

ARTICLE 9

COMMUNITY SUPPORTS

424.19

424.20

424.21 Section 1. Minnesota Statutes 2020, section 245A.04, is amended by adding a subdivision

424.22 to read:

424.23 Subd. 15b. Additional community residential setting closure requirements. (a) In

424.24 addition to the requirements in subdivision 15a, in the event that a license holder elects to

424.25 voluntarily close a community residential setting, the license holder must notify the

424.26 commissioner, the Office of Ombudsman for Mental Health and Developmental Disabilities,

424.27 and the Office of Ombudsman for Long-Term Care in writing by submitting notification at

424.28 least 60 days prior to closure. The closure notification must include:

425.1 (1) assurance that the license holder notified or will notify residents and their expanded

425.2 support teams, if applicable, of the closure and comply with the conditions for service

425.3 terminations under section 245D.10, subdivision 3a;

425.4 (2) procedures and actions the license holder will implement to maintain compliance

425.5 with this subdivision and subdivision 15a; and

425.6 (3) assurance that the license holder will meet with the case manager and each resident's

425.7 expanded support team, as defined in section 245D.02, subdivision 8b, within ten working

425.8 days of delivering any service terminations to develop a person-centered relocation plan

425.9 with each individual impacted by the change in service. The license holder must complete

425.10 a relocation plan for each impacted individual 45 days prior to the service termination or

425.11 closure date, whichever is sooner.

425.12 (b) The commissioner may require the license holder to work with a transitional team

425.13 that includes department staff, staff of the Office of Ombudsman for Mental Health and

425.14 Developmental Disabilities, staff of the Office of Ombudsman for Long-Term Care, and

425.15 other professionals the commissioner deems necessary to assist in the proper relocation of

425.16 residents.

425.17 (c) The commissioner may eliminate a closure rate adjustment under section 256B.493

425.18 for violations of this subdivision.

425.19 Sec. 2. Minnesota Statutes 2020, section 245D.10, subdivision 3a, is amended to read:

425.20 Subd. 3a. **Service termination.** (a) The license holder must establish policies and

425.21 procedures for service termination that promote continuity of care and service coordination

425.22 with the person and the case manager and with other licensed caregivers, if any, who also

425.23 provide support to the person. The policy must include the requirements specified in

425.24 paragraphs (b) to (f).

3.17

ARTICLE 1

COMMUNITY SUPPORTS

3.18

SEC. 14. MINNESOTA STATUTES 2020, SECTION 245D.10, SUBDIVISION 3A, AMENDMENT FROM S4410-3 ARTICLE 8, SECTION 14, TO MATCH UES4410-2, ARTICLE 9, SECTION 2.

185.17 Sec. 14. Minnesota Statutes 2020, section 245D.10, subdivision 3a, is amended to read:

185.18 Subd. 3a. **Service termination.** (a) The license holder must establish policies and

185.19 procedures for service termination that promote continuity of care and service coordination

185.20 with the person and the case manager and with other licensed caregivers, if any, who also

185.21 provide support to the person. The policy must include the requirements specified in

185.22 paragraphs (b) to (f).

425.25 (b) The license holder must permit each person to remain in the program or to continue
425.26 receiving services and must not terminate services unless:

425.27 (1) the termination is necessary for the person's welfare and the facility license holder
425.28 cannot meet the person's needs;

425.29 (2) the safety of the person or others in the program, or staff is endangered and positive
425.30 support strategies were attempted and have not achieved and effectively maintained safety
425.31 for the person or others;

426.1 (3) the health of the person or others in the program, or staff would otherwise be
426.2 endangered;

426.3 (4) the program license holder has not been paid for services;

426.4 (5) the program or license holder ceases to operate;

426.5 (6) the person has been terminated by the lead agency from waiver eligibility; or

426.6 (7) for state-operated community-based services, the person no longer demonstrates
426.7 complex behavioral needs that cannot be met by private community-based providers
426.8 identified in section 252.50, subdivision 5, paragraph (a), clause (1).

426.9 (c) Prior to giving notice of service termination, the license holder must document actions
426.10 taken to minimize or eliminate the need for termination. Action taken by the license holder
426.11 must include, at a minimum:

426.12 (1) consultation with the person's support team or expanded support team to identify
426.13 and resolve issues leading to issuance of the termination notice;

426.14 (2) a request to the case manager for intervention services identified in section 245D.03,
426.15 subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention
426.16 services to support the person in the program. This requirement does not apply to notices
426.17 of service termination issued under paragraph (b), clauses (4) and (7); and

426.18 (3) for state-operated community-based services terminating services under paragraph
426.19 (b), clause (7), the state-operated community-based services must engage in consultation
426.20 with the person's support team or expanded support team to:

426.21 (i) identify that the person no longer demonstrates complex behavioral needs that cannot
426.22 be met by private community-based providers identified in section 252.50, subdivision 5,
426.23 paragraph (a), clause (1);

426.24 (ii) provide notice of intent to issue a termination of services to the lead agency when a
426.25 finding has been made that a person no longer demonstrates complex behavioral needs that
426.26 cannot be met by private community-based providers identified in section 252.50, subdivision
426.27 5, paragraph (a), clause (1);

185.23 (b) The license holder must permit each person to remain in the program or to continue
185.24 receiving services and must not terminate services unless:

185.25 (1) the termination is necessary for the person's welfare and the facility provider cannot
185.26 meet the person's needs;

185.27 (2) the safety of the person or others in the program is endangered and positive support
185.28 strategies were attempted and have not achieved and effectively maintained safety for the
185.29 person or others;

185.30 (3) the health of the person or others in the program would otherwise be endangered;

185.31 (4) the program provider has not been paid for services;

185.32 (5) the program provider ceases to operate;

186.1 (6) the person has been terminated by the lead agency from waiver eligibility; or

186.2 (7) for state-operated community-based services, the person no longer demonstrates
186.3 complex behavioral needs that cannot be met by private community-based providers
186.4 identified in section 252.50, subdivision 5, paragraph (a), clause (1).

186.5 (c) Prior to giving notice of service termination, the license holder must document actions
186.6 taken to minimize or eliminate the need for termination. Action taken by the license holder
186.7 must include, at a minimum:

186.8 (1) consultation with the person and the person's support team or expanded support team
186.9 to identify and resolve issues leading to issuance of the termination notice;

186.10 (2) a request to the case manager for intervention services identified in section 245D.03,
186.11 subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention
186.12 services to support the person in the program. This requirement does not apply to notices
186.13 of service termination issued under paragraph (b), clauses (4) and (7); ~~and~~

186.14 (3) for state-operated community-based services terminating services under paragraph
186.15 (b), clause (7), the state-operated community-based services must engage in consultation
186.16 with the person and the person's support team or expanded support team to:

186.17 (i) identify that the person no longer demonstrates complex behavioral needs that cannot
186.18 be met by private community-based providers identified in section 252.50, subdivision 5,
186.19 paragraph (a), clause (1);

186.20 (ii) provide notice of intent to issue a termination of services to the lead agency when a
186.21 finding has been made that a person no longer demonstrates complex behavioral needs that
186.22 cannot be met by private community-based providers identified in section 252.50, subdivision
186.23 5, paragraph (a), clause (1);

426.28 (iii) assist the lead agency and case manager in developing a person-centered transition
426.29 plan to a private community-based provider to ensure continuity of care; and
426.30 (iv) coordinate with the lead agency to ensure the private community-based service
426.31 provider is able to meet the person's needs and criteria established in a person's
426.32 person-centered transition plan.

427.1 If, based on the best interests of the person, the circumstances at the time of the notice were
427.2 such that the license holder was unable to take the action specified in clauses (1) and (2),
427.3 the license holder must document the specific circumstances and the reason for being unable
427.4 to do so.

427.5 (d) The notice of service termination must meet the following requirements:

427.6 (1) the license holder must notify the person or the person's legal representative and the
427.7 case manager in writing of the intended service termination. If the service termination is
427.8 from residential supports and services as defined in section 245D.03, subdivision 1, paragraph
427.9 (c), clause (3), the license holder must also notify the commissioner in writing; and

427.10 (2) the notice must include:

427.11 (i) the reason for the action;

427.12 (ii) except for a service termination under paragraph (b), clause (5), a summary of actions
427.13 taken to minimize or eliminate the need for service termination or temporary service
427.14 suspension as required under paragraph (c), and why these measures failed to prevent the
427.15 termination or suspension;

427.16 (iii) the person's right to appeal the termination of services under section 256.045,
427.17 subdivision 3, paragraph (a); and

427.18 (iv) the person's right to seek a temporary order staying the termination of services
427.19 according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

186.24 (iii) assist the lead agency and case manager in developing a person-centered transition
186.25 plan to a private community-based provider to ensure continuity of care; and

186.26 (iv) coordinate with the lead agency to ensure the private community-based service
186.27 provider is able to meet the person's needs and criteria established in a person's
186.28 person-centered transition plan; and

186.29 (4) providing the person, the person's legal representative, and the person's extended
186.30 support team with:

186.31 (i) a statement that the person or the person's legal representative may contact the Office
186.32 of Ombudsman for Mental Health and Developmental Disabilities or the Office of
187.1 Ombudsman for Long-Term Care to request an advocate to assist regarding the termination;
187.2 and

187.3 (ii) the telephone number, e-mail address, website address, mailing address, and street
187.4 address for the state and applicable regional Office of Ombudsman for Long-Term Care
187.5 and the Office of Ombudsman for Mental Health and Developmental Disabilities.

187.6 If, based on the best interests of the person, the circumstances at the time of the notice were
187.7 such that the license holder was unable to take the action specified in clauses (1) and (2),
187.8 the license holder must document the specific circumstances and the reason for being unable
187.9 to do so.

187.10 (d) The notice of service termination must meet the following requirements:

187.11 (1) the license holder must notify the person or the person's legal representative and the
187.12 case manager in writing of the intended service termination. If the service termination is
187.13 from residential supports and services as defined in section 245D.03, subdivision 1, paragraph
187.14 (c), clause (3), the license holder must also notify the commissioner in writing the
187.15 commissioner, the Office of Ombudsman for Long-Term Care and the Office of Ombudsman
187.16 for Mental Health and Developmental Disabilities; and

187.17 (2) the notice must include:

187.18 (i) the reason for the action;

187.19 (ii) except for a service termination under paragraph (b), clause (5), a summary of actions
187.20 taken to minimize or eliminate the need for service termination or temporary service
187.21 suspension as required under paragraph (c), and why these measures failed to prevent the
187.22 termination or suspension;

187.23 (iii) the person's right to appeal the termination of services under section 256.045,
187.24 subdivision 3, paragraph (a); and

187.25 (iv) the person's right to seek a temporary order staying the termination of services
187.26 according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

427.20 (e) Notice of the proposed termination of service, including those situations that began
427.21 with a temporary service suspension, must be given at least 90 days prior to termination of
427.22 services under paragraph (b), clause (7), 60 days prior to termination when a license holder
427.23 is providing intensive supports and services identified in section 245D.03, subdivision 1,
427.24 paragraph (c), and 30 days prior to termination for all other services licensed under this
427.25 chapter. This notice may be given in conjunction with a notice of temporary service
427.26 suspension under subdivision 3.

427.27 (f) During the service termination notice period, the license holder must:

427.28 (1) work with the support team or expanded support team to develop reasonable
427.29 alternatives to protect the person and others and to support continuity of care;

427.30 (2) provide information requested by the person or case manager; and

427.31 (3) maintain information about the service termination, including the written notice of
427.32 intended service termination, in the service recipient record.

428.1 (g) For notices issued under paragraph (b), clause (7), the lead agency shall provide
428.2 notice to the commissioner and state-operated services at least 30 days before the conclusion
428.3 of the 90-day termination period, if an appropriate alternative provider cannot be secured.
428.4 Upon receipt of this notice, the commissioner and state-operated services shall reassess
428.5 whether a private community-based service can meet the person's needs. If the commissioner
428.6 determines that a private provider can meet the person's needs, state-operated services shall,
428.7 if necessary, extend notice of service termination until placement can be made. If the
428.8 commissioner determines that a private provider cannot meet the person's needs,
428.9 state-operated services shall rescind the notice of service termination and re-engage with
428.10 the lead agency in service planning for the person.

428.11 (h) For state-operated community-based services, the license holder shall prioritize the
428.12 capacity created within the existing service site by the termination of services under paragraph
428.13 (b), clause (7), to serve persons described in section 252.50, subdivision 5, paragraph (a),
428.14 clause (1).

187.27 (e) Notice of the proposed termination of service, including those situations that began
187.28 with a temporary service suspension, must be given at least 90 days prior to termination of
187.29 services under paragraph (b), clause (7), and 60 days prior to termination when a license
187.30 holder is providing intensive supports and services identified in section 245D.03, subdivision
187.31 1, paragraph (c); and. Notice of the proposed termination of service, including those situations
187.32 that began with temporary service suspension, must be given at least 30 days prior to
188.1 termination for all other services licensed under this chapter. This notice may be given in
188.2 conjunction with a notice of temporary service suspension under subdivision 3.

188.3 (f) During the service termination notice period, the license holder must:

188.4 (1) work with the support team or expanded support team to develop reasonable
188.5 alternatives to protect the person and others and to support continuity of care;

188.6 (2) provide information requested by the person or case manager; and

188.7 (3) maintain information about the service termination, including the written notice of
188.8 intended service termination, in the service recipient record.

188.9 (g) For notices issued under paragraph (b), clause (7), the lead agency shall provide
188.10 notice to the commissioner and state-operated services at least 30 days before the conclusion
188.11 of the 90-day termination period, if an appropriate alternative provider cannot be secured.
188.12 Upon receipt of this notice, the commissioner and state-operated services shall reassess
188.13 whether a private community-based service can meet the person's needs. If the commissioner
188.14 determines that a private provider can meet the person's needs, state-operated services shall,
188.15 if necessary, extend notice of service termination until placement can be made. If the
188.16 commissioner determines that a private provider cannot meet the person's needs,
188.17 state-operated services shall rescind the notice of service termination and re-engage with
188.18 the lead agency in service planning for the person.

188.19 (h) For notices issued under paragraph (b), if the lead agency has not finalized an
188.20 alternative program or service that will meet the assessed needs of the individual receiving
188.21 services 30 days before the effective date of the termination period for services under
188.22 paragraph (b), clause (7), or section 245D.03, subdivision 1, paragraph (c), the lead agency
188.23 shall provide written notice to the commissioner. Upon receipt of this notice, the
188.24 commissioner shall provide technical assistance as necessary to the lead agency until the
188.25 lead agency finalizes an alternative placement or service that will meet the assessed needs
188.26 of the individual. After assessing the circumstance, the commissioner is authorized to require
188.27 the license holder to continue services until the lead agency finalizes an alternative program
188.28 or service.

188.29 ~~(h)~~ (i) For state-operated community-based services, the license holder shall prioritize
188.30 the capacity created within the existing service site by the termination of services under
188.31 paragraph (b), clause (7), to serve persons described in section 252.50, subdivision 5,
188.32 paragraph (a), clause (1).

3.19 Section 1. Minnesota Statutes 2020, section 252.275, subdivision 4c, is amended to read:

3.20 Subd. 4c. **Review of funds; reallocation.** (a) After each quarter, the commissioner shall
3.21 review county program expenditures. The commissioner may reallocate unexpended money
3.22 at any time among those counties which have earned their full allocation.

3.23 (b) For each fiscal year, the commissioner shall determine if actual statewide expenditures
3.24 by county boards are less than the fiscal year appropriation to provide semi-independent
3.25 living services under this section. If actual statewide expenditures by county boards are less
3.26 than the fiscal year appropriation to provide semi-independent living services under this
3.27 section, the unexpended amount must be carried forward to the next fiscal year and allocated
3.28 to grants in equal amounts to the eight organizations defined in section 268A.01, subdivision
3.29 8, to expand services to support people with disabilities who are ineligible for medical
3.30 assistance to live in their own homes and communities by providing accessibility
3.31 modifications, independent living services, and public health program facilitation.

3.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.33 Sec. 2. Minnesota Statutes 2020, section 252.275, subdivision 8, is amended to read:

3.34 Subd. 8. **Use of federal funds and transfer of funds to medical assistance.** (a) The
3.35 commissioner shall make every reasonable effort to maximize the use of federal funds for
3.36 semi-independent living services.

3.37 (b) The commissioner shall reduce the payments to be made under this section to each
3.38 county from January 1, 1994, to June 30, 1996, by the amount of the state share of medical
4.1 assistance reimbursement for services other than residential services provided under the
4.2 home and community-based waiver program under section 256B.092 from January 1, 1994
4.3 to June 30, 1996, for clients for whom the county is financially responsible and who have
4.4 been transferred by the county from the semi-independent living services program to the
4.5 home and community-based waiver program. Unless otherwise specified, all reduced amounts
4.6 shall be transferred to the medical assistance state account.

4.7 (c) For fiscal year 1997, the base appropriation available under this section shall be
4.8 reduced by the amount of the state share of medical assistance reimbursement for services
4.9 other than residential services provided under the home and community-based waiver
4.10 program authorized in section 256B.092 from January 1, 1995, to December 31, 1995, for
4.11 persons who have been transferred from the semi-independent living services program to
4.12 the home and community-based waiver program. The base appropriation for the medical
4.13 assistance state account shall be increased by the same amount.

4.14 (d) For purposes of calculating the guaranteed floor under subdivision 4b and to establish
4.15 the calendar year 1996 allocations, each county's original allocation for calendar year 1995
4.16 shall be reduced by the amount transferred to the state medical assistance account under
4.17 paragraph (b) during the six months ending on June 30, 1995. For purposes of calculating
4.18 the guaranteed floor under subdivision 4b and to establish the calendar year 1997 allocations,
4.19 each county's original allocation for calendar year 1996 shall be reduced by the amount

428.15 Sec. 3. Minnesota Statutes 2020, section 256.01, is amended by adding a subdivision to
428.16 read:

428.17 Subd. 12b. **Department of Human Services systemic critical incident review team.** (a)
428.18 The commissioner may establish a Department of Human Services systemic critical incident
428.19 review team to review **required critical incident reports** under section 626.557 for which
428.20 the Department of Human Services is responsible under section 626.5572, subdivision 13;
428.21 chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident, the
428.22 systemic critical incident review team **must** identify systemic influences to the incident
428.23 rather than determining the culpability of any actors involved in the incident. The systemic
428.24 critical incident review may assess the entire critical incident process from the point of an
428.25 entity reporting the critical incident through the ongoing case management process.
428.26 Department staff **must** lead and conduct the reviews and may utilize county staff as reviewers.
428.27 The systemic critical incident review process may include but is not limited to:

428.28 (1) data collection about the incident and actors involved. Data may include the critical
428.29 incident report under review; previous incident reports pertaining to the person receiving
428.30 services; the service provider's policies and procedures applicable to the incident; the
428.31 coordinated service and support plan as defined in section 245D.02, subdivision 4b, for the
428.32 person receiving services; or an interview of an actor involved in the critical incident or the
428.33 review of the critical incident. Actors may include:

428.34 (i) staff of the provider agency;

429.1 (ii) lead agency staff administering home and community-based services delivered by
429.2 the provider;

429.3 (iii) Department of Human Services staff with oversight of home and community-based
429.4 services;

429.5 (iv) Department of Health staff with oversight of home and community-based services;

429.6 (v) members of the community including advocates, legal representatives, health care
429.7 providers, pharmacy staff, or others with knowledge of the incident or the actors in the
429.8 incident; and

429.9 (vi) staff from the **Office of the Ombudsman for Mental Health and Developmental**
429.10 **Disabilities**;

4.20 ~~transferred to the state medical assistance account under paragraph (b) during the six months~~
4.21 ~~ending on December 31, 1995.~~

4.22 **EFFECTIVE DATE.** This section is effective July 1, 2022.

SEC. 32. MINNESOTA STATUTES 2020, SECTION 256.01, AMENDMENT FROM S4410-3, ARTICLE 8, SECTION 32, TO MATCH UES4410-2, ARTICLE 9, SECTION 3.

