

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2679

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DATE	D-PG	OFFICIAL STATUS
03/17/2014	6275	Introduction and first reading Referred to Health, Human Services and Housing
03/20/2014	6472	Comm report: To pass and re-referred to Finance

A bill for an act

1.1 relating to human services; creating a monitoring technology review panel;
1.2 modifying payment methodologies for home and community-based services
1.3 waivers; amending Minnesota Statutes 2013 Supplement, sections 256B.4913,
1.4 subdivision 4a; 256B.4914, subdivisions 2, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, by
1.5 adding subdivisions.
1.6

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

1.8 Section 1. Minnesota Statutes 2013 Supplement, section 256B.4913, subdivision 4a,
1.9 is amended to read:

1.10 Subd. 4a. **Rate stabilization adjustment.** (a) For purposes of this subdivision,
1.11 "implementation period" ~~shall mean~~ means the period beginning January 1, 2014, and
1.12 ending on the last day of the month in which the rate management system is populated
1.13 with the data necessary to calculate rates for substantially all individuals receiving home
1.14 and community-based waiver services under sections 256B.092 and 256B.49. "Banding
1.15 period" means the time period beginning on January 1, 2014, and ending upon the
1.16 expiration of the 12-month period defined in paragraph (c), clause (5).

1.17 (b) For purposes of this subdivision, the ~~banding value~~ historical rate for all service
1.18 recipients ~~shall mean~~ means the individual reimbursement rate and units of service for a
1.19 recipient in effect on December 1, 2013, except that:

1.20 (1)(i) ~~for day training and habilitation pilot program service recipients, the banding~~
1.21 ~~value shall be the authorized rate for the provider in the county of service effective~~
1.22 ~~December 1, 2013, if the~~ for a day service recipient: who was not authorized to receive
1.23 these waiver services prior to January 1, 2014; added a new service or services on or after
1.24 January 1, 2014; or changed providers on or after January 1, 2014, the historical rate

2.1 must be the authorized rate and units of service for the provider in the county of service,
2.2 effective December 1, 2013; and or

2.3 ~~(ii) for all other unit or day service recipients, the banding value shall be the~~
2.4 ~~weighted average authorized rate for each provider number in the county of service~~
2.5 ~~effective December 1, 2013, if the (2) for a unit-based service with programming or~~
2.6 ~~a unit-based service without programming recipient: who was not authorized to receive~~
2.7 ~~these waiver services prior to January 1, 2014; added a new service or services on or after~~
2.8 ~~January 1, 2014; or changed providers on or after January 1, 2014, the historical rate must~~
2.9 ~~be the weighted average authorized rate and units of service for each provider number in~~
2.10 ~~the county of service, effective December 1, 2013; and or~~

2.11 ~~(2) (3) for residential service recipients who change providers on or after January~~
2.12 ~~1, 2014, the banding value shall~~ historical rate must be set by each lead agency within
2.13 their county aggregate budget using their respective methodology for residential services
2.14 effective December 1, 2013, for determining the provider rate for a similarly situated
2.15 recipient being served by that provider.

2.16 (c) The commissioner shall adjust individual reimbursement rates determined under
2.17 this section so that the unit rate is no higher or lower than:

2.18 (1) 0.5 percent from the ~~banding value~~ historical rate for the implementation period;

2.19 (2) 0.5 percent from the rate in effect in clause (1), for the 12-month period
2.20 immediately following the time period of clause (1);

2.21 (3) 1.0 percent from the rate in effect in clause (2), for the 12-month period
2.22 immediately following the time period of clause (2);

2.23 (4) 1.0 percent from the rate in effect in clause (3), for the 12-month period
2.24 immediately following the time period of clause (3); and

2.25 (5) 1.0 percent from the rate in effect in clause (4), for the 12-month period
2.26 immediately following the time period of clause (4).

2.27 (d) The commissioner shall review all changes to units and rates that were in effect
2.28 on December 1, 2013, to verify that:

2.29 (1) counties reviewed the units included in service agreements and verified they met
2.30 the definition in Minnesota Rules, part 9525.1860, subpart 3;

2.31 (2) the rates and units in effect produce the equivalent level of spending and service
2.32 unit utilization on an annual basis as those in effect on October 31, 2013; and

2.33 (3) changes in the types of services authorized as a result of conversion produce the
2.34 equivalent level of spending and service unit utilization on an annual basis as those in
2.35 effect on October 31, 2013.

3.1 (e) By August 1, 2014, the commissioner shall complete the review in paragraph
 3.2 (d), adjust units of service or rates to provide equivalent annual spending or service
 3.3 authorization, and provide a lump-sum payment to all applicable service providers
 3.4 equivalent to the adjustment under this paragraph if the adjusted units of service or rates
 3.5 would have resulted in a greater payment to the provider if the adjusted units of service or
 3.6 rates were in effect on November 1, 2013.

3.7 (f) During the banding period, the historical rate must be adjusted to account for
 3.8 change in an individual's need. The commissioner shall adjust the historical rate by:

3.9 (1) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for
 3.10 the individual with variables reflecting the level of service in effect on December 1, 2013;

3.11 (2) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or
 3.12 9, for the individual with variables reflecting the updated level of service at the time
 3.13 of application; and

3.14 (3) adding to or subtracting from the historical rate, the difference between the
 3.15 values in clauses (1) and (2).

3.16 (g) Lead agencies are prohibited from recalculating historical rates and service units
 3.17 if an individual relocates to another county or terminates services.

