
13.12 respite, and companion care provided to an individual outside of any day or residential  
13.13 service plan must be calculated as follows unless the services are authorized separately  
13.14 under subdivisions 8 and 9:

13.15 (1) For all services except respite, determine the number of units of service to meet  
13.16 a recipient's needs.

13.17 (2) Personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics  
13.18 Minnesota-specific rate or rates derived by the commissioner as provided in paragraph (b).

13.19 (3) For a recipient requiring customization for deaf and hard-of-hearing language  
13.20 accessibility under subdivision 15, add the customization rate provided in subdivision 15  
13.21 to the result of clause (2). This is defined as the customized direct care rate.

13.22 (4) Multiply the number of direct staff hours by the appropriate staff wage in  
13.23 paragraph (b) or the customized direct care rate.

13.24 (5) Multiply the number of direct staff hours by the product of the supervision  
13.25 span of control ratio in paragraph (c), clause (1), and the supervision wage in paragraph  
13.26 (b), clause (6).

13.27 (6) Combine the results of clauses (4) and (5) and multiply the result by one plus  
13.28 the employee vacation, sick, and training allowance ratio in paragraph (c), clause (2).  
13.29 This is defined as the direct staffing rate.

13.30 (7) For program plan support, multiply the result of clause (6) by one plus the  
13.31 program plan support ratio in paragraph (c), clause (4).

13.32 (8) For employee-related expenses, multiply the result of clause (7) by one plus the  
13.33 employee-related cost ratio in paragraph (c), clause (3).

13.34 (9) For client programming and supports, multiply the result of clause (8) by one  
13.35 plus the client programming and support ratio in paragraph (c), clause (5).

13.36 (10) This is the subtotal rate.

14.1 (11) Sum the standard general and administrative rate, the program-related expense  
14.2 ratio, and the absence and utilization factor ratio.

14.3 (12) Divide the result of clause (10) by one minus the result of clause (11). This is  
14.4 the total payment amount.

14.5 (13) For respite services, determine the number of daily units of service to meet an  
14.6 individual's needs.

14.7 (14) Personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics  
14.8 Minnesota-specific rate or rates derived by the commissioner as provided in paragraph (b).

14.9 (15) For a recipient requiring deaf and hard-of-hearing customization under  
14.10 subdivision 15, add the customization rate provided in subdivision 15 to the result of  
14.11 clause (14). This is defined as the customized direct care rate.

14.12 (16) Multiply the number of direct staff hours by the appropriate staff wage in  
14.13 paragraph (b).

14.14 (17) Multiply the number of direct staff hours by the product of the supervisory  
14.15 span of control ratio in paragraph (d), clause (1), and the supervision wage in paragraph  
14.16 (b), clause (6).

14.17 (18) Combine the results of clauses (16) and (17) and multiply the result by one plus  
14.18 the employee vacation, sick, and training allowance ratio in paragraph (d), clause (2).  
14.19 This is defined as the direct staffing rate.

14.20 (19) For employee-related expenses, multiply the result of clause (18) by one plus  
14.21 the employee-related cost ratio in paragraph (d), clause (3).

14.22 (20) This is the subtotal rate.

14.23 (21) Sum the standard general and administrative rate, the program-related expense  
14.24 ratio, and the absence and utilization factor ratio.

14.25 (22) Divide the result of clause (20) by one minus the result of clause (21). This is  
14.26 the total payment amount.

14.27 (b)(1) The base wage index is established to determine staffing costs associated  
14.28 with providing services to recipients receiving home and community-based services. For  
14.29 purposes of developing and calculating the proposed base wage, Minnesota-specific wages  
14.30 taken from job descriptions and standard occupational classification (SOC) codes from  
14.31 the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational  
14.32 Outlook Handbook, shall be used. The base wage index shall be calculated as provided in  
14.33 clauses (2) to (6):

14.34 (2) The base wage index for adult companion staff is:

14.35 (i) 50 percent of the median wage for personal and home care aide (SOC code  
14.36 39-9021); and

- 15.1 (ii) 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC  
15.2 code 31-1012).
- 15.3 (3) The base wage index for night supervision staff is:
- 15.4 (i) 20 percent of the median wage for home health aide (SOC code 31-1011);  
15.5 (ii) 20 percent of the median wage for personal and home health aide (SOC code  
15.6 39-9021);
- 15.7 (iii) 20 percent of the median wage for nursing aide (SOC code 31-1012);  
15.8 (iv) 20 percent of the median wage for psychiatric technician (SOC code 29-2053);  
15.9 and
- 15.10 (v) 20 percent of the median wage for social and human services aide (SOC code  
15.11 21-1093).
- 15.12 (4) The base wage index for respite staff is:
- 15.13 (i) 50 percent of the median wage for personal and home care aide (SOC code  
15.14 39-9021); and
- 15.15 (ii) 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC  
15.16 code 31-1012).
- 15.17 (5) The base wage index for personal support staff is:
- 15.18 (i) 50 percent of the median wage for personal and home care aide (SOC code  
15.19 39-9021); and
- 15.20 (ii) 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC  
15.21 code 31-1012).
- 15.22 (6) The base wage index for supervisory staff is \$17.43 per hour.
- 15.23 (c) Component values for unit-based services without programming except respite  
15.24 are:
- 15.25 (1) supervisory span of control ratio: 11 percent;  
15.26 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;  
15.27 (3) employee-related cost ratio: 23.6 percent;  
15.28 (4) program plan support ratio: 3.1 percent;  
15.29 (5) client programming and support ratio: 8.6 percent;  
15.30 (6) general administrative support ratio: 13.25 percent;  
15.31 (7) program-related expense ratio: 6.1 percent; and  
15.32 (8) absence and utilization factor ratio: 3.9 percent.
- 15.33 (d) Component values for unit-based services without programming for respite are:
- 15.34 (1) supervisory span of control ratio: 11 percent;  
15.35 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;  
15.36 (3) employee-related cost ratio: 23.6 percent;