203.2 Sec. 32. Minnesota Statutes 2020, section 256.01, is amended by adding a subdivision to
203.3 read:

203.4 Subd. 12b. **Department of Human Services systemic critical incident review team.** (a)
203.5 The commissioner may establish a Department of Human Services systemic critical incident
203.6 review team to review critical **incidents reported as required** under section 626.557 for
203.7 which the Department of Human Services is responsible under section 626.5572, subdivision
203.8 13; chapter 245D; or Minnesota Rules, chapter 9544. When reviewing a critical incident,
203.9 the systemic critical incident review team **shall** identify systemic influences to the incident
203.10 rather than determining the culpability of any actors involved in the incident. The systemic
203.11 critical incident review may assess the entire critical incident process from the point of an
203.12 entity reporting the critical incident through the ongoing case management process.
203.13 Department staff **shall** lead and conduct the reviews and may utilize county staff as reviewers.
203.14 The systemic critical incident review process may include but is not limited to:

203.15 (1) data collection about the incident and actors involved. Data may include the critical
203.16 incident report under review; previous incident reports pertaining to the person receiving
203.17 services; the service provider's policies and procedures applicable to the incident; the
203.18 coordinated service and support plan as defined in section 245D.02, subdivision 4b, for the
203.19 person receiving services; or an interview of an actor involved in the critical incident or the
203.20 review of the critical incident. Actors may include:

203.21 (i) staff of the provider agency;

203.22 (ii) lead agency staff administering home and community-based services delivered by
203.23 the provider;

203.24 (iii) Department of Human Services staff with oversight of home and community-based
203.25 services;

203.26 (iv) Department of Health staff with oversight of home and community-based services;

203.27 (v) members of the community including advocates, legal representatives, health care
203.28 providers, pharmacy staff, or others with knowledge of the incident or the actors in the
203.29 incident; and

203.30 (vi) staff from the **office** of the **ombudsman for mental health and developmental**
203.31 **disabilities**;

429.11 (2) systemic mapping of the critical incident. The team conducting the systemic mapping
429.12 of the incident may include any actors identified in clause (1), designated representatives
429.13 of other provider agencies, regional teams, and representatives of the local regional quality
429.14 council identified in section 256B.097; and

429.15 (3) analysis of the case for systemic influences.

429.16 (b) The critical incident review team must aggregate data collected and provide the
429.17 aggregated data to regional teams, participating regional quality councils, and the
429.18 commissioner. The regional teams and quality councils must analyze the data and make
429.19 recommendations to the commissioner regarding systemic changes that would decrease the
429.20 number and severity of critical incidents in the future or improve the quality of the home
429.21 and community-based service system.

429.22 (c) A selection committee must select cases for the systemic critical incident review
429.23 process from among the following critical incident categories:

429.24 (1) cases of caregiver neglect identified in section 626.5572, subdivision 17;

429.25 (2) cases involving financial exploitation identified in section 626.5572, subdivision 9;

429.26 (3) incidents identified in section 245D.02, subdivision 11;

429.27 (4) incidents identified in Minnesota Rules, part 9544.0110; and

429.28 (5) service terminations reported to the department in accordance with section 245D.10,
429.29 subdivision 3a.

429.30 (d) The systemic critical incident review under this section must not replace the process
429.31 for screening or investigating cases of alleged maltreatment of an adult under section 626.557.
430.1 The department, under the jurisdiction of the commissioner, may select for systemic critical
430.2 incident review cases reported for suspected maltreatment and closed following initial or
430.3 final disposition.

430.4 (e) The proceedings and records of the review team are confidential data on individuals
430.5 or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. Data that
430.6 document a person's opinions formed as a result of the review are not subject to discovery
430.7 or introduction into evidence in a civil or criminal action against a professional, the state,
430.8 or a county agency arising out of the matters that the team is reviewing. Information,
430.9 documents, and records otherwise available from other sources are not immune from
430.10 discovery or use in a civil or criminal action solely because the information, documents,
430.11 and records were assessed or presented during review team proceedings. A person who
430.12 presented information before the systemic critical incident review team or who is a member
430.13 of the team must not be prevented from testifying about matters within the person's
430.14 knowledge. In a civil or criminal proceeding, a person must not be questioned about opinions
430.15 formed by the person as a result of the review.

204.1 (2) systemic mapping of the critical incident. The team conducting the systemic mapping
204.2 of the incident may include any actors identified in clause (1), designated representatives
204.3 of other provider agencies, regional teams, and representatives of the local regional quality
204.4 council identified in section 256B.097; and

204.5 (3) analysis of the case for systemic influences.

204.6 Data collected by the critical incident review team shall be aggregated and provided to
204.7 regional teams, participating regional quality councils, and the commissioner. The regional
204.8 teams and quality councils shall analyze the data and make recommendations to the
204.9 commissioner regarding systemic changes that would decrease the number and severity of
204.10 critical incidents in the future or improve the quality of the home and community-based
204.11 service system.

204.12 (b) Cases selected for the systemic critical incident review process shall be selected by
204.13 a selection committee among the following critical incident categories:

204.14 (1) cases of caregiver neglect identified in section 626.5572, subdivision 17;

204.15 (2) cases involving financial exploitation identified in section 626.5572, subdivision 9;

204.16 (3) incidents identified in section 245D.02, subdivision 11;

204.17 (4) incidents identified in Minnesota Rules, part 9544.0110; and

204.18 (5) service terminations reported to the department in accordance with section 245D.10,
204.19 subdivision 3a.

204.20 (c) The systemic critical incident review under this section shall not replace the process
204.21 for screening or investigating cases of alleged maltreatment of an adult under section 626.557.
204.22 The department may select cases for systemic critical incident review, under the jurisdiction
204.23 of the commissioner, reported for suspected maltreatment and closed following initial or
204.24 final disposition.

204.25 (d) The proceedings and records of the review team are confidential data on individuals
204.26 or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13. Data that
204.27 document a person's opinions formed as a result of the review are not subject to discovery
204.28 or introduction into evidence in a civil or criminal action against a professional, the state,
204.29 or a county agency arising out of the matters that the team is reviewing. Information,
204.30 documents, and records otherwise available from other sources are not immune from
204.31 discovery or use in a civil or criminal action solely because the information, documents,
204.32 and records were assessed or presented during proceedings of the review team. A person
204.33 who presented information before the systemic critical incident review team or who is a
205.1 member of the team shall not be prevented from testifying about matters within the person's
205.2 knowledge. In a civil or criminal proceeding, a person shall not be questioned about opinions
205.3 formed by the person as a result of the review.

430.16 (f) By October 1 of each year, the commissioner shall prepare an annual public report
430.17 containing the following information:

430.18 (1) the number of cases reviewed under each critical incident category identified in
430.19 paragraph (b) and a geographical description of where cases under each category originated;

430.20 (2) an aggregate summary of the systemic themes from the critical incidents examined
430.21 by the critical incident review team during the previous year;

430.22 (3) a synopsis of the conclusions, incident analyses, or exploratory activities taken in
430.23 regard to the critical incidents examined by the critical incident review team; and

430.24 (4) recommendations made to the commissioner regarding systemic changes that could
430.25 decrease the number and severity of critical incidents in the future or improve the quality
430.26 of the home and community-based service system.

430.27 Sec. 4. Minnesota Statutes 2020, section 256.045, subdivision 3, is amended to read:

430.28 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

430.29 (1) any person applying for, receiving or having received public assistance, medical
430.30 care, or a program of social services granted by the state agency or a county agency or the
430.31 federal Food and Nutrition Act whose application for assistance is denied, not acted upon
430.32 with reasonable promptness, or whose assistance is suspended, reduced, terminated, or
430.33 claimed to have been incorrectly paid;

431.1 (2) any patient or relative aggrieved by an order of the commissioner under section
431.2 252.27;

431.3 (3) a party aggrieved by a ruling of a prepaid health plan;

431.4 (4) except as provided under chapter 245C, any individual or facility determined by a
431.5 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
431.6 they have exercised their right to administrative reconsideration under section 626.557;

431.7 (5) any person whose claim for foster care payment according to a placement of the
431.8 child resulting from a child protection assessment under chapter 260E is denied or not acted
431.9 upon with reasonable promptness, regardless of funding source;

431.10 (6) any person to whom a right of appeal according to this section is given by other
431.11 provision of law;

431.12 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
431.13 under section 256B.15;

205.4 (e) By October 1 of each year, the commissioner shall prepare an annual public report
205.5 containing the following information:

205.6 (1) the number of cases reviewed under each critical incident category identified in
205.7 paragraph (b) and a geographical description of where cases under each category originated;

205.8 (2) an aggregate summary of the systemic themes from the critical incidents examined
205.9 by the critical incident review team during the previous year;

205.10 (3) a synopsis of the conclusions, incident analyses, or exploratory activities taken in
205.11 regard to the critical incidents examined by the critical incident review team; and

205.12 (4) recommendations made to the commissioner regarding systemic changes that could
205.13 decrease the number and severity of critical incidents in the future or improve the quality
205.14 of the home and community-based service system.

SEC. 33. MINNESOTA STATUTES 2020, SECTION 256.045, SUBDIVISION 3, AMENDMENT FROM SS4410-3, ARTICLE 8, SECTION 33, TO MATCH UES4410-2, ARTICLE 9, SECTION 4.

205.15 Sec. 33. Minnesota Statutes 2020, section 256.045, subdivision 3, is amended to read:

205.16 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

205.17 (1) any person applying for, receiving or having received public assistance, medical
205.18 care, or a program of social services granted by the state agency or a county agency or the
205.19 federal Food and Nutrition Act whose application for assistance is denied, not acted upon
205.20 with reasonable promptness, or whose assistance is suspended, reduced, terminated, or
205.21 claimed to have been incorrectly paid;

205.22 (2) any patient or relative aggrieved by an order of the commissioner under section
205.23 252.27;

205.24 (3) a party aggrieved by a ruling of a prepaid health plan;

205.25 (4) except as provided under chapter 245C, any individual or facility determined by a
205.26 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
205.27 they have exercised their right to administrative reconsideration under section 626.557;

205.28 (5) any person whose claim for foster care payment according to a placement of the
205.29 child resulting from a child protection assessment under chapter 260E is denied or not acted
205.30 upon with reasonable promptness, regardless of funding source;

206.1 (6) any person to whom a right of appeal according to this section is given by other
206.2 provision of law;

206.3 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
206.4 under section 256B.15;

431.14 (8) an applicant aggrieved by an adverse decision to an application or redetermination
431.15 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

431.16 (9) except as provided under chapter 245A, an individual or facility determined to have
431.17 maltreated a minor under chapter 260E, after the individual or facility has exercised the
431.18 right to administrative reconsideration under chapter 260E;

431.19 (10) except as provided under chapter 245C, an individual disqualified under sections
431.20 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
431.21 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
431.22 individual has committed an act or acts that meet the definition of any of the crimes listed
431.23 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
431.24 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding a maltreatment
431.25 determination under clause (4) or (9) and a disqualification under this clause in which the
431.26 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
431.27 a single fair hearing. In such cases, the scope of review by the human services judge shall
431.28 include both the maltreatment determination and the disqualification. The failure to exercise
431.29 the right to an administrative reconsideration shall not be a bar to a hearing under this section
431.30 if federal law provides an individual the right to a hearing to dispute a finding of
431.31 maltreatment;

431.32 (11) any person with an outstanding debt resulting from receipt of public assistance,
431.33 medical care, or the federal Food and Nutrition Act who is contesting a setoff claim by the
432.1 Department of Human Services or a county agency. The scope of the appeal is the validity
432.2 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
432.3 the debt;

432.4 (12) a person issued a notice of service termination under section 245D.10, subdivision
432.5 3a, ~~from by a licensed provider of any residential supports and or services as defined listed~~
432.6 in section 245D.03, subdivision 1, ~~paragraph paragraphs (b) and (c), clause (3);~~ that is not
432.7 otherwise subject to appeal under subdivision 4a;

432.8 (13) an individual disability waiver recipient based on a denial of a request for a rate
432.9 exception under section 256B.4914; or

432.10 (14) a person issued a notice of service termination under section 245A.11, subdivision
432.11 11, that is not otherwise subject to appeal under subdivision 4a.

432.12 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
432.13 is the only administrative appeal to the final agency determination specifically, including
432.14 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
432.15 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
432.16 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
432.17 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
432.18 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
432.19 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A

206.5 (8) an applicant aggrieved by an adverse decision to an application or redetermination
206.6 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

206.7 (9) except as provided under chapter 245A, an individual or facility determined to have
206.8 maltreated a minor under chapter 260E, after the individual or facility has exercised the
206.9 right to administrative reconsideration under chapter 260E;

206.10 (10) except as provided under chapter 245C, an individual disqualified under sections
206.11 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
206.12 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
206.13 individual has committed an act or acts that meet the definition of any of the crimes listed
206.14 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
206.15 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding a maltreatment
206.16 determination under clause (4) or (9) and a disqualification under this clause in which the
206.17 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
206.18 a single fair hearing. In such cases, the scope of review by the human services judge shall
206.19 include both the maltreatment determination and the disqualification. The failure to exercise
206.20 the right to an administrative reconsideration shall not be a bar to a hearing under this section
206.21 if federal law provides an individual the right to a hearing to dispute a finding of
206.22 maltreatment;

206.23 (11) any person with an outstanding debt resulting from receipt of public assistance,
206.24 medical care, or the federal Food and Nutrition Act who is contesting a setoff claim by the
206.25 Department of Human Services or a county agency. The scope of the appeal is the validity
206.26 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
206.27 the debt;

206.28 (12) a person issued a notice of service termination under section 245D.10, subdivision
206.29 3a, ~~from by a licensed provider of any residential supports and or services as defined listed~~
206.30 in section 245D.03, subdivision 1, ~~paragraph paragraphs (b) and (c), clause (3);~~ that is not
206.31 otherwise subject to appeal under subdivision 4a;

206.32 (13) an individual disability waiver recipient based on a denial of a request for a rate
206.33 exception under section 256B.4914; or

207.1 (14) a person issued a notice of service termination under section 245A.11, subdivision
207.2 11, that is not otherwise subject to appeal under subdivision 4a.

207.3 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
207.4 is the only administrative appeal to the final agency determination specifically, including
207.5 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
207.6 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
207.7 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
207.8 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
207.9 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
207.10 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A

432.20 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
432.21 available when there is no district court action pending. If such action is filed in district
432.22 court while an administrative review is pending that arises out of some or all of the events
432.23 or circumstances on which the appeal is based, the administrative review must be suspended
432.24 until the judicial actions are completed. If the district court proceedings are completed,
432.25 dismissed, or overturned, the matter may be considered in an administrative hearing.

432.26 (c) For purposes of this section, bargaining unit grievance procedures are not an
432.27 administrative appeal.

432.28 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
432.29 clause (5), shall be limited to the issue of whether the county is legally responsible for a
432.30 child's placement under court order or voluntary placement agreement and, if so, the correct
432.31 amount of foster care payment to be made on the child's behalf and shall not include review
432.32 of the propriety of the county's child protection determination or child placement decision.

432.33 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
432.34 whether the proposed termination of services is authorized under section 245D.10,
433.1 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
433.2 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
433.3 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
433.4 termination of services, the scope of the hearing shall also include whether the case
433.5 management provider has finalized arrangements for a residential facility, a program, or
433.6 services that will meet the assessed needs of the recipient by the effective date of the service
433.7 termination.

433.8 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
433.9 under contract with a county agency to provide social services is not a party and may not
433.10 request a hearing under this section, except if assisting a recipient as provided in subdivision
433.11 4.

433.12 (g) An applicant or recipient is not entitled to receive social services beyond the services
433.13 prescribed under chapter 256M or other social services the person is eligible for under state
433.14 law.

433.15 (h) The commissioner may summarily affirm the county or state agency's proposed
433.16 action without a hearing when the sole issue is an automatic change due to a change in state
433.17 or federal law.

433.18 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
433.19 appeal, an individual or organization specified in this section may contest the specified
433.20 action, decision, or final disposition before the state agency by submitting a written request
433.21 for a hearing to the state agency within 30 days after receiving written notice of the action,
433.22 decision, or final disposition, or within 90 days of such written notice if the applicant,
433.23 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision

207.11 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
207.12 available when there is no district court action pending. If such action is filed in district
207.13 court while an administrative review is pending that arises out of some or all of the events
207.14 or circumstances on which the appeal is based, the administrative review must be suspended
207.15 until the judicial actions are completed. If the district court proceedings are completed,
207.16 dismissed, or overturned, the matter may be considered in an administrative hearing.

207.17 (c) For purposes of this section, bargaining unit grievance procedures are not an
207.18 administrative appeal.

207.19 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
207.20 clause (5), shall be limited to the issue of whether the county is legally responsible for a
207.21 child's placement under court order or voluntary placement agreement and, if so, the correct
207.22 amount of foster care payment to be made on the child's behalf and shall not include review
207.23 of the propriety of the county's child protection determination or child placement decision.

207.24 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
207.25 whether the proposed termination of services is authorized under section 245D.10,
207.26 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
207.27 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
207.28 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
207.29 termination of services, the scope of the hearing shall also include whether the case
207.30 management provider has finalized arrangements for a residential facility, a program, or
207.31 services that will meet the assessed needs of the recipient by the effective date of the service
207.32 termination.

207.33 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
207.34 under contract with a county agency to provide social services is not a party and may not
208.1 request a hearing under this section, except if assisting a recipient as provided in subdivision
208.2 4.

208.3 (g) An applicant or recipient is not entitled to receive social services beyond the services
208.4 prescribed under chapter 256M or other social services the person is eligible for under state
208.5 law.

208.6 (h) The commissioner may summarily affirm the county or state agency's proposed
208.7 action without a hearing when the sole issue is an automatic change due to a change in state
208.8 or federal law.

208.9 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
208.10 appeal, an individual or organization specified in this section may contest the specified
208.11 action, decision, or final disposition before the state agency by submitting a written request
208.12 for a hearing to the state agency within 30 days after receiving written notice of the action,
208.13 decision, or final disposition, or within 90 days of such written notice if the applicant,
208.14 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision

433.24 13, why the request was not submitted within the 30-day time limit. The individual filing
433.25 the appeal has the burden of proving good cause by a preponderance of the evidence.

208.15 13, why the request was not submitted within the 30-day time limit. The individual filing
208.16 the appeal has the burden of proving good cause by a preponderance of the evidence.

4.23 Sec. 3. **[256.4791] COMMUNITY ORGANIZATIONS GRANT PROGRAM.**

4.24 Subdivision 1. **Establishment.** The commissioner of human services shall establish the
4.25 community organizations grant program to address violence prevention and provide street
4.26 outreach services.

4.27 Subd. 2. **Applications.** Organizations seeking grants under this section shall apply to
4.28 the commissioner. The grant applicant must include a description of the project that the
4.29 applicant is proposing, the amount of money that the applicant is seeking, and a proposed
4.30 budget describing how the applicant will spend the grant money.

4.31 Subd. 3. **Eligible applicants.** To be eligible for a grant under this section, applicants
4.32 must address violence prevention, connect with youth and community members, and provide
5.1 street outreach services. Applicants must also be focused on prevention, intervention, and
5.2 restorative practices within the community, which may include:

5.3 (1) providing trauma-responsive care; and

5.4 (2) access to individual and group therapy services or community healing.

5.5 Subd. 4. **Use of grant money.** Grant recipients must use the funds to address violence
5.6 prevention, connect with youth and community members, and provide street outreach
5.7 services.

5.8 Subd. 5. **Reporting.** Grant recipients must provide an annual report to the commissioner
5.9 in a manner specified by the commissioner on the activities and outcomes of the project
5.10 funded by the grant program.

5.11 Sec. 4. **[256.4792] EMPLOYMENT FOR PERSONS EXPERIENCING**
5.12 **HOMELESSNESS OR SUBSTANCE USE DISORDER.**

5.13 (a) Nonprofit organizations, licensed providers, and other entities that receive funding
5.14 from the commissioner of human services to address homelessness or provide services to
5.15 individuals experiencing homelessness must incorporate into their program the facilitation
5.16 of full- or part-time employment and provide or make available employment services for
5.17 each client to the extent appropriate for each client.

5.18 (b) Nonprofit organizations, licensed providers, and other entities that receive funding
5.19 from the commissioner of human services to provide substance use disorder services or
5.20 treatment must incorporate into their program the facilitation of full- or part-time employment
5.21 and provide or make available employment services for each client to the extent appropriate
5.22 for each client.