3.18 (h) This subdivision shall must not apply to rates for recipients served by providers
 3.19 new to a given county after January 1, 2014. Providers of personal supports services who
 3.20 also acted as fiscal support entities must be treated as new providers as of January 1, 2014.

3.21 Sec. 2. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 2,
 3.22 is amended to read:

3.23 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
 3.24 meanings given them, unless the context clearly indicates otherwise.

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

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

3.28 (d) "Customized living tool" means a methodology for setting service rates that
 3.29 delineates and documents the amount of each component service included in a recipient's
 3.30 customized living service plan.

3.31 (e) "Disability waiver rates system" means a statewide system that establishes rates
 3.32 that are based on uniform processes and captures the individualized nature of waiver
 3.33 services and recipient needs.

3.34 (f) "Individual staffing" means the time spent as a one-to-one interaction specific to
 3.35 an individual recipient by staff brought in solely to provide direct support and assistance

4.1 with activities of daily living, instrumental activities of daily living, and training to
4.2 participants, and is based on the requirements in each individual's coordinated service
4.3 and support plan under section 245D.02, subdivision 4b; any coordinated service and
4.4 support plan addendum under section 245D.02, subdivision 4c; a uniform assessment tool;
4.5 provider observation; or the individual's case history.

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

4.8 (g) (h) "Median" means the amount that divides distribution into two equal groups,
4.9 one-half above the median and one-half below the median.

4.10 (i) "Nursing hours" means the time spent by a registered nurse or licensed practical
4.11 nurse providing assessment, treatment, medication and other monitoring, and other duties
4.12 that are required to be performed by a nurse by rule, regulation, or physician's order to meet
4.13 the health and safety needs for each recipient, and is based on the requirements in each
4.14 individual's coordinated service and support plan under section 245D.02, subdivision 4b;
4.15 any coordinated service and support plan addendum under section 245D.02, subdivision
4.16 4c; a uniform assessment tool; provider observation; or the individual's case history.

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

4.19 (i) (k) "Rates management system" means a Web-based software application that
4.20 uses a framework and component values, as determined by the commissioner, to establish
4.21 service rates.

4.22 (j) (l) "Recipient" means a person receiving home and community-based services
4.23 funded under any of the disability waivers.

4.24 (m) "Shared staffing" means time spent by employees not defined under paragraph
4.25 (f) or (i) providing or available to provide direct support and assistance with activities
4.26 of daily living as defined under section 256B.0659, subdivision 1, paragraph (b);
4.27 instrumental activities of daily living as defined under section 256B.0659, subdivision 1,
4.28 paragraph (i); ancillary activities needed to support individual services; and training to
4.29 participants, and is based on the requirements in each individual's coordinated service and
4.30 support plan under section 245D.02, subdivision 4b; any coordinated service and support
4.31 plan addendum under section 245D.02, subdivision 4c; a uniform assessment tool; the
4.32 program site staffing pattern; provider observation; or the individual's case history. The
4.33 value must be equivalent for all recipients by service site.

4.34 (n) "Staffing ratio" means the number of recipients a service provider employee
4.35 supports during a unit of service based on a uniform assessment tool, provider observation,

5.1 case history, and the recipient's services of choice, and not based on the staffing ratios
5.2 under section 245D.31.

5.3 (o) "Unit of service" means the following:

5.4 (1) for residential support services under subdivision 6, a unit of service is a day.

5.5 Any portion of any calendar day where an individual spends time in a residential setting
5.6 is billable as a day;

5.7 (2) for day services under subdivision 7:

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

5.9 (A) a day unit of service, defined as six or more hours of time spent providing direct
5.10 services and transportation. Every unit of service provided in a calendar day is billable; or

5.11 (B) a partial day unit of service, defined as fewer than six hours of time spent
5.12 providing direct services and transportation. Every unit of service provided in a calendar
5.13 day is billable;

5.14 (ii) for adult day and structured day services, a unit of service is a day or 15 minutes.

5.15 A day unit of service is five or more hours of time spent providing direct services. Every
5.16 unit of service provided in a calendar day is billable;

5.17 (iii) for prevocational services, a unit of service is a day or an hour. A day unit of
5.18 service is five or more hours of time spent providing direct service. Every unit of service
5.19 provided in a calendar day is billable; and

5.20 (iv) for all other day services, a unit of service is 15 minutes. Every unit of service
5.21 provided in a calendar day is billable;

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

5.23 (i) for supported living services, a unit of service is a day or 15 minutes. Every unit
5.24 of service provided in a calendar day is billable. When a day rate is authorized, any
5.25 portion of a calendar day where an individual receives services is billable as a day; and

5.26 (ii) for all other services, a unit of service is 15 minutes. Every unit of service
5.27 provided in a calendar day is billable; and

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

5.29 (i) for respite services, a unit of service is a day or 15 minutes. Every unit of service
5.30 provided in a calendar day is billable. When a day rate is authorized, any portion of a
5.31 calendar day when an individual receives services is billable as a day; and

5.32 (ii) for all other services, a unit of service is 15 minutes. Every unit of service
5.33 provided in a calendar day is billable.