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

16.2 (5) program-related expense ratio: 6.1 percent; and

16.3 (6) absence and utilization factor ratio: 3.9 percent.

16.4 (e) The commissioner shall revise the wage rates in the manner provider in  
16.5 subdivision 12.

16.6 Subd. 12. **Updating or changing payment values.** (a) The commissioner shall  
16.7 develop and implement uniform procedures to refine terms and update or adjust values  
16.8 used to calculate payment rates in this section. For calendar year 2014, the commissioner  
16.9 shall use the values, terms, and procedures provided in this section.

16.10 (b) The commissioner shall work with stakeholders to assess efficacy of values  
16.11 and payment rates. The commissioner shall report back to the legislature with proposed  
16.12 changes for component values and recommendations for revisions on the schedule  
16.13 provided in paragraphs (c) and (d).

16.14 (c) The commissioner shall work with stakeholders to continue refining a  
16.15 subset of component values, which are to be referred to as interim values, and report  
16.16 recommendations to the legislature by February 15, 2014. Interim component values are:  
16.17 transportation rates for day training and habilitation; transportation for adult day, structured  
16.18 day, and prevocational services; geographic difference factor; day program facility rate;  
16.19 services where monitoring technology replaces staff time; shared services for independent  
16.20 living skills training; and supported employment and billing for indirect services.

16.21 (d) The commissioner shall report and make recommendations to the legislature on:  
16.22 February 15, 2015, February 15, 2017, February 15, 2019, and February 15, 2021. After  
16.23 2021, reports shall be provided on a four-year cycle.

16.24 (e) The commissioner shall provide a public notice via list serve in October of each  
16.25 year beginning October 1, 2014. The notice shall contain information detailing legislatively  
16.26 approved changes in: calculation values including derived wage rates and related employee  
16.27 and administrative factors; services utilization; county and tribal allocation changes  
16.28 and; information on adjustments to be made to calculation values and timing of those  
16.29 adjustment. Information in this notice shall be effective January 1 of the following year.

16.30 Subd. 13. **Payment implementation.** Upon implementation of the payment  
16.31 methodologies under this section, those payment rates supersede rates established in county  
16.32 contracts for recipients receiving waiver services under sections 256B.092 and 256B.49.

16.33 Subd. 14. **Transportation.** The commissioner shall require that the purchase  
16.34 of transportation services be cost-effective and be limited to market rates where the  
16.35 transportation mode is generally available and accessible.



17.1        Subd. 15. **Customization of rates for individuals.** For persons determined to have  
17.2 higher needs based on being deaf or hard-of-hearing, the direct care costs must be increased  
17.3 by an adjustment factor prior to calculating the price under subdivisions 8 to 11. The  
17.4 customization rate with respect to deaf or hard-of-hearing persons shall be \$2.70 per hour  
17.5 for waiver recipients who meet the respective criteria as determined by the commissioner.

17.6        Subd. 16. **Exceptions.** (a) In a format prescribed by the commissioner, lead  
17.7 agencies must identify individuals with exceptional needs that cannot be met under the  
17.8 disability waiver rate system. The commissioner shall use that information to evaluate  
17.9 and, if necessary, approve an alternative payment rate for those individuals.

17.10        (b) Lead agencies must submit exceptions requests to the state. Requests must  
17.11 include information specifying: the extraordinary needs of the individual that are not  
17.12 accounted for in payment methodology; the effort and costs required to meet those needs;  
17.13 and recommendations from the lead agency regarding the request. Requests must be  
17.14 reviewed and determinations made by the state. Approved exceptions must be managed  
17.15 within the lead agencies' budgets.

17.16        Subd. 17. **Budget neutrality adjustment.** (a) The commissioner shall calculate the  
17.17 total spending for all home and community-based waiver services under the payments as  
17.18 defined in subdivisions 8 to 11, and total forecasted spending under current law for the  
17.19 fiscal year beginning July 1, 2013. If total forecasted spending under subdivisions 8  
17.20 to 11 is projected to be higher than under current law, the commissioner shall adjust  
17.21 the rate by the percentage needed to adjust spending in each category to the same level  
17.22 as projected under current law.

17.23        (b) The commissioner shall make any legislatively authorized changes to provider  
17.24 rates that are beyond subdivision 12 in this subdivision.