- 5.23 Sec. 5. **[256.4795] RESIDENTIAL SETTING CLOSURE PREVENTION GRANTS.**
- 5.24 Subdivision 1. **Residential setting closure prevention grants established.** The
- 5.25 commissioner of human services shall establish a grant program to reduce the risk of
- 5.26 residential settings in financial distress from closing. The commissioner shall limit
- 5.27 expenditures under this subdivision to the amount appropriated for this purpose.
- 5.28 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms in this subdivision
- 5.29 have the meaning given them.
- 6.1 (b) "At risk of closure" or "at risk of closing" means a residential setting is in significant
- 6.2 financial distress, and, in the judgment of the commissioner, the setting will close without
- 6.3 additional funding from the commissioner.
- 6.4 (c) "Residential setting" means any of the following: a nursing facility; an assisted living
- 6.5 facility with a majority of residents receiving services funded by medical assistance; a setting
- 6.6 exempt from assisted living facility licensure under section 144G.08, subdivision 7, clauses
- 6.7 (10) to (13), with a majority of residents receiving services funded by medical assistance;
- 6.8 an intermediate care facility for persons with developmental disabilities; or an adult foster
- 6.9 care setting, a community residential setting, or an integrated community supports setting.
- 6.10 Subd. 3. **Eligibility.** (a) A license holder operating a residential setting in significant
- 6.11 financial distress may apply to the commissioner for a grant under this section to relieve its
- 6.12 immediate financial distress.
- 6.13 (b) Lead agencies that suspect a residential setting is in significant financial distress may
- 6.14 refer the license holder to the commissioner for consideration by the commissioner for grant
- 6.15 funding under this section. Upon a referral from a lead agency under this section, the
- 6.16 commissioner shall immediately solicit an application from the license holder, providing
- 6.17 individualized technical assistance to the license holder regarding the application process.
- 6.18 (c) The commissioner must give priority for closure prevention grants to residential
- 6.19 settings that are the most significantly at risk of closing in violation of the applicable notice
- 6.20 requirements prior to the termination of services.
- 6.21 Subd. 4. **Criteria and limitations.** (a) Within available appropriations for this purpose,
- 6.22 the commissioner must award sufficient funding to a residential setting at risk of closure to
- 6.23 ensure that the residential setting remains open long enough to comply with the applicable
- 6.24 termination of services notification requirements.
- 6.25 (b) The commissioner may award additional funding to a residential setting at risk of
- 6.26 closure if, in the judgment of the commissioner, the residential setting is likely to remain
- 6.27 open and financially viable after receiving time-limited additional funding from the
- 6.28 commissioner.
- 6.29 (c) Before receiving any additional funding under paragraph (b), grantees must work
- 6.30 with the commissioner to develop a business plan and corrective action plan to reduce the

433.26 Sec. 5. Minnesota Statutes 2020, section 256B.0651, subdivision 1, is amended to read:

433.27 Subdivision 1. **Definitions.** (a) For the purposes of sections 256B.0651 to 256B.0654

433.28 and 256B.0659, the terms in paragraphs (b) to ~~(g)~~ (i) have the meanings given.

433.29 (b) "Activities of daily living" has the meaning given in section 256B.0659, subdivision

433.30 1, paragraph (b).

433.31 (c) "Assessment" means a review and evaluation of a recipient's need for home care

433.32 services conducted in person.

434.1 (d) "Care coordination" means a service performed by a licensed professional to

434.2 coordinate both skilled and unskilled home care services, except personal care assistance,

434.3 for a recipient, and may include documentation and coordination activities not carried out

434.4 in conjunction with a care evaluation visit.

434.5 (e) "Care evaluation" means a start-of-care visit, a resumption-of-care visit, or a

434.6 recertification visit that is a face-to-face assessment of a person by a licensed professional

434.7 to develop, update, or review the service plan for both skilled and unskilled home care

434.8 services, except personal care assistance.

434.9 ~~(f)~~ (f) "Home care services" means medical assistance covered services that are home

434.10 health agency services, including skilled nurse visits; home health aide visits; physical

434.11 therapy, occupational therapy, respiratory therapy, and language-speech pathology therapy;

434.12 home care nursing; and personal care assistance.

434.13 ~~(g)~~ (g) "Home residence," effective January 1, 2010, means a residence owned or rented

434.14 by the recipient either alone, with roommates of the recipient's choosing, or with an unpaid

434.15 responsible party or legal representative; or a family foster home where the license holder

434.16 lives with the recipient and is not paid to provide home care services for the recipient except

434.17 as allowed under sections 256B.0652, subdivision 10, and 256B.0654, subdivision 4.

434.18 ~~(h)~~ (h) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170

434.19 to 9505.0475.

434.20 ~~(i)~~ (i) "Ventilator-dependent" means an individual who receives mechanical ventilation

434.21 for life support at least six hours per day and is expected to be or has been dependent on a

434.22 ventilator for at least 30 consecutive days.

6.31 risk of future financial distress. No residential setting may receive additional funding under

6.32 paragraph (b) more than once.

7.1 Subd. 5. **Interagency coordination.** The commissioner must coordinate the grant

7.2 activities under this section with any other impacted state agencies and lead agencies.

7.3 Subd. 6. **Administrative funding.** The commissioner may use up to 6.5 percent of the

7.4 grant amounts awarded for the commissioner's costs related to administration of this program.

7.5 **EFFECTIVE DATE.** This section is effective July 1, 2022.

- 434.23 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
434.24 whichever is later. The commissioner of human services shall notify the revisor of statutes
434.25 when federal approval is obtained.
- 434.26 Sec. 6. Minnesota Statutes 2020, section 256B.0651, subdivision 2, is amended to read:
- 434.27 Subd. 2. **Services covered.** Home care services covered under this section and sections
434.28 256B.0652 to 256B.0654 and 256B.0659 include:
- 434.29 (1) care coordination services under subdivision 1, paragraph (d);
434.30 (2) care evaluation services under subdivision 1, paragraph (e);
434.31 ~~(1)~~ (3) nursing services under sections 256B.0625, subdivision 6a, and 256B.0653;
435.1 ~~(2)~~ (4) home care nursing services under sections 256B.0625, subdivision 7, and
435.2 256B.0654;
435.3 ~~(3)~~ (5) home health services under sections 256B.0625, subdivision 6a, and 256B.0653;
435.4 ~~(4)~~ (6) personal care assistance services under sections 256B.0625, subdivision 19a, and
435.5 256B.0659;
435.6 ~~(5)~~ (7) supervision of personal care assistance services provided by a qualified
435.7 professional under sections 256B.0625, subdivision 19a, and 256B.0659;
435.8 ~~(6)~~ (8) face-to-face assessments by county public health nurses for services under sections
435.9 256B.0625, subdivision 19a, and 256B.0659; and
435.10 ~~(7)~~ (9) service updates and review of temporary increases for personal care assistance
435.11 services by the county public health nurse for services under sections 256B.0625, subdivision
435.12 19a, and 256B.0659.
- 435.13 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
435.14 whichever is later. The commissioner of human services shall notify the revisor of statutes
435.15 when federal approval is obtained.
- 435.16 Sec. 7. Minnesota Statutes 2020, section 256B.0652, subdivision 11, is amended to read:
- 435.17 Subd. 11. **Limits on services without authorization.** A recipient may receive the
435.18 following home care services during a calendar year:
- 435.19 (1) up to two face-to-face assessments to determine a recipient's need for personal care
435.20 assistance services;
435.21 (2) one service update done to determine a recipient's need for personal care assistance
435.22 services; ~~and~~
435.23 (3) up to nine face-to-face visits that may include both skilled nurse visits, and care
435.24 evaluations; and

- 435.25 (4) up to four 15-minute units of care coordination per episode of care to coordinate
435.26 home health services for a recipient.
- 435.27 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
435.28 whichever is later. The commissioner of human services shall notify the revisor of statutes
435.29 when federal approval is obtained.
- 436.1 Sec. 8. Minnesota Statutes 2020, section 256B.0653, subdivision 6, is amended to read:
- 436.2 Subd. 6. **Noncovered home health agency services.** The following are not eligible for
436.3 payment under medical assistance as a home health agency service:
- 436.4 (1) telehomecare skilled nurses services that is communication between the home care
436.5 nurse and recipient that consists solely of a telephone conversation, facsimile, electronic
436.6 mail, or a consultation between two health care practitioners;
- 436.7 (2) the following skilled nurse visits:
- 436.8 (i) for the purpose of monitoring medication compliance with an established medication
436.9 program for a recipient;
- 436.10 (ii) administering or assisting with medication administration, including injections,
436.11 refilling syringes for injections, or oral medication setup of an adult recipient, when, as
436.12 determined and documented by the registered nurse, the need can be met by an available
436.13 pharmacy or the recipient or a family member is physically and mentally able to
436.14 self-administer or refill a medication;
- 436.15 (iii) services done for the sole purpose of supervision of the home health aide or personal
436.16 care assistant;
- 436.17 (iv) services done for the sole purpose to train other home health agency workers;
- 436.18 (v) services done for the sole purpose of blood samples or lab draw when the recipient
436.19 is able to access these services outside the home; and
- 436.20 (vi) Medicare evaluation or administrative nursing visits required by Medicare, with the
436.21 exception of care evaluation as defined in section 256B.0651, subdivision 1, paragraph (e);
- 436.22 (3) home health aide visits when the following activities are the sole purpose for the
436.23 visit: companionship, socialization, household tasks, transportation, and education;
- 436.24 (4) home care therapies provided in other settings such as a clinic or as an inpatient or
436.25 when the recipient can access therapy outside of the recipient's residence; and
- 436.26 (5) home health agency services without qualifying documentation of a face-to-face
436.27 encounter as specified in subdivision 7.

436.28 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
436.29 whichever is later. The commissioner of human services shall notify the revisor of statutes
436.30 when federal approval is obtained.

437.1 Sec. 9. Minnesota Statutes 2020, section 256B.0659, subdivision 1, is amended to read:

437.2 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
437.3 paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

437.4 (b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility,
437.5 positioning, eating, and toileting.

437.6 (c) "Behavior," effective January 1, 2010, means a category to determine the home care
437.7 rating and is based on the criteria found in this section. "Level I behavior" means physical
437.8 aggression ~~towards~~ toward self, others, or destruction of property that requires the immediate
437.9 response of another person.

437.10 (d) "Complex health-related needs," effective January 1, 2010, means a category to
437.11 determine the home care rating and is based on the criteria found in this section.

437.12 (e) "Critical activities of daily living," effective January 1, 2010, means transferring,
437.13 mobility, eating, and toileting.

437.14 (f) "Dependency in activities of daily living" means a person requires assistance to begin
437.15 and complete one or more of the activities of daily living.

437.16 (g) "Extended personal care assistance service" means personal care assistance services
437.17 included in a service plan under one of the home and community-based services waivers
437.18 authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which
437.19 exceed the amount, duration, and frequency of the state plan personal care assistance services
437.20 for participants who:

437.21 (1) need assistance provided periodically during a week, but less than daily will not be
437.22 able to remain in their homes without the assistance, and other replacement services are
437.23 more expensive or are not available when personal care assistance services are to be reduced;
437.24 or

437.25 (2) need additional personal care assistance services beyond the amount authorized by
437.26 the state plan personal care assistance assessment in order to ensure that their safety, health,
437.27 and welfare are provided for in their homes.

437.28 (h) "Health-related procedures and tasks" means procedures and tasks that can be
437.29 delegated or assigned by a licensed health care professional under state law to be performed
437.30 by a personal care assistant.

437.31 (i) "Instrumental activities of daily living" means activities to include meal planning and
437.32 preparation; basic assistance with paying bills; shopping for food, clothing, and other
438.1 essential items; performing household tasks integral to the personal care assistance services;

7.6 Sec. 6. Minnesota Statutes 2020, section 256B.0659, subdivision 1, is amended to read:

7.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
7.8 paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

7.9 (b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility,
7.10 positioning, eating, and toileting.

7.11 (c) "Behavior," effective January 1, 2010, means a category to determine the home care
7.12 rating and is based on the criteria found in this section. "Level I behavior" means physical
7.13 aggression ~~towards~~ toward self, others, or destruction of property that requires the immediate
7.14 response of another person.

7.15 (d) "Complex health-related needs," effective January 1, 2010, means a category to
7.16 determine the home care rating and is based on the criteria found in this section.

7.17 (e) "Critical activities of daily living," effective January 1, 2010, means transferring,
7.18 mobility, eating, and toileting.

7.19 (f) "Dependency in activities of daily living" means a person requires assistance to begin
7.20 and complete one or more of the activities of daily living.

7.21 (g) "Extended personal care assistance service" means personal care assistance services
7.22 included in a service plan under one of the home and community-based services waivers
7.23 authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which
7.24 exceed the amount, duration, and frequency of the state plan personal care assistance services
7.25 for participants who:

7.26 (1) need assistance provided periodically during a week, but less than daily will not be
7.27 able to remain in their homes without the assistance, and other replacement services are
7.28 more expensive or are not available when personal care assistance services are to be reduced;
7.29 or

7.30 (2) need additional personal care assistance services beyond the amount authorized by
7.31 the state plan personal care assistance assessment in order to ensure that their safety, health,
7.32 and welfare are provided for in their homes.

8.1 (h) "Health-related procedures and tasks" means procedures and tasks that can be
8.2 delegated or assigned by a licensed health care professional under state law to be performed
8.3 by a personal care assistant.

8.4 (i) "Instrumental activities of daily living" means activities to include meal planning and
8.5 preparation; basic assistance with paying bills; shopping for food, clothing, and other
8.6 essential items; performing household tasks integral to the personal care assistance services;

438.2 communication by telephone and other media; and traveling, including to medical
438.3 appointments and to participate in the community. For purposes of this paragraph, traveling
438.4 includes driving and accompanying the recipient in the recipient's chosen mode of
438.5 transportation and according to the recipient's personal care assistance care plan.

438.6 (j) "Managing employee" has the same definition as Code of Federal Regulations, title
438.7 42, section 455.

438.8 (k) "Qualified professional" means a professional providing supervision of personal care
438.9 assistance services and staff as defined in section 256B.0625, subdivision 19c.

438.10 (l) "Personal care assistance provider agency" means a medical assistance enrolled
438.11 provider that provides or assists with providing personal care assistance services and includes
438.12 a personal care assistance provider organization, personal care assistance choice agency,
438.13 class A licensed nursing agency, and Medicare-certified home health agency.

438.14 (m) "Personal care assistant" or "PCA" means an individual employed by a personal
438.15 care assistance agency who provides personal care assistance services.

438.16 (n) "Personal care assistance care plan" means a written description of personal care
438.17 assistance services developed by the personal care assistance provider according to the
438.18 service plan.

438.19 (o) "Responsible party" means an individual who is capable of providing the support
438.20 necessary to assist the recipient to live in the community.

438.21 (p) "Self-administered medication" means medication taken orally, by injection, nebulizer,
438.22 or insertion, or applied topically without the need for assistance.

438.23 (q) "Service plan" means a written summary of the assessment and description of the
438.24 services needed by the recipient.

438.25 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes,
438.26 Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage
438.27 reimbursement, health and dental insurance, life insurance, disability insurance, long-term
438.28 care insurance, uniform allowance, and contributions to employee retirement accounts.

438.29 **EFFECTIVE DATE.** This section is effective within 90 days following federal approval.
438.30 The commissioner of human services shall notify the revisor of statutes when federal approval
438.31 is obtained.

439.1 Sec. 10. Minnesota Statutes 2020, section 256B.0659, subdivision 12, is amended to read:

439.2 Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal
439.3 care assistance services for a recipient must be documented daily by each personal care
439.4 assistant, on a time sheet form approved by the commissioner. All documentation may be
439.5 web-based, electronic, or paper documentation. The completed form must be submitted on
439.6 a monthly basis to the provider and kept in the recipient's health record.

8.7 communication by telephone and other media; and traveling, including to medical
8.8 appointments and to participate in the community. For purposes of this paragraph, traveling
8.9 includes driving and accompanying the recipient in the recipient's chosen mode of
8.10 transportation and according to the recipient's personal care assistance care plan.

8.11 (j) "Managing employee" has the same definition as Code of Federal Regulations, title
8.12 42, section 455.

8.13 (k) "Qualified professional" means a professional providing supervision of personal care
8.14 assistance services and staff as defined in section 256B.0625, subdivision 19c.

8.15 (l) "Personal care assistance provider agency" means a medical assistance enrolled
8.16 provider that provides or assists with providing personal care assistance services and includes
8.17 a personal care assistance provider organization, personal care assistance choice agency,
8.18 class A licensed nursing agency, and Medicare-certified home health agency.

8.19 (m) "Personal care assistant" or "PCA" means an individual employed by a personal
8.20 care assistance agency who provides personal care assistance services.

8.21 (n) "Personal care assistance care plan" means a written description of personal care
8.22 assistance services developed by the personal care assistance provider according to the
8.23 service plan.

8.24 (o) "Responsible party" means an individual who is capable of providing the support
8.25 necessary to assist the recipient to live in the community.

8.26 (p) "Self-administered medication" means medication taken orally, by injection, nebulizer,
8.27 or insertion, or applied topically without the need for assistance.

8.28 (q) "Service plan" means a written summary of the assessment and description of the
8.29 services needed by the recipient.

8.30 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes,
8.31 Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage
8.32 reimbursement, health and dental insurance, life insurance, disability insurance, long-term
8.33 care insurance, uniform allowance, and contributions to employee retirement accounts.

9.1 **EFFECTIVE DATE.** This section is effective within 90 days following federal approval.
9.2 The commissioner of human services shall notify the revisor of statutes when federal approval
9.3 is obtained.

9.4 Sec. 7. Minnesota Statutes 2020, section 256B.0659, subdivision 12, is amended to read:

9.5 Subd. 12. **Documentation of personal care assistance services provided.** (a) Personal
9.6 care assistance services for a recipient must be documented daily by each personal care
9.7 assistant, on a time sheet form approved by the commissioner. All documentation may be
9.8 web-based, electronic, or paper documentation. The completed form must be submitted on
9.9 a monthly basis to the provider and kept in the recipient's health record.

439.7 (b) The activity documentation must correspond to the personal care assistance care plan
439.8 and be reviewed by the qualified professional.

439.9 (c) The personal care assistant time sheet must be on a form approved by the
439.10 commissioner documenting time the personal care assistant provides services in the home.
439.11 The following criteria must be included in the time sheet:

439.12 (1) full name of personal care assistant and individual provider number;

439.13 (2) provider name and telephone numbers;

439.14 (3) full name of recipient and either the recipient's medical assistance identification
439.15 number or date of birth;

439.16 (4) consecutive dates, including month, day, and year, and arrival and departure times
439.17 with a.m. or p.m. notations;

439.18 (5) signatures of recipient or the responsible party;

439.19 (6) personal signature of the personal care assistant;

439.20 (7) any shared care provided, if applicable;

439.21 (8) a statement that it is a federal crime to provide false information on personal care
439.22 service billings for medical assistance payments; ~~and~~

439.23 (9) dates and location of recipient stays in a hospital, care facility, or incarceration; and

439.24 (10) any time spent traveling, as described in subdivision 1, paragraph (i), including
439.25 start and stop times with a.m. and p.m. designations, the origination site, and the destination
439.26 site.

439.27 **EFFECTIVE DATE.** This section is effective within 90 days following federal approval.
439.28 The commissioner of human services shall notify the revisor of statutes when federal approval
439.29 is obtained.

9.10 (b) The activity documentation must correspond to the personal care assistance care plan
9.11 and be reviewed by the qualified professional.

9.12 (c) The personal care assistant time sheet must be on a form approved by the
9.13 commissioner documenting time the personal care assistant provides services in the home.
9.14 The following criteria must be included in the time sheet:

9.15 (1) full name of personal care assistant and individual provider number;

9.16 (2) provider name and telephone numbers;

9.17 (3) full name of recipient and either the recipient's medical assistance identification
9.18 number or date of birth;

9.19 (4) consecutive dates, including month, day, and year, and arrival and departure times
9.20 with a.m. or p.m. notations;

9.21 (5) signatures of recipient or the responsible party;

9.22 (6) personal signature of the personal care assistant;

9.23 (7) any shared care provided, if applicable;

9.24 (8) a statement that it is a federal crime to provide false information on personal care
9.25 service billings for medical assistance payments; ~~and~~

9.26 (9) dates and location of recipient stays in a hospital, care facility, or incarceration; and

9.27 (10) any time spent traveling, as described in subdivision 1, paragraph (i), including
9.28 start and stop times with a.m. and p.m. designations, the origination site, and the destination
9.29 site.