5.34 Sec. 3. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 4,
5.35 is amended to read:

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

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

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

6.8 (d) Service providers, with information from the community support plan and
6.9 oversight by lead agencies, shall provide values, with amounts up to two decimal places,
6.10 and information needed to calculate an individual's rate into the rates management system.
6.11 ~~These~~ The determination of values must be part of a meeting of the interdisciplinary team,
6.12 assembled in accordance with Code of Federal Regulations, title 42, section 483.440,
6.13 and in accordance with the service planning and delivery standards under sections
6.14 245D.07 and 245D.071. This meeting must occur prior to the final establishment of each
6.15 individual's rate. The values and information include:

6.16 (1) shared staffing hours;

6.17 (2) individual staffing hours;

6.18 (3) ~~direct RN~~ registered nurse hours;

6.19 (4) ~~direct LPN~~ licensed practical nurse hours;

6.20 (5) staffing ratios;

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

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

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

6.26 (9) service hours provided through monitoring technology.

6.27 (e) Updates to individual data ~~shall~~ must include:

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

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

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

7.1 petition lead agencies to correct it. Lead agencies must respond to these requests. The
 7.2 values must be sufficient to:

7.3 (1) meet the health and safety needs of the individual or individuals receiving services
 7.4 by service site, identified in their coordinated service and support plan under section
 7.5 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

7.6 (2) meet the requirements for staffing under subdivision 2, paragraphs (f), (i), and
 7.7 (m); and exceed the licensing standards for staffing required under section 245D.09,
 7.8 subdivision 1; and

7.9 (3) meet the staffing ratio requirements under subdivision 2, paragraph (n), and
 7.10 exceed the licensing standards for staffing required under section 245D.31.

7.11 (g) The commissioner shall issue a single complete system manual that contains text
 7.12 from all referenced documents for all users of the rates management system, with definitions
 7.13 and processes to ensure consistent application of terms in subdivision 2 and processes in
 7.14 this subdivision by lead agencies. The commissioner shall periodically verify that lead
 7.15 agency implementation practices are producing consistent, statewide implementation.
 7.16 The rates management system manual must include the necessary references to the
 7.17 state's community-based services manual for service definition and authorization. The
 7.18 commissioner shall provide a public notice at least 30 days before substantive changes to
 7.19 the manual are effective via LISTSERV and the department's Web site. The commissioner
 7.20 shall allow public input on the proposed changes during this 30-day period.

7.21 Sec. 4. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 5,
 7.22 is amended to read:

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

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

7.31 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and
 7.32 home health aide (SOC code 39-9021); 30 percent of the median wage for nursing aide
 7.33 (SOC code 31-1012); and 20 percent of the median wage for social and human services
 7.34 aide (SOC code 21-1093); and

- 8.1 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
8.2 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
8.3 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
8.4 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
8.5 percent of the median wage for social and human services aide (SOC code 21-1093);
- 8.6 (2) for day services, 20 percent of the median wage for nursing aide (SOC code
8.7 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
8.8 and 60 percent of the median wage for social and human services aide (SOC code 21-1093);
- 8.9 (3) for residential asleep-overnight staff, the wage will be \$7.66 per hour, except in
8.10 a family foster care setting, the wage is \$2.80 per hour;
- 8.11 (4) for behavior program analyst staff, 100 percent of the median wage for mental
8.12 health counselors (SOC code 21-1014);
- 8.13 (5) for behavior program professional staff, 100 percent of the median wage for
8.14 clinical counseling and school psychologist (SOC code 19-3031);
- 8.15 (6) for behavior program specialist staff, 100 percent of the median wage for
8.16 psychiatric technicians (SOC code 29-2053);
- 8.17 (7) for supportive living services staff, 20 percent of the median wage for nursing
8.18 aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC
8.19 code 29-2053); and 60 percent of the median wage for social and human services aide
8.20 (SOC code 21-1093);
- 8.21 (8) for housing access coordination staff, 50 percent of the median wage for
8.22 community and social services specialist (SOC code 21-1099); and 50 percent of the
8.23 median wage for social and human services aide (SOC code 21-1093);
- 8.24 (9) for in-home family support staff, 20 percent of the median wage for nursing
8.25 aide (SOC code 31-1012); 30 percent of the median wage for community social service
8.26 specialist (SOC code 21-1099); 40 percent of the median wage for social and human
8.27 services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
8.28 technician (SOC code 29-2053);
- 8.29 (10) for independent living skills staff, 40 percent of the median wage for community
8.30 social service specialist (SOC code 21-1099); 50 percent of the median wage for social
8.31 and human services aide (SOC code 21-1093); and ten percent of the median wage for
8.32 psychiatric technician (SOC code 29-2053);
- 8.33 (11) for supported employment staff, 20 percent of the median wage for nursing aide
8.34 (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC
8.35 code 29-2053); and 60 percent of the median wage for social and human services aide
8.36 (SOC code 21-1093);

9.1 (12) for adult companion staff, 50 percent of the median wage for personal and home
9.2 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
9.3 orderlies, and attendants (SOC code 31-1012);

9.4 (13) for night supervision staff, 20 percent of the median wage for home health aide
9.5 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
9.6 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
9.7 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
9.8 percent of the median wage for social and human services aide (SOC code 21-1093);

9.9 (14) for respite staff, 50 percent of the median wage for personal and home care aide
9.10 (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and
9.11 attendants (SOC code 31-1012);

9.12 (15) for personal support staff, 50 percent of the median wage for personal and home
9.13 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
9.14 orderlies, and attendants (SOC code 31-1012);

9.15 (16) for supervisory staff, the basic wage is \$17.43 per hour with exception of
9.16 the supervisor of behavior analyst and behavior specialists, which ~~shall~~ must be \$30.75
9.17 per hour;

9.18 (17) for ~~RN~~ registered nurse, the basic wage is \$30.82 per hour; and

9.19 (18) for ~~LPN~~ licensed practical nurse, the basic wage is \$18.64 per hour.

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

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

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

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

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

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

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

9.27 (c) Component values for family foster care are:

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

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

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

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

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

9.33 (6) absence factor: 1.7 percent.

9.34 (d) Component values for day services for all services are:

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

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

- 10.1 (3) employee-related cost ratio: 23.6 percent;
- 10.2 (4) program plan support ratio: 5.6 percent;
- 10.3 (5) client programming and support ratio: ten percent;
- 10.4 (6) general administrative support ratio: 13.25 percent;
- 10.5 (7) program-related expense ratio: 1.8 percent; and
- 10.6 (8) absence and utilization factor ratio: 3.9 percent.
- 10.7 (e) Component values for unit-based services with programming are:
- 10.8 (1) supervisory span of control ratio: 11 percent;
- 10.9 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.10 (3) employee-related cost ratio: 23.6 percent;
- 10.11 (4) program plan supports ratio: 3.1 percent;
- 10.12 (5) client programming and supports ratio: 8.6 percent;
- 10.13 (6) general administrative support ratio: 13.25 percent;
- 10.14 (7) program-related expense ratio: 6.1 percent; and
- 10.15 (8) absence and utilization factor ratio: 3.9 percent.
- 10.16 (f) Component values for unit-based services without programming except respite
- 10.17 are:
- 10.18 (1) supervisory span of control ratio: 11 percent;
- 10.19 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.20 (3) employee-related cost ratio: 23.6 percent;
- 10.21 (4) program plan support ratio: 3.1 percent;
- 10.22 (5) client programming and support ratio: 8.6 percent;
- 10.23 (6) general administrative support ratio: 13.25 percent;
- 10.24 (7) program-related expense ratio: 6.1 percent; and
- 10.25 (8) absence and utilization factor ratio: 3.9 percent.
- 10.26 (g) Component values for unit-based services without programming for respite are:
- 10.27 (1) supervisory span of control ratio: 11 percent;
- 10.28 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 10.29 (3) employee-related cost ratio: 23.6 percent;
- 10.30 (4) general administrative support ratio: 13.25 percent;
- 10.31 (5) program-related expense ratio: 6.1 percent; and
- 10.32 (6) absence and utilization factor ratio: 3.9 percent.
- 10.33 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
- 10.34 ~~(b)~~ (a) based on the wage data by standard occupational code (SOC) from the Bureau of
- 10.35 Labor Statistics available on December 31, 2016. The commissioner shall publish these
- 10.36 updated values and load them into the rate management system. This adjustment occurs

11.1 every five years. For adjustments in 2021 and beyond, the commissioner shall use the data
 11.2 available on December 31 of the calendar year five years prior.

11.3 (i) On July 1, 2017, the commissioner shall update the framework components in
 11.4 ~~paragraph (e)~~ paragraphs (b) to (g); subdivision 6, clauses (8) and (9); and subdivision
 11.5 7, clauses (16) and (17), for changes in the Consumer Price Index. The commissioner
 11.6 will adjust these values higher or lower by the percentage change in the Consumer Price
 11.7 Index-All Items, United States city average (CPI-U) from January 1, 2014, to January 1,
 11.8 2017. The commissioner shall publish these updated values and load them into the rate
 11.9 management system. This adjustment occurs every five years. For adjustments in 2021
 11.10 and beyond, the commissioner shall use the data available on January 1 of the calendar
 11.11 year four years prior and January 1 of the current calendar year.

11.12 Sec. 5. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 6,
 11.13 is amended to read:

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

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

11.19 (i) shared staffing hours are established for each program site based on the needs of
 11.20 individuals receiving services, and allocated equally by the number of individuals being
 11.21 served in each program site; and

11.22 (ii) the type of overnight staffing hours for all recipients in each program site is
 11.23 based on the highest assessed need for any individual by program site;

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

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

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

11.33 (5) multiply the number of shared and individual direct staff hours provided
 11.34 on-site or through monitoring technology and direct nursing hours by the product of

12.1 the supervision span of control ratio in subdivision 5, paragraph (b), clause (1), and the
12.2 appropriate supervision wage in subdivision 5, paragraph (a), clause (16);

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

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

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

12.11 (9) for transportation, if provided, the commissioner shall add ~~\$1,680~~ \$7,500 per
12.12 year per program site, or ~~\$3,000~~ \$12,000 per year per program site if customized for
12.13 adapted transport, ~~per year~~ based on the resident with the highest assessed need.

12.14 (b) The total rate ~~shall~~ must be calculated using the following steps:

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

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

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

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

12.24 (c) The payment methodology for customized living, 24-hour customized living,
12.25 and residential care services ~~shall~~ must be the customized living tool. Revisions to the
12.26 customized living tool ~~shall~~ must be made to reflect the services and activities unique to
12.27 disability-related recipient needs.

12.28 (d) The commissioner shall establish a Monitoring Technology Review Panel to
12.29 ~~annually~~ review ~~and approve~~ the plans, safeguards, and rates that include residential
12.30 direct care provided remotely through monitoring technology. Lead agencies shall submit
12.31 individual service plans that include supervision using monitoring technology to the
12.32 Monitoring Technology Review Panel for approval. Individual service plans that include
12.33 supervision using monitoring technology as of December 31, 2013, shall be submitted to
12.34 the Monitoring Technology Review Panel, but the plans are not subject to approval.