10.1 **EFFECTIVE DATE.** This section is effective within 90 days following federal approval.
10.2 The commissioner of human services shall notify the revisor of statutes when federal approval
10.3 is obtained.

10.4 Sec. 8. Minnesota Statutes 2021 Supplement, section 256B.0659, subdivision 17a, is
10.5 amended to read:

10.6 Subd. 17a. **Enhanced rate.** An enhanced rate of ~~107.5~~ 143 percent of the rate paid for
10.7 personal care assistance services shall be paid for services provided to persons who qualify
10.8 for ten or more hours of personal care assistance services per day when provided by a
10.9 personal care assistant who meets the requirements of subdivision 11, paragraph (d). Any
10.10 change in the eligibility criteria for the enhanced rate for personal care assistance services
10.11 as described in this subdivision and referenced in subdivision 11, paragraph (d), does not
10.12 constitute a change in a term or condition for individual providers as defined in section
10.13 256B.0711, and is not subject to the state's obligation to meet and negotiate under chapter
10.14 179A.

440.1 Sec. 11. Minnesota Statutes 2020, section 256B.0659, subdivision 19, is amended to read:

440.2 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under

440.3 personal care assistance choice, the recipient or responsible party shall:

440.4 (1) recruit, hire, schedule, and terminate personal care assistants according to the terms

440.5 of the written agreement required under subdivision 20, paragraph (a);

440.6 (2) develop a personal care assistance care plan based on the assessed needs and

440.7 addressing the health and safety of the recipient with the assistance of a qualified professional

440.8 as needed;

440.9 (3) orient and train the personal care assistant with assistance as needed from the qualified

440.10 professional;

440.11 (4) ~~effective January 1, 2010~~, supervise and evaluate the personal care assistant with the

440.12 qualified professional, who is required to visit the recipient at least every 180 days;

440.13 (5) monitor and verify in writing and report to the personal care assistance choice agency

440.14 the number of hours worked by the personal care assistant and the qualified professional;

440.15 (6) engage in an annual face-to-face reassessment to determine continuing eligibility

440.16 and service authorization; ~~and~~

440.17 (7) use the same personal care assistance choice provider agency if shared personal

440.18 assistance care is being used; and

440.19 (8) ensure that a personal care assistant driving the recipient under subdivision 1,

440.20 paragraph (i), has a valid driver's license and the vehicle used is registered and insured

440.21 according to Minnesota law.

440.22 (b) The personal care assistance choice provider agency shall:

440.23 (1) meet all personal care assistance provider agency standards;

440.24 (2) enter into a written agreement with the recipient, responsible party, and personal

440.25 care assistants;

440.26 (3) not be related as a parent, child, sibling, or spouse to the recipient or the personal

440.27 care assistant; and

440.28 (4) ensure arm's-length transactions without undue influence or coercion with the recipient

440.29 and personal care assistant.

440.30 (c) The duties of the personal care assistance choice provider agency are to:

441.1 (1) be the employer of the personal care assistant and the qualified professional for

441.2 employment law and related regulations including, but not limited to, purchasing and

441.3 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,

441.4 and liability insurance, and submit any or all necessary documentation including, but not

10.15 Sec. 9. Minnesota Statutes 2020, section 256B.0659, subdivision 19, is amended to read:

10.16 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under

10.17 personal care assistance choice, the recipient or responsible party shall:

10.18 (1) recruit, hire, schedule, and terminate personal care assistants according to the terms

10.19 of the written agreement required under subdivision 20, paragraph (a);

10.20 (2) develop a personal care assistance care plan based on the assessed needs and

10.21 addressing the health and safety of the recipient with the assistance of a qualified professional

10.22 as needed;

10.23 (3) orient and train the personal care assistant with assistance as needed from the qualified

10.24 professional;

10.25 (4) ~~effective January 1, 2010~~, supervise and evaluate the personal care assistant with the

10.26 qualified professional, who is required to visit the recipient at least every 180 days;

10.27 (5) monitor and verify in writing and report to the personal care assistance choice agency

10.28 the number of hours worked by the personal care assistant and the qualified professional;

10.29 (6) engage in an annual face-to-face reassessment to determine continuing eligibility

10.30 and service authorization; ~~and~~

11.1 (7) use the same personal care assistance choice provider agency if shared personal

11.2 assistance care is being used; and

11.3 (8) ensure that a personal care assistant driving the recipient under subdivision 1,

11.4 paragraph (i), has a valid driver's license and the vehicle used is registered and insured

11.5 according to Minnesota law.

11.6 (b) The personal care assistance choice provider agency shall:

11.7 (1) meet all personal care assistance provider agency standards;

11.8 (2) enter into a written agreement with the recipient, responsible party, and personal

11.9 care assistants;

11.10 (3) not be related as a parent, child, sibling, or spouse to the recipient or the personal

11.11 care assistant; and

11.12 (4) ensure arm's-length transactions without undue influence or coercion with the recipient

11.13 and personal care assistant.

11.14 (c) The duties of the personal care assistance choice provider agency are to:

11.15 (1) be the employer of the personal care assistant and the qualified professional for

11.16 employment law and related regulations including, but not limited to, purchasing and

11.17 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,

11.18 and liability insurance, and submit any or all necessary documentation including, but not

441.5 limited to, workers' compensation, unemployment insurance, and labor market data required
441.6 under section 256B.4912, subdivision 1a;

441.7 (2) bill the medical assistance program for personal care assistance services and qualified
441.8 professional services;

441.9 (3) request and complete background studies that comply with the requirements for
441.10 personal care assistants and qualified professionals;

441.11 (4) pay the personal care assistant and qualified professional based on actual hours of
441.12 services provided;

441.13 (5) withhold and pay all applicable federal and state taxes;

441.14 (6) verify and keep records of hours worked by the personal care assistant and qualified
441.15 professional;

441.16 (7) make the arrangements and pay taxes and other benefits, if any, and comply with
441.17 any legal requirements for a Minnesota employer;

441.18 (8) enroll in the medical assistance program as a personal care assistance choice agency;
441.19 and

441.20 (9) enter into a written agreement as specified in subdivision 20 before services are
441.21 provided.

441.22 EFFECTIVE DATE. This section is effective within 90 days following federal approval.
441.23 The commissioner of human services shall notify the revisor of statutes when federal approval
441.24 is obtained.

441.25 Sec. 12. Minnesota Statutes 2020, section 256B.0659, subdivision 24, is amended to read:

441.26 Subd. 24. **Personal care assistance provider agency; general duties.** A personal care
441.27 assistance provider agency shall:

441.28 (1) enroll as a Medicaid provider meeting all provider standards, including completion
441.29 of the required provider training;

441.30 (2) comply with general medical assistance coverage requirements;

442.1 (3) demonstrate compliance with law and policies of the personal care assistance program
442.2 to be determined by the commissioner;

442.3 (4) comply with background study requirements;

442.4 (5) verify and keep records of hours worked by the personal care assistant and qualified
442.5 professional;

442.6 (6) not engage in any agency-initiated direct contact or marketing in person, by phone,
442.7 or other electronic means to potential recipients, guardians, or family members;

11.19 limited to, workers' compensation, unemployment insurance, and labor market data required
11.20 under section 256B.4912, subdivision 1a;

11.21 (2) bill the medical assistance program for personal care assistance services and qualified
11.22 professional services;

11.23 (3) request and complete background studies that comply with the requirements for
11.24 personal care assistants and qualified professionals;

11.25 (4) pay the personal care assistant and qualified professional based on actual hours of
11.26 services provided;

11.27 (5) withhold and pay all applicable federal and state taxes;

11.28 (6) verify and keep records of hours worked by the personal care assistant and qualified
11.29 professional;

11.30 (7) make the arrangements and pay taxes and other benefits, if any, and comply with
11.31 any legal requirements for a Minnesota employer;

12.1 (8) enroll in the medical assistance program as a personal care assistance choice agency;
12.2 and

12.3 (9) enter into a written agreement as specified in subdivision 20 before services are
12.4 provided.

12.5 EFFECTIVE DATE. This section is effective within 90 days following federal approval.
12.6 The commissioner of human services shall notify the revisor of statutes when federal approval
12.7 is obtained.

12.8 Sec. 10. Minnesota Statutes 2020, section 256B.0659, subdivision 24, is amended to read:

12.9 Subd. 24. **Personal care assistance provider agency; general duties.** A personal care
12.10 assistance provider agency shall:

12.11 (1) enroll as a Medicaid provider meeting all provider standards, including completion
12.12 of the required provider training;

12.13 (2) comply with general medical assistance coverage requirements;

12.14 (3) demonstrate compliance with law and policies of the personal care assistance program
12.15 to be determined by the commissioner;

12.16 (4) comply with background study requirements;

12.17 (5) verify and keep records of hours worked by the personal care assistant and qualified
12.18 professional;

12.19 (6) not engage in any agency-initiated direct contact or marketing in person, by phone,
12.20 or other electronic means to potential recipients, guardians, or family members;

442.8 (7) pay the personal care assistant and qualified professional based on actual hours of
442.9 services provided;

442.10 (8) withhold and pay all applicable federal and state taxes;

442.11 (9) document that the agency uses a minimum of 72.5 percent of the revenue generated
442.12 by the medical assistance rate for personal care assistance services for employee personal
442.13 care assistant wages and benefits. The revenue generated by the qualified professional and
442.14 the reasonable costs associated with the qualified professional shall not be used in making
442.15 this calculation;

442.16 (10) make the arrangements and pay unemployment insurance, taxes, workers'
442.17 compensation, liability insurance, and other benefits, if any;

442.18 (11) enter into a written agreement under subdivision 20 before services are provided;

442.19 (12) report suspected neglect and abuse to the common entry point according to section
442.20 256B.0651;

442.21 (13) provide the recipient with a copy of the home care bill of rights at start of service;

442.22 (14) request reassessments at least 60 days prior to the end of the current authorization
442.23 for personal care assistance services, on forms provided by the commissioner;

442.24 (15) comply with the labor market reporting requirements described in section 256B.4912,
442.25 subdivision 1a; ~~and~~

442.26 (16) document that the agency uses the additional revenue due to the enhanced rate under
442.27 subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements
442.28 under subdivision 11, paragraph (d); ~~and~~

442.29 (17) ensure that a personal care assistant driving a recipient under subdivision 1,
442.30 paragraph (i), has a valid driver's license and the vehicle used is registered and insured
442.31 according to Minnesota law.

443.1 **EFFECTIVE DATE.** This section is effective within 90 days following federal approval.
443.2 The commissioner of human services shall notify the revisor of statutes when federal approval
443.3 is obtained.

12.21 (7) pay the personal care assistant and qualified professional based on actual hours of
12.22 services provided;

12.23 (8) withhold and pay all applicable federal and state taxes;

12.24 (9) document that the agency uses a minimum of 72.5 percent of the revenue generated
12.25 by the medical assistance rate for personal care assistance services for employee personal
12.26 care assistant wages and benefits. The revenue generated by the qualified professional and
12.27 the reasonable costs associated with the qualified professional shall not be used in making
12.28 this calculation;

12.29 (10) make the arrangements and pay unemployment insurance, taxes, workers'
12.30 compensation, liability insurance, and other benefits, if any;

12.31 (11) enter into a written agreement under subdivision 20 before services are provided;

13.1 (12) report suspected neglect and abuse to the common entry point according to section
13.2 256B.0651;

13.3 (13) provide the recipient with a copy of the home care bill of rights at start of service;

13.4 (14) request reassessments at least 60 days prior to the end of the current authorization
13.5 for personal care assistance services, on forms provided by the commissioner;

13.6 (15) comply with the labor market reporting requirements described in section 256B.4912,
13.7 subdivision 1a; ~~and~~

13.8 (16) document that the agency uses the additional revenue due to the enhanced rate under
13.9 subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements
13.10 under subdivision 11, paragraph (d); ~~and~~

13.11 (17) ensure that a personal care assistant driving a recipient under subdivision 1,
13.12 paragraph (i), has a valid driver's license and the vehicle used is registered and insured
13.13 according to Minnesota law.

13.14 **EFFECTIVE DATE.** This section is effective within 90 days following federal approval.
13.15 The commissioner of human services shall notify the revisor of statutes when federal approval
13.16 is obtained.

13.17 Sec. 11. **[256B.0909] LONG-TERM CARE DECISION REVIEWS.**

13.18 Subdivision 1. **Notice of intent to deny, reduce, suspend, or terminate required. At**
13.19 least ten calendar days prior to issuing a written notice of action, a lead agency must provide
13.20 in a format accessible to the person or the person's legal representative, if any, a notice of
13.21 the lead agency's intent to deny, reduce, suspend, or terminate the person's access to or
13.22 eligibility for:

- 13.23 (1) home and community-based waivers, including level of care determinations, under
 13.24 sections 256B.092 and 256B.49;
- 13.25 (2) specific home and community-based services available under sections 256B.092 and
 13.26 256B.49;
- 13.27 (3) consumer-directed community supports;
- 13.28 (4) the following state plan services:
- 13.29 (i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;
- 13.30 (ii) consumer support grants under section 256.476; or
- 13.31 (iii) community first services and supports under section 256B.85;
- 14.1 (5) semi-independent living services under section 252.275;
- 14.2 (6) relocation targeted case management services available under section 256B.0621,
 14.3 subdivision 2, clause (4);
- 14.4 (7) case management services targeted to vulnerable adults or people with developmental
 14.5 disabilities under section 256B.0924;
- 14.6 (8) case management services targeted to people with developmental disabilities under
 14.7 Minnesota Rules, part 9525.0016; and
- 14.8 (9) necessary diagnostic information to gain access to or determine eligibility under
 14.9 clauses (5) to (8).
- 14.10 Subd. 2. **Opportunity to respond required.** A lead agency must provide the person,
 14.11 or the person's legal representative, if any, the opportunity to respond to the agency's intent
 14.12 to deny, reduce, suspend, or terminate eligibility or access to the services described in
 14.13 subdivision 1. A lead agency must provide the person or the person's legal representative,
 14.14 if any, ten days to respond. If the person or the person's legal representative, if any, responds,
 14.15 the agency must initiate a decision review.
- 14.16 Subd. 3. **Decision review.** (a) A lead agency must initiate a decision review for any
 14.17 person who responds under subdivision 2.
- 14.18 (b) The lead agency must conduct the decision review in a manner that allows an
 14.19 opportunity for interactive communication between the person and a representative of the
 14.20 lead agency who has specific knowledge of the proposed decision and the basis for the
 14.21 decision. The interactive communication must be in a format that is accessible to the recipient,
 14.22 and may include a phone call, written exchange, in-person meeting, or other format as
 14.23 chosen by the person or the person's legal representative, if any.
- 14.24 (c) During the decision review, the representative of the lead agency must provide a
 14.25 thorough explanation of the lead agency's intent to deny, reduce, suspend, or terminate
 14.26 eligibility or access to the services described in subdivision 1 and provide the person or the

443.4 Sec. 13. Minnesota Statutes 2020, section 256B.092, is amended by adding a subdivision
 443.5 to read:

443.6 Subd. 15. **Community residential setting notice of closure; planning process.** (a) The
 443.7 lead agency shall, within five working days of receiving initial notice of a community
 443.8 residential setting's intent to terminate services of a person due to closure pursuant to section
 443.9 245A.04, subdivision 15b, provide the license holder and the expanded support team with
 443.10 the contact information of those persons responsible for coordinating county and state social
 443.11 services agency efforts in the planning process.

443.12 (b) Within ten working days of receipt of the notice of closure and proposed closure
 443.13 plan, the county social services agency and license holder shall meet to develop a
 443.14 person-centered relocation plan with each individual impacted by the closure. The license
 443.15 holder shall inform the commissioner, the Office of Ombudsman for Mental Health and
 443.16 Developmental Disabilities, and the Office of Ombudsman for Long-Term Care of the date,
 443.17 time, and location of the meeting so that their representatives may attend.

14.27 person's legal representative, if any, an opportunity to ask questions about the decision. If
 14.28 the lead agency's explanation of the decision is based on a misunderstanding of the person's
 14.29 circumstances, incomplete information, missing documentation, or similar missing or
 14.30 inaccurate information, the lead agency must provide the person or the person's legal
 14.31 representative, if any, an opportunity to provide clarifying or additional information.

14.32 (d) A person with a representative is not required to participate in the decision review.
 14.33 A person may also have someone of the person's choosing participate in the decision review.

15.1 Subd. 4. **Continuation of services.** During the decision review and until the lead agency
 15.2 issues a written notice of action to deny, reduce, suspend, or terminate the eligibility or
 15.3 access, the person must continue to receive covered services.

15.4 Subd. 5. **Notice of action.** Following a decision review, a lead agency may issue a notice
 15.5 of action to deny, reduce, suspend, or terminate the eligibility or access after considering
 15.6 the discussions and information provided during the decision review.

15.7 Subd. 6. **Appeal rights.** Nothing in this section affects a person's appeal rights under
 15.8 section 245.045.

15.9 Sec. 12. Minnesota Statutes 2020, section 256B.49, subdivision 13, is amended to read:

15.10 Subd. 13. **Case management.** (a) Each recipient of a home and community-based waiver
 15.11 shall be provided case management services by qualified vendors as described in the federally
 15.12 approved waiver application. The case management service activities provided must include:

15.13 (1) finalizing the person-centered written coordinated service and support plan within
 15.14 the timelines established by the commissioner and section 256B.0911, subdivision 3a,
 15.15 paragraph (e). Prior to finalizing the portion of the written coordinated service and support

- 15.16 plan that identifies the amount and frequency of customized living component services to
 15.17 be provided to the person, if any, the case manager must consider the recommendations of
 15.18 the provider or proposed provider;
- 15.19 (2) informing the recipient or the recipient's legal guardian or conservator of service
 15.20 options, including all service options available under the waiver plans;
- 15.21 (3) assisting the recipient in the identification of potential service providers of chosen
 15.22 services, including:
- 15.23 (i) available options for case management service and providers;
- 15.24 (ii) providers of services provided in a non-disability-specific setting;
- 15.25 (iii) employment service providers;
- 15.26 (iv) providers of services provided in settings that are not community residential settings;
 15.27 and
- 15.28 (v) providers of financial management services;
- 15.29 (4) assisting the recipient to access services and assisting with appeals under section
 15.30 256.045; and
- 16.1 (5) coordinating, evaluating, and monitoring of the services identified in the service
 16.2 plan.
- 16.3 (b) The case manager may delegate certain aspects of the case management service
 16.4 activities to another individual provided there is oversight by the case manager. The case
 16.5 manager may not delegate those aspects which require professional judgment including:
- 16.6 (1) finalizing the person-centered coordinated service and support plan;
- 16.7 (2) ongoing assessment and monitoring of the person's needs and adequacy of the
 16.8 approved person-centered coordinated service and support plan; and
- 16.9 (3) adjustments to the person-centered coordinated service and support plan.
- 16.10 (c) Case management services must be provided by a public or private agency that is
 16.11 enrolled as a medical assistance provider determined by the commissioner to meet all of
 16.12 the requirements in the approved federal waiver plans. Case management services must not
 16.13 be provided to a recipient by a private agency that has any financial interest in the provision
 16.14 of any other services included in the recipient's coordinated service and support plan. For
 16.15 purposes of this section, "private agency" means any agency that is not identified as a lead
 16.16 agency under section 256B.0911, subdivision 1a, paragraph (e).
- 16.17 (d) For persons who need a positive support transition plan as required in chapter 245D,
 16.18 the case manager shall participate in the development and ongoing evaluation of the plan
 16.19 with the expanded support team. At least quarterly, the case manager, in consultation with
 16.20 the expanded support team, shall evaluate the effectiveness of the plan based on progress

- 16.21 evaluation data submitted by the licensed provider to the case manager. The evaluation must
 16.22 identify whether the plan has been developed and implemented in a manner to achieve the
 16.23 following within the required timelines:
- 16.24 (1) phasing out the use of prohibited procedures;
- 16.25 (2) acquisition of skills needed to eliminate the prohibited procedures within the plan's
 16.26 timeline; and
- 16.27 (3) accomplishment of identified outcomes.
- 16.28 If adequate progress is not being made, the case manager shall consult with the person's
 16.29 expanded support team to identify needed modifications and whether additional professional
 16.30 support is required to provide consultation.
- 16.31 (e) The Department of Human Services shall offer ongoing education in case management
 16.32 to case managers. Case managers shall receive no less than ten hours of case management
 17.1 education and disability-related training each year. The education and training must include
 17.2 person-centered planning and the commissioner's standards and documentation requirements
 17.3 for determining the amount and frequency of customized living component services to be
 17.4 provided to a person. For the purposes of this section, "person-centered planning" or
 17.5 "person-centered" has the meaning given in section 256B.0911, subdivision 1a, paragraph
 17.6 (f).
- 17.7 Sec. 13. Minnesota Statutes 2020, section 256B.49, subdivision 15, is amended to read:
- 17.8 Subd. 15. **Coordinated service and support plan; comprehensive transitional service**
 17.9 **plan; maintenance service plan.** (a) Each recipient of home and community-based waived
 17.10 services shall be provided a copy of the written coordinated service and support plan which
 17.11 meets the requirements in section 256B.092, subdivision 1b. If the written coordinated
 17.12 service and support plan departs from the recommendations of the provider or proposed
 17.13 provider regarding the amount and frequency of customized living component services to
 17.14 be provided to the person, the case manager must include in the written coordinated service
 17.15 and support plan a written policy or clinical justification for the departure from the
 17.16 recommendations. If a person believes that the amount and frequency of customized living
 17.17 component services identified in the written coordinated service and support plan are not
 17.18 based on the person's assessed needs, preferences, and available resources, the person may
 17.19 appeal under section 256.045, subdivision 3, paragraph (a), clause (6), the amount and
 17.20 frequency of customized living component services to be provided to the person.
- 17.21 (b) In developing the comprehensive transitional service plan, the individual receiving
 17.22 services, the case manager, and the guardian, if applicable, will identify the transitional
 17.23 service plan fundamental service outcome and anticipated timeline to achieve this outcome.
 17.24 Within the first 20 days following a recipient's request for an assessment or reassessment,
 17.25 the transitional service planning team must be identified. A team leader must be identified
 17.26 who will be responsible for assigning responsibility and communicating with team members
 17.27 to ensure implementation of the transition plan and ongoing assessment and communication

17.28 process. The team leader should be an individual, such as the case manager or guardian,
17.29 who has the opportunity to follow the recipient to the next level of service.