12.35 (e) For individuals enrolled prior to January 1, 2014, the days of service authorized
12.36 must meet or exceed the days of service used to convert service agreements in effect on

13.1 December 1, 2013, and must not result in a reduction in spending or service utilization
13.2 during the implementation period under section 256B.4913, subdivision 4a. If during the
13.3 implementation period, an individual's historical rate, including adjustments required
13.4 under section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate
13.5 determined in this subdivision, the number of days authorized for the individual is 365.

13.6 (f) The number of days authorized for all individuals enrolling after January 1, 2014,
13.7 in residential services must include every day that services start and end. The standard for
13.8 service authorization is 365 days.

13.9 (g) For the purposes of review under Minnesota Rules, parts 9505.2160 to
13.10 9505.2245, the values used to set an individual's rate must be compared using averages, on
13.11 an annual basis. The commissioner shall not evaluate rates by extrapolating results for
13.12 any period less than 12 months.

13.13 Sec. 6. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 7,
13.14 is amended to read:

13.15 Subd. 7. **Payments for day programs.** (a) Payments for services with day
13.16 programs including adult day care, day treatment and habilitation, prevocational services,
13.17 and structured day services must be calculated as follows:

13.18 (1) determine the number of units of service and staffing ratio to meet a recipient's
13.19 needs;

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

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

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

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

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

13.32 (5) multiply the number of day direct staff hours by the product of the supervision
13.33 span of control ratio in subdivision 5, paragraph (d), clause (1), and the appropriate
13.34 supervision wage in subdivision 5, paragraph (a), clause (16);

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

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

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

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

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

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

14.13 (12) this is the subtotal rate;

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

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

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

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

14.22 (i) \$10.50 for a one-way trip between zero and ten miles for a nonshared ride in a
14.23 vehicle without a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a
14.24 shared ride in a vehicle with a lift;

14.25 (ii) \$15.75 for a one-way trip between 11 and 20 miles for a nonshared ride in a
14.26 vehicle without a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88
14.27 for a shared ride in a vehicle with a lift;

14.28 (iii) \$25.75 for a one-way trip between 21 and 50 miles for a nonshared ride in a
14.29 vehicle without a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88
14.30 for a shared ride in a vehicle with a lift; or

14.31 (iv) \$33.50 for a one-way trip of 51 miles or more for a nonshared ride in a vehicle
14.32 without a lift, \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared
14.33 ride in a vehicle with a lift;

14.34 (17) for transportation provided as part of day training and habilitation for an
14.35 individual who does require a lift, add:

15.1 (i) \$19.05 for a one-way trip between zero and ten miles for a nonshared ride in a
 15.2 vehicle with a lift, and \$15.05 for a shared ride in a vehicle with a lift;

15.3 (ii) \$32.16 for a one-way trip between 11 and 20 miles for a nonshared ride in a
 15.4 vehicle with a lift, and \$28.16 for a shared ride in a vehicle with a lift;

15.5 (iii) \$58.76 for a one-way trip between 21 and 50 miles for a nonshared ride in a
 15.6 vehicle with a lift, and \$58.76 for a shared ride in a vehicle with a lift; or

15.7 (iv) \$80.93 for a one-way trip of 51 miles or more for a nonshared ride in a vehicle
 15.8 with a lift, and \$80.93 for a shared ride in a vehicle with a lift.

15.9 (b) For the purposes of review under Minnesota Rules, parts 9505.2160 to
 15.10 9505.2245, the values used to set an individual's rate must be compared using averages, on
 15.11 an annual basis. The commissioner shall not evaluate rates by extrapolating results for
 15.12 any period less than 12 months.

15.13 Sec. 7. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 8,
 15.14 is amended to read:

15.15 Subd. 8. **Payments for unit-based services with programming.** (a) Payments
 15.16 for unit-based with program services, including behavior programming, housing access
 15.17 coordination, in-home family support, independent living skills training, hourly supported
 15.18 living services, and supported employment provided to an individual outside of any day or
 15.19 residential service plan must be calculated as follows, unless the services are authorized
 15.20 separately under subdivision 6 or 7:

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

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

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

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

15.29 (5) multiply the number of direct staff hours by the product of the supervision span
 15.30 of control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision
 15.31 wage in subdivision 5, paragraph (a), clause (16);

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

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

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

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

16.7 (10) this is the subtotal rate;

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

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

16.12 (13) for supported employment provided in a shared manner, divide the total
16.13 payment amount in clause (12) by the number of service recipients, not to exceed three.

16.14 For independent living skills training provided in a shared manner, divide the total
16.15 payment amount in clause (12) by the number of service recipients, not to exceed two; and

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

16.18 (b) For the purposes of review under Minnesota Rules, parts 9505.2160 to
16.19 9505.2245, the values used to set an individual's rate must be compared using averages, on
16.20 an annual basis. The commissioner shall not evaluate rates by extrapolating results for
16.21 any period less than 12 months.