17.30 Within ten days following an assessment, a comprehensive transitional service plan must
17.31 be developed incorporating elements of a comprehensive functional assessment and including
17.32 short-term measurable outcomes and timelines for achievement of and reporting on these
17.33 outcomes. Functional milestones must also be identified and reported according to the
17.34 timelines agreed upon by the transitional service planning team. In addition, the
18.1 comprehensive transitional service plan must identify additional supports that may assist
18.2 in the achievement of the fundamental service outcome such as the development of greater
18.3 natural community support, increased collaboration among agencies, and technological
18.4 supports.

18.5 The timelines for reporting on functional milestones will prompt a reassessment of
18.6 services provided, the units of services, rates, and appropriate service providers. It is the
18.7 responsibility of the transitional service planning team leader to review functional milestone
18.8 reporting to determine if the milestones are consistent with observable skills and that
18.9 milestone achievement prompts any needed changes to the comprehensive transitional
18.10 service plan.

18.11 For those whose fundamental transitional service outcome involves the need to procure
18.12 housing, a plan for the recipient to seek the resources necessary to secure the least restrictive
18.13 housing possible should be incorporated into the plan, including employment and public
18.14 supports such as housing access and shelter needy funding.

18.15 (c) Counties and other agencies responsible for funding community placement and
18.16 ongoing community supportive services are responsible for the implementation of the
18.17 comprehensive transitional service plans. Oversight responsibilities include both ensuring
18.18 effective transitional service delivery and efficient utilization of funding resources.

18.19 (d) Following one year of transitional services, the transitional services planning team
18.20 will make a determination as to whether or not the individual receiving services requires
18.21 the current level of continuous and consistent support in order to maintain the recipient's
18.22 current level of functioning. Recipients who are determined to have not had a significant
18.23 change in functioning for 12 months must move from a transitional to a maintenance service
18.24 plan. Recipients on a maintenance service plan must be reassessed to determine if the
18.25 recipient would benefit from a transitional service plan at least every 12 months and at other
18.26 times when there has been a significant change in the recipient's functioning. This assessment
18.27 should consider any changes to technological or natural community supports.

18.28 (e) When a county is evaluating denials, reductions, or terminations of home and
18.29 community-based services under this section for an individual, the case manager shall offer
18.30 to meet with the individual or the individual's guardian in order to discuss the prioritization
18.31 of service needs within the coordinated service and support plan, comprehensive transitional
18.32 service plan, or maintenance service plan. The reduction in the authorized services for an
18.33 individual due to changes in funding for waived services may not exceed the amount

443.18 Sec. 14. Minnesota Statutes 2020, section 256B.49, is amended by adding a subdivision
 443.19 to read:

443.20 Subd. 30. **Community residential setting notice of closure; planning process.** (a) The
 443.21 lead agency shall, within five working days of receiving initial notice of a community
 443.22 residential setting's intent to terminate services of a person due to closure pursuant to section
 443.23 245A.04, subdivision 15b, provide the license holder and the expanded support team with
 443.24 the contact information of those persons responsible for coordinating county and state social
 443.25 services agency efforts in the planning process.

443.26 (b) Within ten working days of receipt of the notice of closure and proposed closure
 443.27 plan, the county social services agency and license holder shall meet to develop a
 443.28 person-centered relocation plan with each individual impacted by the closure. The license
 443.29 holder shall inform the commissioner, the Office of Ombudsman for Mental Health and
 443.30 Developmental Disabilities, and the Office of Ombudsman for Long-Term Care of the date,
 443.31 time, and location of the meeting so that their representatives may attend.

19.1 needed to ensure medically necessary services to meet the individual's health, safety, and
 19.2 welfare.

19.3 Sec. 14. **[256B.4909] HOME AND COMMUNITY-BASED SERVICES;**
 19.4 **HOMEMAKER RATES.**

19.5 Subdivision 1. **Application.** (a) Notwithstanding any law to the contrary, the payment
 19.6 methodologies for homemaker services defined in this section apply to those homemaker
 19.7 services offered under:

19.8 (1) home and community-based services waivers under sections 256B.092 and 256B.49;

19.9 (2) alternative care under section 256B.0913;

19.10 (3) essential community supports under section 256B.0922; and

19.11 (4) elderly waiver, elderly waiver customized living, and elderly waiver foster care under
 19.12 chapter 256S.

19.13 (b) This section does not change existing waiver policies and procedures.

19.14 Subd. 2. **Definition.** For purposes of this section, "homemaker services" means
 19.15 homemaker services and assistance with personal care, homemaker services and cleaning,
 19.16 and homemaker services and home management under chapter 256S and similar services
 19.17 offered under home and community-based services waivers under sections 256B.092 and
 19.18 256B.49, alternative care under section 256B.0913, and essential community supports under
 19.19 section 256B.0922.

19.20 Subd. 3. **Rate methodology.** (a) Beginning January 1, 2023, the rate methodology for
 19.21 each homemaker service must be determined under sections 256S.211, subdivision 1, and
 19.22 256S.212 to 256S.215, as adjusted by paragraph (b).

19.23 (b) As applicable to this section, on November 1, 2024, based on the most recently
 19.24 available wage data by standard occupational classification (SOC) from the Bureau of Labor
 19.25 Statistics, the commissioner shall update for each homemaker service the base wage index
 19.26 in section 256S.212, publish these updated values, and load them into the appropriate rate
 19.27 system.

19.28 Subd. 4. **Spending requirements.** (a) At least 80 percent of the marginal increase in
 19.29 revenue for homemaker services resulting from the implementation of the new rate
 19.30 methodology under this section, including any subsequent rate adjustments, for services
 19.31 rendered on or after the day of implementation of the new rate methodology or applicable
 20.1 rate adjustment must be used to increase compensation-related costs for employees directly
 20.2 employed by the program.

20.3 (b) For the purposes of this subdivision, compensation-related costs include:

20.4 (1) wages and salaries;

20.5 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
 20.6 taxes, workers' compensation, and mileage reimbursement;

20.7 (3) the employer's paid share of health and dental insurance, life insurance, disability
 20.8 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
 20.9 employee retirement accounts; and

20.10 (4) benefits that address direct support professional workforce needs above and beyond
 20.11 what employees were offered prior to implementation of the new rate methodology or
 20.12 applicable rate adjustment.

20.13 (c) Compensation-related costs for persons employed in the central office of a corporation
 20.14 or entity that has an ownership interest in the provider or exercises control over the provider,
 20.15 or for persons paid by the provider under a management contract, do not count toward the
 20.16 80 percent requirement under this subdivision.

20.17 (d) A provider agency or individual provider that receives additional revenue subject to
 20.18 the requirements of this subdivision shall prepare, and upon request submit to the
 20.19 commissioner, a distribution plan that specifies the amount of money the provider expects
 20.20 to receive that is subject to the requirements of this subdivision, including how that money
 20.21 was or will be distributed to increase compensation-related costs for employees. Within 60
 20.22 days of final implementation of the new rate methodology or any rate adjustment subject
 20.23 to the requirements of this subdivision, the provider must post the distribution plan and
 20.24 leave it posted for a period of at least six months in an area of the provider's operation to
 20.25 which all direct support professionals have access. The posted distribution plan must include

- 20.26 instructions regarding how to contact the commissioner, or the commissioner's representative,
 20.27 if an employee has not received the compensation-related increase described in the plan.
- 20.28 Sec. 15. Minnesota Statutes 2020, section 256B.4911, subdivision 3, is amended to read:
- 20.29 Subd. 3. **Expansion and increase of budget exceptions.** (a) The commissioner of human
 20.30 services must provide up to 30 percent more funds for either:
- 20.31 (1) consumer-directed community supports participants under sections 256B.092 and
 20.32 256B.49 who have a coordinated service and support plan which identifies the need for
 21.1 more services or supports under consumer-directed community supports than the amount
 21.2 the participants are currently receiving under the consumer-directed community supports
 21.3 budget methodology to:
- 21.4 (i) increase the amount of time a person works or otherwise improves employment
 21.5 opportunities;
- 21.6 (ii) plan a transition to, move to, or live in a setting described in section 256D.44,
 21.7 subdivision 5, paragraph (g), clause (1), item (iii); or
- 21.8 (iii) develop and implement a positive behavior support plan; or
- 21.9 (2) home and community-based waiver participants under sections 256B.092 and 256B.49
 21.10 who are currently using licensed providers for: (i) employment supports or services during
 21.11 the day; or (ii) residential services, either of which cost more annually than the person would
 21.12 spend under a consumer-directed community supports plan for any or all of the supports
 21.13 needed to meet a goal identified in clause (1), item (i), (ii), or (iii). For people moving from
 21.14 a community residential setting to their own home, this exception is no longer available
 21.15 after June 30, 2023, or upon implementation of subdivision 4, paragraph (d), whichever is
 21.16 later.
- 21.17 (b) The exception under paragraph (a), clause (1), is limited to persons who can
 21.18 demonstrate that they will have to discontinue using consumer-directed community supports
 21.19 and accept other non-self-directed waiver services because their supports needed for a goal
 21.20 described in paragraph (a), clause (1), item (i), (ii), or (iii), cannot be met within the
 21.21 consumer-directed community supports budget limits.
- 21.22 (c) The exception under paragraph (a), clause (2), is limited to persons who can
 21.23 demonstrate that, upon choosing to become a consumer-directed community supports
 21.24 participant, the total cost of services, including the exception, will be less than the cost of
 21.25 current waiver services.
- 21.26 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 21.27 whichever is later. The commissioner of human services shall notify the revisor of statutes
 21.28 when federal approval is obtained.

21.29 Sec. 16. Minnesota Statutes 2020, section 256B.4911, subdivision 4, is amended to read:

21.30 Subd. 4. **Budget exception for persons leaving institutions and crisis residential**

21.31 **settings.** (a) The commissioner must establish an institutional and crisis bed

21.32 consumer-directed community supports budget exception process in the home and

22.1 community-based services waivers under sections 256B.092 and 256B.49. This budget

22.2 exception process must be available for any individual who:

22.3 (1) is not offered available and appropriate services within 60 days since approval for

22.4 discharge from the individual's current institutional setting; and

22.5 (2) requires services that are more expensive than appropriate services provided in a

22.6 noninstitutional setting using the consumer-directed community supports option.

22.7 (b) Institutional settings for purposes of this exception paragraph (a) include intermediate

22.8 care facilities for persons with developmental disabilities, nursing facilities, acute care

22.9 hospitals, Anoka Metro Regional Treatment Center, Minnesota Security Hospital, and crisis

22.10 beds.

22.11 (c) The budget exception under paragraph (a) must be renewed each year as necessary

22.12 and consistent with the individual's needs and must be limited to no more than the amount

22.13 of appropriate services provided in a noninstitutional setting as determined by the lead

22.14 agency managing the individual's home and community-based services waiver. The lead

22.15 agency must notify the ~~Department of Human Services~~ commissioner of the budget exception.

22.16 (d) Consistent with informed choice and informed decision making, the commissioner

22.17 must establish in the home and community-based services waivers under sections 256B.092

22.18 and 256B.49, a consumer-directed community supports budget exception process for

22.19 individuals living in licensed community residential settings whose cost of residential

22.20 services may otherwise exceed their available consumer-directed community supports

22.21 budget. The budget exception process must be available to individuals living in licensed

22.22 community residential settings who are moving to their own home. This exception is available

22.23 to people who move from a community residential setting on or after July 1, 2023.

22.24 (e) The budget exceptions under paragraph (d) must be renewed each year as necessary

22.25 and consistent with the individual's needs and must be limited to no more than the cost of

22.26 the community residential services previously authorized for the individual. The lead agency

22.27 must notify the commissioner of the budget exception.

22.28 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,

22.29 whichever is later. The commissioner of human services shall notify the revisor of statutes

22.30 when federal approval is obtained.

23.1 Sec. 17. Minnesota Statutes 2020, section 256B.4911, is amended by adding a subdivision

23.2 to read:

23.3 Subd. 6. **Services provided by parents and spouses.** (a) Upon federal approval, this

23.4 subdivision limits medical assistance payments under the consumer-directed community

444.1 Sec. 15. Minnesota Statutes 2020, section 256B.4911, is amended by adding a subdivision
444.2 to read:

444.3 Subd. 6. **Services provided by parents and spouses.** (a) Upon federal approval, this

444.4 subdivision limits medical assistance payments under the consumer-directed community

444.5 supports option for personal assistance services provided by a parent to the parent's minor
444.6 child or by a spouse. This subdivision applies to the consumer-directed community supports
444.7 option available under all of the following:

444.8 (1) alternative care program;
444.9 (2) brain injury waiver;
444.10 (3) community alternative care waiver;
444.11 (4) community access for disability inclusion waiver;
444.12 (5) developmental disabilities waiver;
444.13 (6) elderly waiver; and
444.14 (7) Minnesota senior health option.

444.15 (b) For the purposes of this subdivision, "parent" means a parent, stepparent, or legal
444.16 guardian of a minor.

444.17 (c) If multiple parents are providing personal assistance services to their minor child or
444.18 children, each parent may provide up to 40 hours of personal assistance services in any
444.19 seven-day period regardless of the number of children served. The total number of hours
444.20 of personal assistance services provided by all of the parents must not exceed 80 hours in
444.21 a seven-day period regardless of the number of children served.

444.22 (d) If only one parent is providing personal assistance services to a minor child or
444.23 children, the parent may provide up to 60 hours of personal assistance services in a seven-day
444.24 period regardless of the number of children served.

444.25 (e) If a spouse is providing personal assistance services, the spouse may provide up to
444.26 60 hours of personal assistance services in a seven-day period.

444.27 (f) This subdivision must not be construed to permit an increase in the total authorized
444.28 consumer-directed community supports budget for an individual.

444.29 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
444.30 whichever is later. The commissioner of human services shall notify the revisor of statutes
444.31 when federal approval is obtained.

23.5 supports option for personal assistance services provided by a parent to the parent's minor
23.6 child or by a spouse. This subdivision applies to the consumer-directed community supports
23.7 option available under all of the following:

23.8 (1) alternative care program;
23.9 (2) brain injury waiver;
23.10 (3) community alternative care waiver;
23.11 (4) community access for disability inclusion waiver;
23.12 (5) developmental disabilities waiver;
23.13 (6) elderly waiver; and
23.14 (7) Minnesota senior health option.

23.15 (b) For the purposes of this subdivision, "parent" means a parent, stepparent, or legal
23.16 guardian of a minor.

23.17 (c) If multiple parents are providing personal assistance services to their minor child or
23.18 children, each parent may provide up to 40 hours of personal assistance services in any
23.19 seven-day period regardless of the number of children served. The total number of hours
23.20 of personal assistance services provided by all of the parents must not exceed 80 hours in
23.21 a seven-day period regardless of the number of children served.

23.22 (d) If only one parent is providing personal assistance services to a minor child or
23.23 children, the parent may provide up to 60 hours of personal assistance services in a seven-day
23.24 period regardless of the number of children served.

23.25 (e) If a spouse is providing personal assistance services, the spouse may provide up to
23.26 60 hours of personal assistance services in a seven-day period.

23.27 (f) This subdivision must not be construed to permit an increase in the total authorized
23.28 consumer-directed community supports budget for an individual.

23.29 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
23.30 whichever is later. The commissioner of human services shall notify the revisor of statutes
23.31 when federal approval is obtained.

24.1 Sec. 18. Minnesota Statutes 2020, section 256B.4914, subdivision 3, as amended by Laws
24.2 2022, chapter 33, section 1, is amended to read:

24.3 Subd. 3. **Applicable services.** Applicable services are those authorized under the state's
24.4 home and community-based services waivers under sections 256B.092 and 256B.49,
24.5 including the following, as defined in the federally approved home and community-based
24.6 services plan:

24.7 (1) 24-hour customized living;

- 24.8 (2) adult day services;
- 24.9 (3) adult day services bath;
- 24.10 (4) community residential services;
- 24.11 (5) customized living;
- 24.12 (6) day support services;
- 24.13 (7) employment development services;
- 24.14 (8) employment exploration services;
- 24.15 (9) employment support services;
- 24.16 (10) family residential services;
- 24.17 (11) individualized home supports;
- 24.18 (12) individualized home supports with family training;
- 24.19 (13) individualized home supports with training;
- 24.20 (14) integrated community supports;
- 24.21 (15) night supervision;
- 24.22 (16) positive support services;
- 24.23 (17) prevocational services;
- 24.24 (18) residential support services;
- 24.25 (19) respite services;
- 24.26 ~~(20)~~ transportation services; and
- 24.27 ~~(21)~~ (20) other services as approved by the federal government in the state home and
- 24.28 community-based services waiver plan.
- 25.1 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
- 25.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
- 25.3 when federal approval is obtained.
- 25.4 Sec. 19. Minnesota Statutes 2020, section 256B.4914, subdivision 4, as amended by Laws
- 25.5 2022, chapter 33, section 1, is amended to read:
- 25.6 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and
- 25.7 community-based waived services, including customized rates under subdivision 12, are
- 25.8 set by the rates management system.

25.9 (b) Data and information in the rates management system must be used to calculate an
25.10 individual's rate.

25.11 (c) Service providers, with information from the coordinated service and support plan
25.12 and oversight by lead agencies, shall provide values and information needed to calculate
25.13 an individual's rate in the rates management system. The determination of service levels
25.14 must be part of a discussion with members of the support team as defined in section 245D.02,
25.15 subdivision 34. This discussion must occur prior to the final establishment of each individual's
25.16 rate. The values and information include:

25.17 (1) shared staffing hours;

25.18 (2) individual staffing hours;

25.19 (3) direct registered nurse hours;

25.20 (4) direct licensed practical nurse hours;

25.21 (5) staffing ratios;

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

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

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

25.27 (9) service hours provided through monitoring technology.