16.22 Sec. 8. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 9,
16.23 is amended to read:

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

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

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

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

- 17.1 (4) multiply the number of direct staff hours by the appropriate staff wage in
17.2 subdivision 5 or the customized direct care rate;
- 17.3 (5) multiply the number of direct staff hours by the product of the supervision span
17.4 of control ratio in subdivision 5, paragraph (f), clause (1), and the appropriate supervision
17.5 wage in subdivision 5, paragraph (a), clause (16);
- 17.6 (6) combine the results of clauses (4) and (5), and multiply the result by one plus
17.7 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (f),
17.8 clause (2). This is defined as the direct staffing rate;
- 17.9 (7) for program plan support, multiply the result of clause (6) by one plus the
17.10 program plan support ratio in subdivision 5, paragraph (f), clause (4);
- 17.11 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
17.12 employee-related cost ratio in subdivision 5, paragraph (f), clause (3);
- 17.13 (9) for client programming and supports, multiply the result of clause (8) by one plus
17.14 the client programming and support ratio in subdivision 5, paragraph (f), clause (5);
- 17.15 (10) this is the subtotal rate;
- 17.16 (11) sum the standard general and administrative rate, the program-related expense
17.17 ratio, and the absence and utilization factor ratio;
- 17.18 (12) divide the result of clause (10) by one minus the result of clause (11). This is
17.19 the total payment amount;
- 17.20 (13) for respite services, determine the number of ~~daily~~ day units of service to meet
17.21 an individual's needs;
- 17.22 (14) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
17.23 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;
- 17.24 (15) for a recipient requiring deaf and hard-of-hearing customization under
17.25 subdivision 12, add the customization rate provided in subdivision 12 to the result of
17.26 clause (14). This is defined as the customized direct care rate;
- 17.27 (16) multiply the number of direct staff hours by the appropriate staff wage in
17.28 subdivision 5, paragraph (a);
- 17.29 (17) multiply the number of direct staff hours by the product of the supervisory span
17.30 of control ratio in subdivision 5, paragraph (g), clause (1), and the appropriate supervision
17.31 wage in subdivision 5, paragraph (a), clause (16);
- 17.32 (18) combine the results of clauses (16) and (17), and multiply the result by one plus
17.33 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (g),
17.34 clause (2). This is defined as the direct staffing rate;
- 17.35 (19) for employee-related expenses, multiply the result of clause (18) by one plus
17.36 the employee-related cost ratio in subdivision 5, paragraph (g), clause (3);

18.1 (20) this is the subtotal rate;

18.2 (21) sum the standard general and administrative rate, the program-related expense
18.3 ratio, and the absence and utilization factor ratio;

18.4 (22) divide the result of clause (20) by one minus the result of clause (21). This is
18.5 the total payment amount; and

18.6 (23) adjust the result of clauses (12) and (22) by a factor to be determined by the
18.7 commissioner to adjust for regional differences in the cost of providing services.

18.8 (b) For the purposes of authorizing personal support services, including support by a
18.9 fiscal support entity, lead agencies shall authorize units:

18.10 (1) for individuals receiving services prior to January 1, 2014, equivalent to or in
18.11 excess of the units specified in the service agreements in effect on October 31, 2013.

18.12 Fewer units may be authorized if an individual's service needs decrease; and

18.13 (2) for individuals beginning services on or after January 1, 2014, that exceed the
18.14 average number of units for recipients in each county on October 31, 2013. Fewer units
18.15 may be authorized if an individual's service needs decrease.

18.16 (c) For the purposes of review under Minnesota Rules, parts 9505.2160 to
18.17 9505.2245, the values used to set an individual's rate must be compared using averages, on
18.18 an annual basis. The commissioner must not evaluate rates by extrapolating results for
18.19 any period less than 12 months.

18.20 Sec. 9. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 10,
18.21 is amended to read:

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

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

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

18.30 (2) mileage and utilization, vehicle type, lift requirements, incidents of individual
18.31 and shared rides, and units of transportation for all day and unit-based services, which
18.32 must be collected from providers using the rate management worksheet and entered into
18.33 the rates management system; and

18.34 (3) the underlying cost to provide services and care to recipients with a primary
18.35 diagnosis of mental illness.

19.1 (c) Using a statistically valid set of rates management system data, the commissioner,
 19.2 in consultation with stakeholders, shall analyze for each service the average difference in
 19.3 the rate on December 31, 2013, and the framework rate at the individual, provider, lead
 19.4 agency, and state levels. The commissioner shall issue monthly reports to the stakeholders
 19.5 on the difference in rates for individuals after removing any identifying information,
 19.6 by service and by county, during the implementation period under section 256B.4913,
 19.7 subdivision 4a. The first report shall encompass data from January 1, 2014, to June 30,
 19.8 2014, and must be issued at the July 2014 stakeholder meeting.

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

- 19.12 (1) values for transportation rates for day services;
- 19.13 (2) values for transportation rates in residential services;
- 19.14 (3) values for services where monitoring technology replaces staff time;
- 19.15 (4) values for indirect services;
- 19.16 (5) values for nursing;
- 19.17 (6) component values for independent living skills;
- 19.18 (7) component values for family foster care that reflect licensing requirements;
- 19.19 (8) adjustments to other components to replace the budget neutrality factor;
- 19.20 (9) remote monitoring technology for nonresidential services;
- 19.21 (10) values for basic and intensive services in residential services;
- 19.22 (11) values for the facility use rate in day services;
- 19.23 (12) values for workers' compensation as part of employee-related expenses;
- 19.24 (13) values for unemployment insurance as part of employee-related expenses;
- 19.25 (14) a component value to reflect costs for individuals with rates previously adjusted
 19.26 for the inclusion of group residential housing rate 3 costs, only for any individual enrolled
 19.27 as of December 31, 2013; and
- 19.28 (15) any changes in state or federal law with an impact on the underlying cost of
 19.29 providing home and community-based services, including, but not limited to, employer
 19.30 requirements to provide health insurance and provider requirements to implement
 19.31 electronic medical records.