25.28 (d) Updates to individual data must include:

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

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

26.3 (e) Lead agencies shall review and approve all services reflecting each individual's needs,
26.4 and the values to calculate the final payment rate for services with variables under
26.5 subdivisions 6 to ~~9a~~ 9 for each individual. Lead agencies must notify the individual and the
26.6 service provider of the final agreed-upon values and rate, and provide information that is
26.7 identical to what was entered into the rates management system. If a value used was
26.8 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
26.9 agencies to correct it. Lead agencies must respond to these requests. When responding to
26.10 the request, the lead agency must consider:

26.11 (1) meeting the health and welfare needs of the individual or individuals receiving
26.12 services by service site, identified in their coordinated service and support plan under section
26.13 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

26.14 (2) meeting the requirements for staffing under subdivision 2, paragraphs (h), (n), and
26.15 (o); and meeting or exceeding the licensing standards for staffing required under section
26.16 245D.09, subdivision 1; and

26.17 (3) meeting the staffing ratio requirements under subdivision 2, paragraph (o), and
26.18 meeting or exceeding the licensing standards for staffing required under section 245D.31.

26.19 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
26.20 whichever is later. The commissioner of human services shall notify the revisor of statutes
26.21 when federal approval is obtained.

26.22 Sec. 20. Minnesota Statutes 2021 Supplement, section 256B.4914, subdivision 5, as
26.23 amended by Laws 2022, chapter 33, section 1, is amended to read:

26.24 Subd. 5. **Base wage index; establishment and updates.** (a) The base wage index is
26.25 established to determine staffing costs associated with providing services to individuals
26.26 receiving home and community-based services. For purposes of calculating the base wage,
26.27 Minnesota-specific wages taken from job descriptions and standard occupational
26.28 classification (SOC) codes from the Bureau of Labor Statistics as defined in the Occupational
26.29 Handbook must be used.

26.30 (b) The commissioner shall update the base wage index in subdivision 5a, publish these
26.31 updated values, and load them into the rate management system as follows:

26.32 (1) on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics
26.33 available as of December 31, 2019;

27.1 (2) on January 1, 2023, based on wage data by SOC from the Bureau of Labor Statistics
27.2 available as of December 31, 2020;

27.3 (3) on ~~November 1, 2024~~ January 1, 2025, based on wage data by SOC from the Bureau
27.4 of Labor Statistics available as of December 31, ~~2021~~ 2022; and

27.5 ~~(3)~~ (4) on July 1, 2026 January 1, 2027, and every two years thereafter, based on wage
27.6 data by SOC from the Bureau of Labor Statistics available ~~30~~ 24 months and one day prior
27.7 to the scheduled update.

27.8 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
27.9 whichever is later. The commissioner of human services shall notify the revisor of statutes
27.10 when federal approval is obtained.

27.11 Sec. 21. Minnesota Statutes 2020, section 256B.4914, subdivision 8, as amended by Laws
27.12 2022, chapter 33, section 1, subdivision 8, is amended to read:

27.13 Subd. 8. **Unit-based services with programming; component values and calculation**
27.14 **of payment rates.** (a) For the purpose of this section, unit-based services with programming
27.15 include employment exploration services, employment development services, employment
27.16 support services, individualized home supports with family training, individualized home

445.1 Sec. 16. Minnesota Statutes 2020, section 256B.4914, subdivision 8, as amended by Laws
445.2 2022, chapter 33, section 1, is amended to read:

445.3 Subd. 8. **Unit-based services with programming; component values and calculation**
445.4 **of payment rates.** (a) For the purpose of this section, unit-based services with programming
445.5 include employment exploration services, employment development services, employment
445.6 support services, individualized home supports with family training, individualized home

445.7 supports with training, and positive support services provided to an individual outside of
445.8 any service plan for a day program or residential support service.

445.9 (b) Component values for unit-based services with programming are:

445.10 (1) competitive workforce factor: 4.7 percent;

445.11 (2) supervisory span of control ratio: 11 percent;

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

445.13 (4) employee-related cost ratio: 23.6 percent;

445.14 (5) program plan support ratio: 15.5 percent;

445.15 (6) client programming and support ratio: 4.7 percent, updated as specified in subdivision
445.16 5b;

445.17 (7) general administrative support ratio: 13.25 percent;

445.18 (8) program-related expense ratio: 6.1 percent; and

445.19 (9) absence and utilization factor ratio: 3.9 percent.

445.20 (c) A unit of service for unit-based services with programming is 15 minutes.

445.21 (d) Payments for unit-based services with programming must be calculated as follows,
445.22 unless the services are reimbursed separately as part of a residential support services or day
445.23 program payment rate:

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

445.25 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
445.26 provided in subdivisions 5 and 5a;

445.27 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
445.28 product of one plus the competitive workforce factor;

446.1 (4) for a recipient requiring customization for deaf and hard-of-hearing language
446.2 accessibility under subdivision 12, add the customization rate provided in subdivision 12
446.3 to the result of clause (3);

446.4 (5) multiply the number of direct staffing hours by the appropriate staff wage;

446.5 (6) multiply the number of direct staffing hours by the product of the supervisory span
446.6 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

446.7 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
446.8 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
446.9 rate;

27.17 supports with training, and positive support services provided to an individual outside of
27.18 any service plan for a day program or residential support service.

27.19 (b) Component values for unit-based services with programming are:

27.20 (1) competitive workforce factor: 4.7 percent;

27.21 (2) supervisory span of control ratio: 11 percent;

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

27.23 (4) employee-related cost ratio: 23.6 percent;

27.24 (5) program plan support ratio: 15.5 percent;

27.25 (6) client programming and support ratio: 4.7 percent, updated as specified in subdivision
27.26 5b;

27.27 (7) general administrative support ratio: 13.25 percent;

27.28 (8) program-related expense ratio: 6.1 percent; and

27.29 (9) absence and utilization factor ratio: 3.9 percent.

28.1 (c) A unit of service for unit-based services with programming is 15 minutes, except for
28.2 individualized home supports with training where a unit of service is one hour or 15 minutes.

28.3 (d) Payments for unit-based services with programming must be calculated as follows,
28.4 unless the services are reimbursed separately as part of a residential support services or day
28.5 program payment rate:

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

28.7 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
28.8 provided in subdivisions 5 and 5a;

28.9 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
28.10 product of one plus the competitive workforce factor;

28.11 (4) for a recipient requiring customization for deaf and hard-of-hearing language
28.12 accessibility under subdivision 12, add the customization rate provided in subdivision 12
28.13 to the result of clause (3);

28.14 (5) multiply the number of direct staffing hours by the appropriate staff wage;

28.15 (6) multiply the number of direct staffing hours by the product of the supervisory span
28.16 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

28.17 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
28.18 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
28.19 rate;

446.10 (8) for program plan support, multiply the result of clause (7) by one plus the program
446.11 plan support ratio;

446.12 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
446.13 employee-related cost ratio;

446.14 (10) for client programming and supports, multiply the result of clause (9) by one plus
446.15 the client programming and support ratio;

446.16 (11) this is the subtotal rate;

446.17 (12) sum the standard general administrative support ratio, the program-related expense
446.18 ratio, and the absence and utilization factor ratio;

446.19 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
446.20 total payment amount;

446.21 (14) for services provided in a shared manner, divide the total payment in clause (13)
446.22 as follows:

446.23 (i) for employment exploration services, divide by the number of service recipients, not
446.24 to exceed five;

446.25 (ii) for employment support services, divide by the number of service recipients, not to
446.26 exceed six; and

446.27 (iii) for individualized home supports with training and individualized home supports
446.28 with family training, divide by the number of service recipients, not to exceed ~~two~~ three;
446.29 and

446.30 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
446.31 to adjust for regional differences in the cost of providing services.

447.1 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
447.2 whichever occurs later. The commissioner of human services shall notify the revisor of
447.3 statutes when federal approval is obtained.

447.4 Sec. 17. Minnesota Statutes 2020, section 256B.4914, subdivision 9, as amended by Laws
447.5 2022, chapter 33, section 1, is amended to read:

447.6 Subd. 9. **Unit-based services without programming; component values and**
447.7 **calculation of payment rates.** (a) For the purposes of this section, unit-based services
447.8 without programming include individualized home supports without training and night
447.9 supervision provided to an individual outside of any service plan for a day program or
447.10 residential support service. Unit-based services without programming do not include respite.

447.11 (b) Component values for unit-based services without programming are:

447.12 (1) competitive workforce factor: 4.7 percent;

28.20 (8) for program plan support, multiply the result of clause (7) by one plus the program
28.21 plan support ratio;

28.22 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
28.23 employee-related cost ratio;

28.24 (10) for client programming and supports, multiply the result of clause (9) by one plus
28.25 the client programming and support ratio;

28.26 (11) this is the subtotal rate;

28.27 (12) sum the standard general administrative support ratio, the program-related expense
28.28 ratio, and the absence and utilization factor ratio;

28.29 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
28.30 total payment amount;

29.1 (14) for services provided in a shared manner, divide the total payment in clause (13)
29.2 as follows:

29.3 (i) for employment exploration services, divide by the number of service recipients, not
29.4 to exceed five;

29.5 (ii) for employment support services, divide by the number of service recipients, not to
29.6 exceed six; and

29.7 (iii) for individualized home supports with training and individualized home supports
29.8 with family training, divide by the number of service recipients, not to exceed ~~two~~ three;
29.9 and

29.10 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
29.11 to adjust for regional differences in the cost of providing services.

29.12 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
29.13 whichever occurs later, except paragraph (c) is effective July 1, 2022. The commissioner
29.14 of human services shall notify the revisor of statutes when federal approval is obtained.

29.15 Sec. 22. Minnesota Statutes 2020, section 256B.4914, subdivision 9, as amended by Laws
29.16 2022, chapter 33, section 1, is amended to read:

29.17 Subd. 9. **Unit-based services without programming; component values and**
29.18 **calculation of payment rates.** (a) For the purposes of this section, unit-based services
29.19 without programming include individualized home supports without training and night
29.20 supervision provided to an individual outside of any service plan for a day program or
29.21 residential support service. Unit-based services without programming do not include respite.

29.22 (b) Component values for unit-based services without programming are:

29.23 (1) competitive workforce factor: 4.7 percent;

- 447.13 (2) supervisory span of control ratio: 11 percent;
- 447.14 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 447.15 (4) employee-related cost ratio: 23.6 percent;
- 447.16 (5) program plan support ratio: 7.0 percent;
- 447.17 (6) client programming and support ratio: 2.3 percent, updated as specified in subdivision
- 447.18 5b;
- 447.19 (7) general administrative support ratio: 13.25 percent;
- 447.20 (8) program-related expense ratio: 2.9 percent; and
- 447.21 (9) absence and utilization factor ratio: 3.9 percent.
- 447.22 (c) A unit of service for unit-based services without programming is 15 minutes.
- 447.23 (d) Payments for unit-based services without programming must be calculated as follows
- 447.24 unless the services are reimbursed separately as part of a residential support services or day
- 447.25 program payment rate:
- 447.26 (1) determine the number of units of service to meet a recipient's needs;
- 447.27 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
- 447.28 provided in subdivisions 5 to 5a;
- 447.29 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
- 447.30 product of one plus the competitive workforce factor;
- 448.1 (4) for a recipient requiring customization for deaf and hard-of-hearing language
- 448.2 accessibility under subdivision 12, add the customization rate provided in subdivision 12
- 448.3 to the result of clause (3);
- 448.4 (5) multiply the number of direct staffing hours by the appropriate staff wage;
- 448.5 (6) multiply the number of direct staffing hours by the product of the supervisory span
- 448.6 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);
- 448.7 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
- 448.8 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
- 448.9 rate;
- 448.10 (8) for program plan support, multiply the result of clause (7) by one plus the program
- 448.11 plan support ratio;
- 448.12 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
- 448.13 employee-related cost ratio;

- 29.24 (2) supervisory span of control ratio: 11 percent;
- 29.25 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 29.26 (4) employee-related cost ratio: 23.6 percent;
- 29.27 (5) program plan support ratio: 7.0 percent;
- 29.28 (6) client programming and support ratio: 2.3 percent, updated as specified in subdivision
- 29.29 5b;
- 29.30 (7) general administrative support ratio: 13.25 percent;
- 30.1 (8) program-related expense ratio: 2.9 percent; and
- 30.2 (9) absence and utilization factor ratio: 3.9 percent.
- 30.3 (c) A unit of service for unit-based services without programming is 15 minutes.
- 30.4 (d) Payments for unit-based services without programming must be calculated as follows
- 30.5 unless the services are reimbursed separately as part of a residential support services or day
- 30.6 program payment rate:
- 30.7 (1) determine the number of units of service to meet a recipient's needs;
- 30.8 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
- 30.9 provided in subdivisions 5 to 5a;
- 30.10 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
- 30.11 product of one plus the competitive workforce factor;
- 30.12 (4) for a recipient requiring customization for deaf and hard-of-hearing language
- 30.13 accessibility under subdivision 12, add the customization rate provided in subdivision 12
- 30.14 to the result of clause (3);
- 30.15 (5) multiply the number of direct staffing hours by the appropriate staff wage;
- 30.16 (6) multiply the number of direct staffing hours by the product of the supervisory span
- 30.17 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);
- 30.18 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
- 30.19 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
- 30.20 rate;
- 30.21 (8) for program plan support, multiply the result of clause (7) by one plus the program
- 30.22 plan support ratio;
- 30.23 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
- 30.24 employee-related cost ratio;

448.14 (10) for client programming and supports, multiply the result of clause (9) by one plus
448.15 the client programming and support ratio;

448.16 (11) this is the subtotal rate;

448.17 (12) sum the standard general administrative support ratio, the program-related expense
448.18 ratio, and the absence and utilization factor ratio;

448.19 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
448.20 total payment amount;

448.21 (14) for individualized home supports without training provided in a shared manner,
448.22 divide the total payment amount in clause (13) by the number of service recipients, not to
448.23 exceed ~~two~~ three; and

448.24 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
448.25 to adjust for regional differences in the cost of providing services.

448.26 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
448.27 whichever occurs later. The commissioner of human services shall notify the revisor of
448.28 statutes when federal approval is obtained.

30.25 (10) for client programming and supports, multiply the result of clause (9) by one plus
30.26 the client programming and support ratio;

30.27 (11) this is the subtotal rate;

30.28 (12) sum the standard general administrative support ratio, the program-related expense
30.29 ratio, and the absence and utilization factor ratio;

30.30 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
30.31 total payment amount;

31.1 (14) for individualized home supports without training provided in a shared manner,
31.2 divide the total payment amount in clause (13) by the number of service recipients, not to
31.3 exceed ~~two~~ three; and

31.4 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
31.5 to adjust for regional differences in the cost of providing services.

31.6 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
31.7 whichever occurs later. The commissioner of human services shall notify the revisor of
31.8 statutes when federal approval is obtained.

31.9 Sec. 23. Minnesota Statutes 2020, section 256B.4914, subdivision 10, as amended by
31.10 Laws 2022, chapter 33, section 1, is amended to read:

31.11 Subd. 10. **Evaluation of information and data.** (a) The commissioner shall, within
31.12 available resources, conduct research and gather data and information from existing state
31.13 systems or other outside sources on the following items:

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

31.15 (2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and
31.16 units of transportation for all day services, which must be collected from providers using
31.17 the rate management worksheet and entered into the rates management system; and

31.18 (3) the distinct underlying costs for services provided by a license holder under sections
31.19 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
31.20 by a license holder certified under section 245D.33.

31.21 (b) The commissioner, in consultation with stakeholders, shall review and evaluate the
31.22 following values already in subdivisions 6 to ~~9a~~ 9, or issues that impact all services, including,
31.23 but not limited to:

31.24 (1) values for transportation rates;

31.25 (2) values for services where monitoring technology replaces staff time;

31.26 (3) values for indirect services;

31.27 (4) values for nursing;

- 31.28 (5) values for the facility use rate in day services, and the weightings used in the day
31.29 service ratios and adjustments to those weightings;
- 31.30 (6) values for workers' compensation as part of employee-related expenses;
- 31.31 (7) values for unemployment insurance as part of employee-related expenses;
- 32.1 (8) direct care workforce labor market measures;
- 32.2 (9) any changes in state or federal law with a direct impact on the underlying cost of
32.3 providing home and community-based services;
- 32.4 (10) outcome measures, determined by the commissioner, for home and community-based
32.5 services rates determined under this section; and
- 32.6 (11) different competitive workforce factors by service, as determined under subdivision
32.7 10b.
- 32.8 (c) The commissioner shall report to the chairs and the ranking minority members of
32.9 the legislative committees and divisions with jurisdiction over health and human services
32.10 policy and finance with the information and data gathered under paragraphs (a) and (b) on
32.11 January 15, 2021, with a full report, and a full report once every four years thereafter.
- 32.12 (d) Beginning July 1, 2022, the commissioner shall renew analysis and implement
32.13 changes to the regional adjustment factors once every six years. Prior to implementation,
32.14 the commissioner shall consult with stakeholders on the methodology to calculate the
32.15 adjustment.
- 32.16 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
32.17 whichever is later. The commissioner of human services shall notify the revisor of statutes
32.18 when federal approval is obtained.
- 32.19 Sec. 24. Minnesota Statutes 2020, section 256B.4914, subdivision 10a, as amended by
32.20 Laws 2022, chapter 33, section 1, is amended to read:
- 32.21 Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure
32.22 that wage values and component values in subdivisions 5 to ~~9~~ 9 reflect the cost to provide
32.23 the service. As determined by the commissioner, in consultation with stakeholders identified
32.24 in subdivision 17, a provider enrolled to provide services with rates determined under this
32.25 section must submit requested cost data to the commissioner to support research on the cost
32.26 of providing services that have rates determined by the disability waiver rates system.
32.27 Requested cost data may include, but is not limited to:
- 32.28 (1) worker wage costs;
- 32.29 (2) benefits paid;
- 32.30 (3) supervisor wage costs;
- 32.31 (4) executive wage costs;

- 33.1 (5) vacation, sick, and training time paid;
- 33.2 (6) taxes, workers' compensation, and unemployment insurance costs paid;
- 33.3 (7) administrative costs paid;
- 33.4 (8) program costs paid;
- 33.5 (9) transportation costs paid;
- 33.6 (10) vacancy rates; and
- 33.7 (11) other data relating to costs required to provide services requested by the
- 33.8 commissioner.
- 33.9 (b) At least once in any five-year period, a provider must submit cost data for a fiscal
- 33.10 year that ended not more than 18 months prior to the submission date. The commissioner
- 33.11 shall provide each provider a 90-day notice prior to its submission due date. If a provider
- 33.12 fails to submit required reporting data, the commissioner shall provide notice to providers
- 33.13 that have not provided required data 30 days after the required submission date, and a second
- 33.14 notice for providers who have not provided required data 60 days after the required
- 33.15 submission date. The commissioner shall temporarily suspend payments to the provider if
- 33.16 cost data is not received 90 days after the required submission date. Withheld payments
- 33.17 shall be made once data is received by the commissioner.
- 33.18 (c) The commissioner shall conduct a random validation of data submitted under
- 33.19 paragraph (a) to ensure data accuracy.
- 33.20 (d) The commissioner shall analyze cost data submitted under paragraph (a) and, in
- 33.21 consultation with stakeholders identified in subdivision 17, may submit recommendations
- 33.22 on component values and inflationary factor adjustments to the chairs and ranking minority
- 33.23 members of the legislative committees with jurisdiction over human services once every
- 33.24 four years beginning January 1, 2021. The commissioner shall make recommendations in
- 33.25 conjunction with reports submitted to the legislature according to subdivision 10, paragraph
- 33.26 (c).
- 33.27 (e) The commissioner shall release cost data in an aggregate form, and cost data from
- 33.28 individual providers shall not be released except as provided for in current law.
- 33.29 (f) The commissioner, in consultation with stakeholders identified in subdivision 17,
- 33.30 shall develop and implement a process for providing training and technical assistance
- 33.31 necessary to support provider submission of cost documentation required under paragraph
- 33.32 (a).
- 34.1 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
- 34.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
- 34.3 when federal approval is obtained.

34.4 Sec. 25. Minnesota Statutes 2020, section 256B.4914, subdivision 12, as amended by
34.5 Laws 2022, chapter 33, section 1, is amended to read:

34.6 Subd. 12. **Customization of rates for individuals.** (a) For persons determined to have
34.7 higher needs based on being deaf or hard-of-hearing, the direct-care costs must be increased
34.8 by an adjustment factor prior to calculating the rate under subdivisions 6 to ~~9a~~ 9. The
34.9 customization rate with respect to deaf or hard-of-hearing persons shall be \$2.50 per hour
34.10 for waiver recipients who meet the respective criteria as determined by the commissioner.

34.11 (b) For the purposes of this section, "deaf and hard-of-hearing" means:

34.12 (1) the person has a developmental disability and:

34.13 (i) an assessment score which indicates a hearing impairment that is severe or that the
34.14 person has no useful hearing;

34.15 (ii) an expressive communications score that indicates the person uses single signs or
34.16 gestures, uses an augmentative communication aid, or does not have functional
34.17 communication, or the person's expressive communications is unknown; and

34.18 (iii) a communication score which indicates the person comprehends signs, gestures,
34.19 and modeling prompts or does not comprehend verbal, visual, or gestural communication,
34.20 or that the person's receptive communication score is unknown; or

34.21 (2) the person receives long-term care services and has an assessment score that indicates
34.22 the person hears only very loud sounds, the person has no useful hearing, or a determination
34.23 cannot be made; and the person receives long-term care services and has an assessment that
34.24 indicates the person communicates needs with sign language, symbol board, written
34.25 messages, gestures, or an interpreter; communicates with inappropriate content, makes
34.26 garbled sounds or displays echolalia, or does not communicate needs.

34.27 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
34.28 whichever is later. The commissioner of human services shall notify the revisor of statutes
34.29 when federal approval is obtained.

35.1 Sec. 26. Minnesota Statutes 2020, section 256B.4914, subdivision 14, as amended by
35.2 Laws 2022, chapter 33, section 1, is amended to read:

35.3 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead agencies
35.4 must identify individuals with exceptional needs that cannot be met under the disability
35.5 waiver rate system. The commissioner shall use that information to evaluate and, if necessary,
35.6 approve an alternative payment rate for those individuals. Whether granted, denied, or
35.7 modified, the commissioner shall respond to all exception requests in writing. The
35.8 commissioner shall include in the written response the basis for the action and provide
35.9 notification of the right to appeal under paragraph (h).

- 35.10 (b) Lead agencies must act on an exception request within 30 days and notify the initiator
35.11 of the request of their recommendation in writing. A lead agency shall submit all exception
35.12 requests along with its recommendation to the commissioner.
- 35.13 (c) An application for a rate exception may be submitted for the following criteria:
- 35.14 (1) an individual has service needs that cannot be met through additional units of service;
- 35.15 (2) an individual's rate determined under subdivisions 6 to 9a 9 is so insufficient that it
35.16 has resulted in an individual receiving a notice of discharge from the individual's provider;
35.17 or
- 35.18 (3) an individual's service needs, including behavioral changes, require a level of service
35.19 which necessitates a change in provider or which requires the current provider to propose
35.20 service changes beyond those currently authorized.
- 35.21 (d) Exception requests must include the following information:
- 35.22 (1) the service needs required by each individual that are not accounted for in subdivisions
35.23 6 to 9a 9;
- 35.24 (2) the service rate requested and the difference from the rate determined in subdivisions
35.25 6 to 9a 9;
- 35.26 (3) a basis for the underlying costs used for the rate exception and any accompanying
35.27 documentation; and
- 35.28 (4) any contingencies for approval.
- 35.29 (e) Approved rate exceptions shall be managed within lead agency allocations under
35.30 sections 256B.092 and 256B.49.
- 35.31 (f) Individual disability waiver recipients, an interested party, or the license holder that
35.32 would receive the rate exception increase may request that a lead agency submit an exception
36.1 request. A lead agency that denies such a request shall notify the individual waiver recipient,
36.2 interested party, or license holder of its decision and the reasons for denying the request in
36.3 writing no later than 30 days after the request has been made and shall submit its denial to
36.4 the commissioner in accordance with paragraph (b). The reasons for the denial must be
36.5 based on the failure to meet the criteria in paragraph (c).
- 36.6 (g) The commissioner shall determine whether to approve or deny an exception request
36.7 no more than 30 days after receiving the request. If the commissioner denies the request,
36.8 the commissioner shall notify the lead agency and the individual disability waiver recipient,
36.9 the interested party, and the license holder in writing of the reasons for the denial.
- 36.10 (h) The individual disability waiver recipient may appeal any denial of an exception
36.11 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
36.12 256.0451. When the denial of an exception request results in the proposed demission of a
36.13 waiver recipient from a residential or day habilitation program, the commissioner shall issue

36.14 a temporary stay of demission, when requested by the disability waiver recipient, consistent
36.15 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
36.16 stay shall remain in effect until the lead agency can provide an informed choice of
36.17 appropriate, alternative services to the disability waiver.

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

36.21 (j) The starting date for the rate exception will be the later of the date of the recipient's
36.22 change in support or the date of the request to the lead agency for an exception.

36.23 (k) The commissioner shall track all exception requests received and their dispositions.
36.24 The commissioner shall issue quarterly public exceptions statistical reports, including the
36.25 number of exception requests received and the numbers granted, denied, withdrawn, and
36.26 pending. The report shall include the average amount of time required to process exceptions.

36.27 (l) Approved rate exceptions remain in effect in all cases until an individual's needs
36.28 change as defined in paragraph (c).

36.29 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
36.30 whichever is later. The commissioner of human services shall notify the revisor of statutes
36.31 when federal approval is obtained.

37.1 Sec. 27. Minnesota Statutes 2020, section 256B.493, subdivision 4, is amended to read:

37.2 Subd. 4. **Review and approval process.** (a) To be considered for conditional approval,
37.3 an application must include:

37.4 (1) a description of the proposed closure plan, which must identify the home or homes
37.5 and occupied beds for which a planned closure rate adjustment is requested;

37.6 (2) the proposed timetable for any proposed closure, including the proposed dates for
37.7 notification to residents and the affected lead agencies, commencement of closure, and
37.8 completion of closure;

37.9 (3) the proposed relocation plan jointly developed by the counties of financial
37.10 responsibility, the residents and their legal representatives, if any, who wish to continue to
37.11 receive services from the provider, and the providers for current residents of any adult foster
37.12 care home or community residential setting designated for closure; and

37.13 (4) documentation in a format approved by the commissioner that all the adult foster
37.14 care homes or community residential settings receiving a planned closure rate adjustment
37.15 under the plan have accepted joint and several liability for recovery of overpayments under
37.16 section 256B.0641, subdivision 2, for the facilities designated for closure under this plan.

37.17 (b) In reviewing and approving closure proposals, the commissioner shall give first
37.18 priority to proposals that:

- 37.19 (1) target counties and geographic areas which have:
- 37.20 (i) need for other types of services;
- 37.21 (ii) need for specialized services;
- 37.22 (iii) higher than average per capita use of foster care settings where the license holder
- 37.23 does not reside; or
- 37.24 (iv) residents not living in the geographic area of their choice;
- 37.25 (2) demonstrate savings of medical assistance expenditures; ~~and~~
- 37.26 (3) demonstrate that alternative services are based on the recipient's choice of provider
- 37.27 and are consistent with federal law, state law, and federally approved waiver plans;
- 37.28 (4) demonstrate alternative services based on the recipient's choices are available and
- 37.29 secured at time of closure application; and
- 37.30 (5) provide proof of referral to the regional Center for Independent Living for resident
- 37.31 transition support.
- 38.1 The commissioner shall ~~also consider~~ prioritize consideration of any information provided
- 38.2 by service recipients, their legal representatives, family members, or the lead agency on the
- 38.3 impact of the planned closure on the recipients and the services they need.
- 38.4 (c) The commissioner shall select proposals that best meet the criteria established in this
- 38.5 subdivision for planned closure of adult foster care or community residential settings. The
- 38.6 commissioner shall notify license holders of the selections conditionally approved by the
- 38.7 commissioner. Approval of closure is obtained following confirmation that every individual
- 38.8 impacted by the planned closure has an established plan to continue services in an equivalent
- 38.9 residential setting or in a less restrictive setting in the community of their choice.
- 38.10 (d) For each proposal conditionally approved by the commissioner, a contract must be
- 38.11 established between the commissioner, the counties of financial responsibility, and the
- 38.12 participating license holder.
- 38.13 Sec. 28. Minnesota Statutes 2020, section 256B.493, subdivision 5, is amended to read:
- 38.14 Subd. 5. **Notification of conditionally approved proposal.** (a) Once the license holder
- 38.15 receives notification from the commissioner that the proposal has been conditionally
- 38.16 approved, the license holder shall provide written notification within five working days to:
- 38.17 (1) the lead agencies responsible for authorizing the licensed services for the residents
- 38.18 of the affected adult foster care settings; and
- 38.19 (2) current and prospective residents, any legal representatives, and family members
- 38.20 involved.

- 38.21 (b) This notification must occur at least ~~45~~ 90 days prior to the implementation of the
38.22 closure proposal.
- 38.23 Sec. 29. Minnesota Statutes 2020, section 256B.493, is amended by adding a subdivision
38.24 to read:
- 38.25 Subd. 5a. **Notification of conditionally approved proposal to Centers for Independent**
38.26 **Living.** (a) Once conditional approval has been sent to the license holder, the commissioner
38.27 shall provide written notice within five working days to the regional Center for Independent
38.28 Living.
- 38.29 (b) The commissioner must provide in the written notice the number of persons affected
38.30 by closure, location of group homes, provider information, and contact information of
38.31 persons or current guardians to coordinate transition support of residents.
- 39.1 Sec. 30. Minnesota Statutes 2020, section 256B.493, is amended by adding a subdivision
39.2 to read:
- 39.3 Subd. 5b. **Approval for planned closure.** The commissioner may finalize approval of
39.4 conditional applications for planned closure after the license holder takes the following
39.5 actions and submits proof of documentation to the commissioner:
- 39.6 (1) all parties were provided notice within five business days of receiving conditional
39.7 approval and residents, support team, and family members were provided 90 days' notice
39.8 prior to the implementation of the closure proposal;
- 39.9 (2) information regarding rights to appeal service termination and seek a temporary
39.10 order to stay the termination of services according to the procedures in section 256.045,
39.11 subdivision 4a or 6, paragraph (c), were provided to the resident, family, and support team
39.12 at time of closure notice;
- 39.13 (3) residents were provided options to live in the geographic community of their own
39.14 choice; and
- 39.15 (4) residents were provided options to live in a community residential or own-home
39.16 setting with the services and supports of their choice.
- 39.17 Sec. 31. Minnesota Statutes 2020, section 256B.493, subdivision 6, is amended to read:
- 39.18 Subd. 6. **Adjustment to rates.** (a) For purposes of this section, the commissioner shall
39.19 establish enhanced medical assistance payment rates under sections 256B.092 and 256B.49
39.20 to facilitate an orderly transition for persons with disabilities from adult foster care or
39.21 community residential settings to other community-based settings.
- 39.22 (b) The enhanced payment rate shall be effective the day after the first resident has
39.23 moved until the day the last resident has moved, not to exceed six months.

39.24 Sec. 32. Minnesota Statutes 2020, section 256B.493, is amended by adding a subdivision
39.25 to read:

39.26 Subd. 7. **Termination of license or satellite license upon approved closure**
39.27 **date.** Following approval of a planned closure, the commissioner shall confirm termination
39.28 of licensure for the residence location, whether satellite or home and community-based
39.29 license for single residence as referenced in section 245D.23. The commissioner must
39.30 provide written notice confirming termination of licensure to the provider.

40.1 Sec. 33. Minnesota Statutes 2020, section 256B.5012, is amended by adding a subdivision
40.2 to read:

40.3 Subd. 19. **ICF/DD rate increase effective July 1, 2022.** (a) Effective July 1, 2022, the
40.4 daily operating payment rate for a class A intermediate care facility for persons with
40.5 developmental disabilities is increased by \$50.

40.6 (b) Effective July 1, 2022, the daily operating payment rate for a class B intermediate
40.7 care facility for persons with developmental disabilities is increased by \$50.

40.8 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
40.9 whichever is later. The commissioner of human services shall notify the revisor of statutes
40.10 when federal approval is obtained.

40.11 Sec. 34. Minnesota Statutes 2020, section 256B.5012, is amended by adding a subdivision
40.12 to read:

40.13 Subd. 20. **ICF/DD minimum daily operating payment rates.** (a) The minimum daily
40.14 operating payment rate for a class A intermediate care facility for persons with developmental
40.15 disabilities is \$300.

40.16 (b) The minimum daily operating payment rate for a class B intermediate care facility
40.17 for persons with developmental disabilities is \$400.

40.18 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
40.19 whichever is later. The commissioner of human services shall notify the revisor of statutes
40.20 when federal approval is obtained.

40.21 Sec. 35. Minnesota Statutes 2020, section 256B.5012, is amended by adding a subdivision
40.22 to read:

40.23 Subd. 21. **Spending requirements.** (a) At least 80 percent of the marginal increase in
40.24 revenue resulting from implementation of the rate increases under subdivisions 19 and 20
40.25 for services rendered on or after the day of implementation of the increases must be used
40.26 to increase compensation-related costs for employees directly employed by the facility.

40.27 (b) For the purposes of this subdivision, compensation-related costs include:

40.28 (1) wages and salaries;

449.1 Sec. 18. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 7, is amended
 449.2 to read:

449.3 Subd. 7. **Community first services and supports; covered services.** Services and
 449.4 supports covered under CFSS include:

449.5 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of
 449.6 daily living (IADLs), and health-related procedures and tasks through hands-on assistance
 449.7 to accomplish the task or constant supervision and cueing to accomplish the task;

449.8 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
 449.9 accomplish activities of daily living, instrumental activities of daily living, or health-related
 449.10 tasks;

449.11 (3) expenditures for items, services, supports, environmental modifications, or goods,
 449.12 including assistive technology. These expenditures must:

449.13 (i) relate to a need identified in a participant's CFSS service delivery plan; and

40.29 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
 40.30 taxes, workers' compensation, and mileage reimbursement;

41.1 (3) the employer's paid share of health and dental insurance, life insurance, disability
 41.2 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
 41.3 employee retirement accounts; and

41.4 (4) benefits that address direct support professional workforce needs above and beyond
 41.5 what employees were offered prior to implementation of the rate increases.

41.6 (c) Compensation-related costs for persons employed in the central office of a corporation
 41.7 or entity that has an ownership interest in the provider or exercises control over the provider,
 41.8 or for persons paid by the provider under a management contract, do not count toward the
 41.9 80 percent requirement under this subdivision.

41.10 (d) A provider agency or individual provider that receives additional revenue subject to
 41.11 the requirements of this subdivision shall prepare, and upon request submit to the
 41.12 commissioner, a distribution plan that specifies the amount of money the provider expects
 41.13 to receive that is subject to the requirements of this subdivision, including how that money
 41.14 was or will be distributed to increase compensation-related costs for employees. Within 60
 41.15 days of final implementation of the new rate methodology or any rate adjustment subject
 41.16 to the requirements of this subdivision, the provider must post the distribution plan and
 41.17 leave it posted for a period of at least six months in an area of the provider's operation to
 41.18 which all direct support professionals have access. The posted distribution plan must include
 41.19 instructions regarding how to contact the commissioner, or the commissioner's representative,
 41.20 if an employee has not received the compensation-related increase described in the plan.

41.21 Sec. 36. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 7, is amended
 41.22 to read:

41.23 Subd. 7. **Community first services and supports; covered services.** Services and
 41.24 supports covered under CFSS include:

41.25 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of
 41.26 daily living (IADLs), and health-related procedures and tasks through hands-on assistance
 41.27 to accomplish the task or constant supervision and cueing to accomplish the task;

41.28 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
 41.29 accomplish activities of daily living, instrumental activities of daily living, or health-related
 41.30 tasks;

41.31 (3) expenditures for items, services, supports, environmental modifications, or goods,
 41.32 including assistive technology. These expenditures must:

41.33 (i) relate to a need identified in a participant's CFSS service delivery plan; and

449.14 (ii) increase independence or substitute for human assistance, to the extent that
449.15 expenditures would otherwise be made for human assistance for the participant's assessed
449.16 needs;

449.17 (4) observation and redirection for behavior or symptoms where there is a need for
449.18 assistance;

449.19 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,
449.20 to ensure continuity of the participant's services and supports;

449.21 (6) services provided by a consultation services provider as defined under subdivision
449.22 17, that is under contract with the department and enrolled as a Minnesota health care
449.23 program provider;

449.24 (7) services provided by an FMS provider as defined under subdivision 13a, that is an
449.25 enrolled provider with the department;

449.26 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal
449.27 guardian of a participant under age 18, or who is the participant's spouse. ~~These support~~
449.28 ~~workers shall not.~~ Covered services under this clause are subject to the limitations described
449.29 in subdivision 7b; and

449.30 ~~(i) provide any medical assistance home and community-based services in excess of 40~~
449.31 ~~hours per seven-day period regardless of the number of parents providing services;~~
450.1 ~~combination of parents and spouses providing services, or number of children who receive~~
450.2 ~~medical assistance services; and~~

450.3 ~~(ii) have a wage that exceeds the current rate for a CFSS support worker including the~~
450.4 ~~wage, benefits, and payroll taxes; and~~

450.5 (9) worker training and development services as described in subdivision 18a.

450.6 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
450.7 whichever is later. The commissioner of human services shall notify the revisor of statutes
450.8 when federal approval is obtained.

42.1 (ii) increase independence or substitute for human assistance, to the extent that
42.2 expenditures would otherwise be made for human assistance for the participant's assessed
42.3 needs;

42.4 (4) observation and redirection for behavior or symptoms where there is a need for
42.5 assistance;

42.6 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,
42.7 to ensure continuity of the participant's services and supports;

42.8 (6) services provided by a consultation services provider as defined under subdivision
42.9 17, that is under contract with the department and enrolled as a Minnesota health care
42.10 program provider;

42.11 (7) services provided by an FMS provider as defined under subdivision 13a, that is an
42.12 enrolled provider with the department;

42.13 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal
42.14 guardian of a participant under age 18, or who is the participant's spouse. ~~These support~~
42.15 ~~workers shall not.~~ Covered services under this clause are subject to the limitations described
42.16 in subdivision 7b; and

42.17 ~~(i) provide any medical assistance home and community-based services in excess of 40~~
42.18 ~~hours per seven-day period regardless of the number of parents providing services;~~
42.19 ~~combination of parents and spouses providing services, or number of children who receive~~
42.20 ~~medical assistance services; and~~

42.21 ~~(ii) have a wage that exceeds the current rate for a CFSS support worker including the~~
42.22 ~~wage, benefits, and payroll taxes; and~~

42.23 (9) worker training and development services as described in subdivision 18a.

42.24 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
42.25 whichever is later. The commissioner of human services shall notify the revisor of statutes
42.26 when federal approval is obtained.

42.27 Sec. 37. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 7a, is amended
42.28 to read:

42.29 Subd. 7a. **Enhanced rate.** An enhanced rate of ~~107.5~~ 143 percent of the rate paid for
42.30 CFSS must be paid for services provided to persons who qualify for ten or more hours of
42.31 CFSS per day when provided by a support worker who meets the requirements of subdivision
42.32 16, paragraph (e). Any change in the eligibility criteria for the enhanced rate for CFSS as
43.1 described in this subdivision and referenced in subdivision 16, paragraph (e), does not
43.2 constitute a change in a term or condition for individual providers as defined in section
43.3 256B.0711, and is not subject to the state's obligation to meet and negotiate under chapter
43.4 179A.

450.9 Sec. 19. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision
450.10 to read:

450.11 Subd. 7b. **Services provided by parents and spouses.** (a) This subdivision applies to
450.12 services and supports described in subdivision 7, clause (8).

450.13 (b) If multiple parents are support workers providing CFSS services to their minor child
450.14 or children, each parent may provide up to 40 hours of medical assistance home and
450.15 community-based services in any seven-day period regardless of the number of children
450.16 served. The total number of hours of medical assistance home and community-based services
450.17 provided by all of the parents must not exceed 80 hours in a seven-day period regardless of
450.18 the number of children served.