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

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

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

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

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

20.6 (f) Based on the commissioner's evaluation of the information and data collected
20.7 in paragraphs (b) to (d), the commissioner ~~may~~ shall make recommendations to
20.8 the legislature ~~to address any potential issues~~ by January 15, 2015, to address any
20.9 issues identified during the first year of implementation. After January 15, 2015, the
20.10 commissioner may make recommendations to the legislature to address potential issues.

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

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

20.18 (1) calculation values including derived wage rates and related employee and
20.19 administrative factors;

20.20 (2) service utilization;

20.21 (3) county and tribal allocation changes; and

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

20.24 The information in this notice ~~shall~~ must be effective January 1 of the following year.

20.25 Sec. 10. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 14,
20.26 is amended to read:

20.27 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead
20.28 agencies must identify individuals with exceptional needs that cannot be met under the
20.29 disability waiver rate system. The commissioner shall use that information to evaluate
20.30 and, if necessary, approve an alternative payment rate for those individuals.

20.31 (b) Lead agencies must submit exception requests to the state.

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

20.33 (1) an individual has service needs that cannot be met through additional units
20.34 of service; ~~or~~

21.1 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 results in an
21.2 individual being discharged; or

21.3 (3) a value used to calculate a rate in subdivision 6, 7, 8, or 9 does not reflect the
21.4 underlying cost of providing the service.

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

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

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

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

21.12 (4) the duration of the rate exception; and

21.13 (5) any contingencies for approval.

21.14 (e) Approved rate exceptions ~~shall~~ must be managed within lead agency allocations
21.15 under sections 256B.092 and 256B.49.

21.16 (f) Individual disability waiver recipients may request that a lead agency submit an
21.17 exception request. A lead agency that denies such a request shall notify the individual
21.18 waiver recipient of its decision and the reasons for denying the request in writing no later
21.19 than 30 days after the individual's request has been made.

21.20 (g) The commissioner shall determine whether to approve or deny an exception
21.21 request no more than 30 days after receiving the request. If the commissioner denies the
21.22 request, the commissioner shall notify the lead agency and the individual disability waiver
21.23 recipient in writing of the reasons for the denial.

21.24 (h) The individual disability waiver recipient may appeal any denial of an exception
21.25 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
21.26 256.0451. When the denial of an exception request results in the proposed demission of a
21.27 waiver recipient from a residential or day habilitation program, the commissioner shall
21.28 issue a temporary stay of demission, when requested by the disability waiver recipient,
21.29 consistent with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c).
21.30 The temporary stay ~~shall~~ must remain in effect until the lead agency can provide an
21.31 informed choice of appropriate, alternative services to the disability waiver.

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

22.1 Sec. 11. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 15,
22.2 is amended to read:

22.3 Subd. 15. **County or tribal allocations.** (a) Upon implementation of the disability
22.4 waiver rates management system on January 1, 2014, the commissioner shall establish
22.5 a method of tracking and reporting the fiscal impact of the disability waiver rates
22.6 management system on individual lead agencies.

22.7 (b) Beginning January 1, 2014, the commissioner shall make annual adjustments to
22.8 lead agencies' home and community-based waived service budget allocations to adjust
22.9 for rate differences and the resulting impact on county allocations upon implementation of
22.10 the disability waiver rates system.

22.11 (c) During the first two years of implementation under section 256B.4913, lead
22.12 agencies exceeding their allocations under sections 256B.092 and 256B.49 shall only be
22.13 held liable for spending in excess of their allocations after a reallocation of resources by
22.14 the commissioner under paragraph (b). The commissioner shall reallocate resources under
22.15 sections 256B.092, subdivision 12, and 256B.49, subdivision 11a. The commissioner
22.16 shall notify lead agencies of this process by July 1, 2014.

22.17 Sec. 12. Minnesota Statutes 2013 Supplement, section 256B.4914, subdivision 16,
22.18 is amended to read:

22.19 Subd. 16. **Budget neutrality adjustments.** (a) The commissioner shall use the
22.20 following adjustments to the rate generated by the framework to assure budget neutrality
22.21 until the rate information is available to implement paragraph (b). The rate generated by
22.22 the framework shall be multiplied by the appropriate factor, as designated below:

22.23 (1) for residential services: 1.003;

22.24 (2) for day services: 1.000;

22.25 (3) for unit-based services with programming: 0.941; and

22.26 (4) for unit-based services without programming: 0.796.

22.27 (b) ~~Within 12 months of January 1, 2014~~ In conjunction with the November 2014
22.28 revenue and spending forecast, the commissioner shall compare estimated spending for
22.29 all home and community-based waiver services under the new payment rates defined in
22.30 subdivisions 6 to 9 with estimated spending for the same recipients and services under the
22.31 rates in effect on July 1, 2013. This comparison must distinguish spending under each
22.32 of subdivisions 6, 7, 8, and 9. The comparison must be based on actual recipients and
22.33 services for one or more service months after the new rates have gone into effect.

22.34 (c) The commissioner shall consult with provide the total level of spending for
22.35 services under subdivisions 6, 7, 8, and 9 to the commissioner of management and budget

23.1 ~~on this analysis to ensure budget neutrality. If estimated spending under the new rates for~~
 23.2 ~~services under one or more subdivisions differs in this comparison by 0.3 percent or more,~~
 23.3 ~~the commissioner. The commissioner of management and budget shall preserve the total~~
 23.4 ~~amount of spending prior to the implementation of rates in this section if projections using~~
 23.5 ~~rates in subdivisions 6, 7, 8, and 9 in aggregate are lower.~~

23.6 (d) If the total spending projections prior to implementation of rates are used, the
 23.7 commissioner of human services shall assure aggregate budget neutrality across all
 23.8 spending for each service areas area meets the total included in the forecast by adjusting
 23.9 the budget neutrality factor in paragraph (a) any values in each subdivision so that total
 23.10 estimated spending for each subdivision under the new rates matches estimated spending
 23.11 under the rates in effect on July 1, 2013. Adjustments must be made to individual rates
 23.12 with sufficient time so that aggregate spending with the rates in subdivisions 6, 7, 8, and 9
 23.13 equals the aggregate spending prior to implementation for the current state fiscal year.

23.14 Sec. 13. Minnesota Statutes 2013 Supplement, section 256B.4914, is amended by
 23.15 adding a subdivision to read:

23.16 Subd. 17. **Provider appeal procedures.** (a) The following actions by a lead agency
 23.17 may be appealed by the provider or provider group if the following conditions are met:

23.18 (1) if conversion of units and rates to establish the units and rates in effect on
 23.19 December 1, 2013, results in reduced spending or service unit utilization compared to
 23.20 units and rates in effect on October 31, 2013;

23.21 (2) if the variables used to set a final rate are insufficient to meet the licensing
 23.22 standards for staffing required under section 245D.09;

23.23 (3) if the variables used to set a final rate are insufficient to meet the requirements
 23.24 for staffing under subdivision 2, paragraph (n), and do not exceed the licensing standards
 23.25 for staffing required under section 245D.31; and

23.26 (4) if the variables used to set the final rate are insufficient to meet the health and
 23.27 safety needs of the individual receiving services identified in the individual's coordinated
 23.28 service and support plan under section 245D.02, subdivision 4b, and any coordinated
 23.29 service and support plan addendum under section 245D.02, subdivision 4c.

23.30 (b) An appeal must meet the following criteria:

23.31 (1) the provider or provider group must notify the commissioner in writing of its
 23.32 intent to appeal within 30 days of receiving the total payment rate determination or decision
 23.33 that is being appealed. Written appeal must be filed with the commissioner within 60 days
 23.34 after receiving the total payment rate determination or decision that is being appealed; and

23.35 (2) the appeal must specify:

- 24.1 (i) each disputed item and the reason for the dispute;
 24.2 (ii) the date the dispute began, the computation, and the amount that the provider
 24.3 believes to be correct;
 24.4 (iii) documentation and a narrative explanation demonstrating how rates determined
 24.5 by the lead agency do not satisfy the conditions in paragraph (a); and
 24.6 (iv) contact information for the provider filing the appeal.
 24.7 (c) The appeal must be heard under the contested case provisions in sections 14.57
 24.8 to 14.62, and Minnesota Rules, parts 1400.5010 to 1400.8400. Upon agreement of both
 24.9 parties, the dispute may be resolved informally through any informal dispute resolution
 24.10 method, such as settlement, mediation, or modified appeal procedures established by
 24.11 agreement between the commissioner and the chief administrative law judge.
 24.12 (d) Upon resolution of the appeal, any reimbursement must be paid via a lump sum
 24.13 directly to the provider.

24.14 Sec. 14. Minnesota Statutes 2013 Supplement, section 256B.4914, is amended by
 24.15 adding a subdivision to read:

24.16 Subd. 18. **Individual appeal procedures.** The individual disability waiver recipient
 24.17 may appeal variable values used to set a rate under subdivision 6, 7, 8, or 9, as provided in
 24.18 sections 256.045 and 256.0451.

24.19 Sec. 15. **DISABILITY WAIVER REIMBURSEMENT RATE ADJUSTMENTS.**

24.20 Subdivision 1. **Historical rate.** The commissioner of human services shall adjust
 24.21 the historical rates calculated in Minnesota Statutes, section 256B.4913, subdivision 4a,
 24.22 paragraph (b), in effect during the banding period under Minnesota Statutes, section
 24.23 256B.4913, subdivision 4a, paragraph (a), for the reimbursement rate increases effective
 24.24 April 1, 2014, and any rate modification enacted during the 2014 legislative session.

24.25 Subd. 2. **Residential support services.** The commissioner of human services
 24.26 shall adjust the rates calculated in Minnesota Statutes, section 256B.4914, subdivision 6,
 24.27 paragraphs (b), clause (4), and (c), for the reimbursement rate increases effective April 1,
 24.28 2014, and any rate modification enacted during the 2014 legislative session.

24.29 Subd. 3. **Day programs.** The commissioner of human services shall adjust the rates
 24.30 calculated in Minnesota Statutes, section 256B.4914, subdivision 7, paragraph (a), clauses
 24.31 (15) to (17), for the reimbursement rate increases effective April 1, 2014, and any rate
 24.32 modification enacted during the 2014 legislative session.

24.33 Subd. 4. **Unit-based services with programming.** The commissioner of human
 24.34 services shall adjust the rate calculated in Minnesota Statutes, section 256B.4914,

25.1 subdivision 8, paragraph (a), clause (14), for the reimbursement rate increases effective
25.2 April 1, 2014, and any rate modification enacted during the 2014 legislative session.

25.3 Subd. 5. **Unit-based services without programming.** The commissioner of
25.4 human services shall adjust the rate calculated in Minnesota Statutes, section 256B.4914,
25.5 subdivision 9, paragraph (a), clause (23), for the reimbursement rate increases effective
25.6 April 1, 2014, and any rate modification enacted during the 2014 legislative session.