450.19 (c) If only one parent is a support worker providing CFSS services to the parent's minor
450.20 child or children, the parent may provide up to 60 hours of medical assistance home and
450.21 community-based services in a seven-day period regardless of the number of children served.

450.22 (d) If a spouse is a support worker providing CFSS services, the spouse may provide up
450.23 to 60 hours of medical assistance home and community-based services in a seven-day period.

450.24 (e) Paragraphs (b) to (d) must not be construed to permit an increase in either the total
450.25 authorized service budget for an individual or the total number of authorized service units.

450.26 (f) A parent or spouse must not receive a wage that exceeds the current rate for a CFSS
450.27 support worker, including the wage, benefits, and payroll taxes.

450.28 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
450.29 whichever is later. The commissioner of human services shall notify the revisor of statutes
450.30 when federal approval is obtained.

451.1 Sec. 20. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 8, is amended
451.2 to read:

451.3 Subd. 8. **Determination of CFSS service authorization amount.** (a) All community
451.4 first services and supports must be authorized by the commissioner or the commissioner's
451.5 designee before services begin. The authorization for CFSS must be completed as soon as
451.6 possible following an assessment but no later than 40 calendar days from the date of the
451.7 assessment.

451.8 (b) The amount of CFSS authorized must be based on the participant's home care rating
451.9 described in paragraphs (d) and (e) and any additional service units for which the participant
451.10 qualifies as described in paragraph (f).

451.11 (c) The home care rating shall be determined by the commissioner or the commissioner's
451.12 designee based on information submitted to the commissioner identifying the following for
451.13 a participant:

451.14 (1) the total number of dependencies of activities of daily living;

43.5 Sec. 38. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision
43.6 to read:

43.7 Subd. 7b. **Services provided by parents and spouses.** (a) This subdivision applies to
43.8 services and supports described in subdivision 7, clause (8).

43.9 (b) If multiple parents are support workers providing CFSS services to their minor child
43.10 or children, each parent may provide up to 40 hours of medical assistance home and
43.11 community-based services in any seven-day period regardless of the number of children
43.12 served. The total number of hours of medical assistance home and community-based services
43.13 provided by all of the parents must not exceed 80 hours in a seven-day period regardless of
43.14 the number of children served.

43.15 (c) If only one parent is a support worker providing CFSS services to the parent's minor
43.16 child or children, the parent may provide up to 60 hours of medical assistance home and
43.17 community-based services in a seven-day period regardless of the number of children served.

43.18 (d) If a spouse is a support worker providing CFSS services, the spouse may provide up
43.19 to 60 hours of medical assistance home and community-based services in a seven-day period.

43.20 (e) Paragraphs (b) to (d) must not be construed to permit an increase in either the total
43.21 authorized service budget for an individual or the total number of authorized service units.

43.22 (f) A parent or spouse must not receive a wage that exceeds the current rate for a CFSS
43.23 support worker, including the wage, benefits, and payroll taxes.

43.24 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
43.25 whichever is later. The commissioner of human services shall notify the revisor of statutes
43.26 when federal approval is obtained.

- 451.15 (2) the presence of complex health-related needs; and
- 451.16 (3) the presence of Level I behavior.
- 451.17 (d) The methodology to determine the total service units for CFSS for each home care
- 451.18 rating is based on the median paid units per day for each home care rating from fiscal year
- 451.19 2007 data for the PCA program.
- 451.20 (e) Each home care rating is designated by the letters P through Z and EN and has the
- 451.21 following base number of service units assigned:
- 451.22 (1) P home care rating requires Level I behavior or one to three dependencies in ADLs
- 451.23 and qualifies the person for five service units;
- 451.24 (2) Q home care rating requires Level I behavior and one to three dependencies in ADLs
- 451.25 and qualifies the person for six service units;
- 451.26 (3) R home care rating requires a complex health-related need and one to three
- 451.27 dependencies in ADLs and qualifies the person for seven service units;
- 451.28 (4) S home care rating requires four to six dependencies in ADLs and qualifies the person
- 451.29 for ten service units;
- 451.30 (5) T home care rating requires four to six dependencies in ADLs and Level I behavior
- 451.31 and qualifies the person for 11 service units;
- 452.1 (6) U home care rating requires four to six dependencies in ADLs and a complex
- 452.2 health-related need and qualifies the person for 14 service units;
- 452.3 (7) V home care rating requires seven to eight dependencies in ADLs and qualifies the
- 452.4 person for 17 service units;
- 452.5 (8) W home care rating requires seven to eight dependencies in ADLs and Level I
- 452.6 behavior and qualifies the person for 20 service units;
- 452.7 (9) Z home care rating requires seven to eight dependencies in ADLs and a complex
- 452.8 health-related need and qualifies the person for 30 service units; and
- 452.9 (10) EN home care rating includes ventilator dependency as defined in section 256B.0651,
- 452.10 subdivision 1, paragraph ~~(g)~~ (i). A person who meets the definition of ventilator-dependent
- 452.11 and the EN home care rating and utilize a combination of CFSS and home care nursing
- 452.12 services is limited to a total of 96 service units per day for those services in combination.
- 452.13 Additional units may be authorized when a person's assessment indicates a need for two
- 452.14 staff to perform activities. Additional time is limited to 16 service units per day.
- 452.15 (f) Additional service units are provided through the assessment and identification of
- 452.16 the following:
- 452.17 (1) 30 additional minutes per day for a dependency in each critical activity of daily
- 452.18 living;

452.19 (2) 30 additional minutes per day for each complex health-related need; and
452.20 (3) 30 additional minutes per day for each behavior under this clause that requires
452.21 assistance at least four times per week;
452.22 (i) level I behavior that requires the immediate response of another person;
452.23 (ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior;
452.24 or
452.25 (iii) increased need for assistance for participants who are verbally aggressive or resistive
452.26 to care so that the time needed to perform activities of daily living is increased.
452.27 (g) The service budget for budget model participants shall be based on:
452.28 (1) assessed units as determined by the home care rating; and
452.29 (2) an adjustment needed for administrative expenses.
453.1 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
453.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
453.3 when federal approval is obtained.
453.4 Sec. 21. Minnesota Statutes 2021 Supplement, section 256B.851, subdivision 5, is amended
453.5 to read:
453.6 Subd. 5. **Payment rates; component values.** (a) The commissioner must use the
453.7 following component values:
453.8 (1) employee vacation, sick, and training factor, 8.71 percent;
453.9 (2) employer taxes and workers' compensation factor, 11.56 percent;
453.10 (3) employee benefits factor, 12.04 percent;
453.11 (4) client programming and supports factor, 2.30 percent;
453.12 (5) program plan support factor, 7.00 percent;
453.13 (6) general business and administrative expenses factor, 13.25 percent;
453.14 (7) program administration expenses factor, 2.90 percent; and
453.15 (8) absence and utilization factor, 3.90 percent.
453.16 (b) For purposes of implementation, the commissioner shall use the following
453.17 implementation components:
453.18 (1) personal care assistance services and CFSS: ~~75.45~~ 79.5 percent;
453.19 (2) enhanced rate personal care assistance services and enhanced rate CFSS: ~~75.45~~ 79.5
453.20 percent; and

43.27 Sec. 39. Minnesota Statutes 2021 Supplement, section 256B.851, subdivision 5, is amended
43.28 to read:
43.29 Subd. 5. **Payment rates; component values.** (a) The commissioner must use the
43.30 following component values:
43.31 (1) employee vacation, sick, and training factor, 8.71 percent;
44.1 (2) employer taxes and workers' compensation factor, 11.56 percent;
44.2 (3) employee benefits factor, 12.04 percent;
44.3 (4) client programming and supports factor, 2.30 percent;
44.4 (5) program plan support factor, 7.00 percent;
44.5 (6) general business and administrative expenses factor, 13.25 percent;
44.6 (7) program administration expenses factor, 2.90 percent; and
44.7 (8) absence and utilization factor, 3.90 percent.
44.8 (b) For purposes of implementation, the commissioner shall use the following
44.9 implementation components:
44.10 (1) personal care assistance services and CFSS: ~~75.45~~ 83.5 percent;
44.11 (2) enhanced rate personal care assistance services and enhanced rate CFSS: ~~75.45~~ 83.5
44.12 percent; and

453.21 (3) qualified professional services and CFSS worker training and development: ~~75.45~~
453.22 79.5 percent.

453.23 **EFFECTIVE DATE.** This section is effective January 1, 2023, or 60 days following
453.24 federal approval, whichever is later. The commissioner of human services shall notify the
453.25 revisor of statutes when federal approval is obtained.

453.26 Sec. 22. Minnesota Statutes 2020, section 256I.04, subdivision 3, is amended to read:

453.27 Subd. 3. **Moratorium on development of housing support beds.** (a) Agencies shall
453.28 not enter into agreements for new housing support beds with total rates in excess of the
453.29 MSA equivalent rate except:

454.1 (1) for establishments licensed under chapter 245D provided the facility is needed to
454.2 meet the census reduction targets for persons with developmental disabilities at regional
454.3 treatment centers;

454.4 (2) up to 80 beds in a single, specialized facility located in Hennepin County that will
454.5 provide housing for chronic inebriates who are repetitive users of detoxification centers and
454.6 are refused placement in emergency shelters because of their state of intoxication, and
454.7 planning for the specialized facility must have been initiated before July 1, 1991, in
454.8 anticipation of receiving a grant from the Housing Finance Agency under section 462A.05,
454.9 subdivision 20a, paragraph (b);

454.10 (3) notwithstanding the provisions of subdivision 2a, for up to ~~226~~ 500 supportive
454.11 housing units in Anoka, Carver, Dakota, Hennepin, ~~or Ramsey, Scott, or Washington~~ County
454.12 for homeless adults with a disability, including but not limited to mental illness, a history
454.13 of substance abuse, or human immunodeficiency virus or acquired immunodeficiency
454.14 syndrome. For purposes of this section clause, "homeless adult" means a person who is: (i)
454.15 living on the street or in a shelter; or (ii) discharged from a regional treatment center,
454.16 community hospital, or residential treatment program and has no appropriate housing
454.17 available and lacks the resources and support necessary to access appropriate housing. ~~At~~
454.18 ~~least 70 percent of the supportive housing units must serve homeless adults with mental~~
454.19 ~~illness, substance abuse problems, or human immunodeficiency virus or acquired~~
454.20 ~~immunodeficiency syndrome who are about to be or, within the previous six months, have~~
454.21 ~~been discharged from a regional treatment center, or a state-contracted psychiatric bed in~~
454.22 ~~a community hospital, or a residential mental health or chemical dependency treatment~~
454.23 ~~program.~~ If a person meets the requirements of subdivision 1, paragraph (a) or (b), and
454.24 receives a federal or state housing subsidy, the housing support rate for that person is limited
454.25 to the supplementary rate under section 256I.05, subdivision 1a, and is determined by
454.26 ~~subtracting the amount of the person's countable income that exceeds the MSA equivalent~~
454.27 ~~rate from the housing support supplementary service rate.~~ A resident in a demonstration
454.28 project site who no longer participates in the demonstration program shall retain eligibility
454.29 for a housing support payment in an amount determined under section 256I.06, subdivision
454.30 8, using the MSA equivalent rate. ~~Service funding under section 256I.05, subdivision 1a,~~
454.31 ~~will end June 30, 1997, if federal matching funds are available and the services can be~~

44.13 (3) qualified professional services and CFSS worker training and development: ~~75.45~~
44.14 83.5 percent.

44.15 **EFFECTIVE DATE.** This section is effective January 1, 2023, or 60 days following
44.16 federal approval, whichever is later. The commissioner of human services shall notify the
44.17 revisor of statutes when federal approval is obtained.

44.18 Sec. 40. Minnesota Statutes 2020, section 256I.04, subdivision 3, is amended to read:

44.19 Subd. 3. **Moratorium on development of housing support beds.** (a) Agencies shall
44.20 not enter into agreements for new housing support beds with total rates in excess of the
44.21 MSA equivalent rate except:

44.22 (1) for establishments licensed under chapter 245D provided the facility is needed to
44.23 meet the census reduction targets for persons with developmental disabilities at regional
44.24 treatment centers;

44.25 (2) up to 80 beds in a single, specialized facility located in Hennepin County that will
44.26 provide housing for chronic inebriates who are repetitive users of detoxification centers and
44.27 are refused placement in emergency shelters because of their state of intoxication, and
44.28 planning for the specialized facility must have been initiated before July 1, 1991, in
44.29 anticipation of receiving a grant from the Housing Finance Agency under section 462A.05,
44.30 subdivision 20a, paragraph (b);

45.1 (3) notwithstanding the provisions of subdivision 2a, for up to 226 supportive housing
45.2 units in Anoka, Carver, Dakota, Hennepin, ~~or Ramsey, Scott, or Washington~~ County for
45.3 homeless adults with a disability, including but not limited to mental illness, a history of
45.4 substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome.
45.5 For purposes of this section clause, "homeless adult" means a person who is (i) living on
45.6 the street or in a shelter or (ii) discharged from a regional treatment center, community
45.7 hospital, or residential treatment program and has no appropriate housing available and
45.8 lacks the resources and support necessary to access appropriate housing. ~~At least 70 percent~~
45.9 ~~of the supportive housing units must serve homeless adults with mental illness, substance~~
45.10 ~~abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome~~
45.11 ~~who are about to be or, within the previous six months, have been discharged from a regional~~
45.12 ~~treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential~~
45.13 ~~mental health or chemical dependency treatment program.~~ If a person meets the requirements
45.14 of subdivision 1, paragraph (a) or (b), and receives a federal or state housing subsidy, the
45.15 housing support rate for that person is limited to the supplementary rate under section
45.16 256I.05, subdivision 1a, and is determined by ~~subtracting the amount of the person's~~
45.17 ~~countable income that exceeds the MSA equivalent rate from the housing support~~
45.18 ~~supplementary service rate.~~ A resident in a demonstration project site who no longer
45.19 participates in the demonstration program shall retain eligibility for a housing support
45.20 payment in an amount determined under section 256I.06, subdivision 8, using the MSA
45.21 equivalent rate. ~~Service funding under section 256I.05, subdivision 1a, will end June 30,~~
45.22 ~~1997, if federal matching funds are available and the services can be provided through a~~

454.32 ~~provided through a managed care entity. If federal matching funds are not available, then~~
454.33 ~~service funding will continue under section 256I.05, subdivision 1a;~~

454.34 (4) for an additional two beds, resulting in a total of 32 beds, for a facility located in
454.35 Hennepin County providing services for recovering and chemically dependent men that has
455.1 had a housing support contract with the county and has been licensed as a board and lodge
455.2 facility with special services since 1980;

455.3 (5) for a housing support provider located in the city of St. Cloud, or a county contiguous
455.4 to the city of St. Cloud, that operates a 40-bed facility, that received financing through the
455.5 Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves
455.6 chemically dependent clientele, providing 24-hour-a-day supervision;

455.7 (6) for a new 65-bed facility in Crow Wing County that will serve chemically dependent
455.8 persons, operated by a housing support provider that currently operates a 304-bed facility
455.9 in Minneapolis, and a 44-bed facility in Duluth;

455.10 (7) for a housing support provider that operates two ten-bed facilities, one located in
455.11 Hennepin County and one located in Ramsey County, that provide community support and
455.12 24-hour-a-day supervision to serve the mental health needs of individuals who have
455.13 chronically lived unsheltered; and

455.14 (8) for a facility authorized for recipients of housing support in Hennepin County with
455.15 a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility
455.16 and that until August 1, 2007, operated as a licensed chemical dependency treatment program.

455.17 (b) An agency may enter into a housing support agreement for beds with rates in excess
455.18 of the MSA equivalent rate in addition to those currently covered under a housing support
455.19 agreement if the additional beds are only a replacement of beds with rates in excess of the
455.20 MSA equivalent rate which have been made available due to closure of a setting, a change
455.21 of licensure or certification which removes the beds from housing support payment, or as
455.22 a result of the downsizing of a setting authorized for recipients of housing support. The
455.23 transfer of available beds from one agency to another can only occur by the agreement of
455.24 both agencies.

455.25 (c) The appropriation for this subdivision must include administrative funding equal to
455.26 the cost of two full-time equivalent employees to process eligibility. The commissioner
455.27 must disburse administrative funding to the fiscal agent for the counties under this
455.28 subdivision.

45.23 ~~managed care entity. If federal matching funds are not available, then service funding will~~
45.24 ~~continue under section 256I.05, subdivision 1a;~~

45.25 (4) for an additional two beds, resulting in a total of 32 beds, for a facility located in
45.26 Hennepin County providing services for recovering and chemically dependent men that has
45.27 had a housing support contract with the county and has been licensed as a board and lodge
45.28 facility with special services since 1980;

45.29 (5) for a housing support provider located in the city of St. Cloud, or a county contiguous
45.30 to the city of St. Cloud, that operates a 40-bed facility, that received financing through the
45.31 Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves
45.32 chemically dependent clientele, providing 24-hour-a-day supervision;

45.33 (6) for a new 65-bed facility in Crow Wing County that will serve chemically dependent
45.34 persons, operated by a housing support provider that currently operates a 304-bed facility
45.35 in Minneapolis, and a 44-bed facility in Duluth;

46.1 (7) for a housing support provider that operates two ten-bed facilities, one located in
46.2 Hennepin County and one located in Ramsey County, that provide community support and
46.3 24-hour-a-day supervision to serve the mental health needs of individuals who have
46.4 chronically lived unsheltered; and

46.5 (8) for a facility authorized for recipients of housing support in Hennepin County with
46.6 a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility
46.7 and that until August 1, 2007, operated as a licensed chemical dependency treatment program.

46.8 (b) An agency may enter into a housing support agreement for beds with rates in excess
46.9 of the MSA equivalent rate in addition to those currently covered under a housing support
46.10 agreement if the additional beds are only a replacement of beds with rates in excess of the
46.11 MSA equivalent rate which have been made available due to closure of a setting, a change
46.12 of licensure or certification which removes the beds from housing support payment, or as
46.13 a result of the downsizing of a setting authorized for recipients of housing support. The
46.14 transfer of available beds from one agency to another can only occur by the agreement of
46.15 both agencies.

46.16 Sec. 41. Minnesota Statutes 2020, section 256I.05, is amended by adding a subdivision
46.17 to read:

46.18 Subd. 1s. **Supplemental rate; Douglas County.** Notwithstanding the provisions in this
46.19 section, a county agency shall negotiate a supplemental rate for up to 20 beds in addition
46.20 to the rate specified in subdivision 1, not to exceed the maximum rate allowed under

455.29 Sec. 23. Minnesota Statutes 2020, section 256S.16, is amended to read:

455.30 **256S.16 AUTHORIZATION OF ELDERLY WAIVER SERVICES AND SERVICE**
455.31 **RATES.**

455.32 Subdivision 1. Service rates; generally. A lead agency must use the service rates and
455.33 service rate limits published by the commissioner to authorize services.

456.1 Subd. 2. Shared services; rates. The commissioner shall provide a rate system for
456.2 shared homemaker services and shared chore services, based on homemaker rates for a
456.3 single individual under section 256S.215, subdivisions 9 to 11, and the chore rate for a
456.4 single individual under section 256S.215, subdivision 7. For two persons sharing services,
456.5 the rate paid to a provider must not exceed 1-1/2 times the rate paid for serving a single
456.6 individual, and for three persons sharing services, the rate paid to a provider must not exceed
456.7 two times the rate paid for serving a single individual. These rates apply only when all of
456.8 the criteria for the shared service have been met.

456.9 Sec. 24. Minnesota Statutes 2020, section 256S.18, subdivision 1, is amended to read:

456.10 Subdivision 1. Case mix classifications. (a) The elderly waiver case mix classifications
456.11 A to K shall be the resident classes A to K established under Minnesota Rules, parts
456.12 9549.0058 and 9549.0059.

456.13 (b) A participant assigned to elderly waiver case mix classification A must be reassigned
456.14 to elderly waiver case mix classification L if an assessment or reassessment performed
456.15 under section 256B.0911 determines that the participant has:

456.16 (1) no dependencies in activities of daily living; or

456.17 (2) up to two dependencies in bathing, dressing, grooming, walking, or eating when the
456.18 dependency score in eating is three or greater.

456.19 (c) A participant must be assigned to elderly waiver case mix classification V if the
456.20 participant meets the definition of ventilator-dependent in section 256B.0651, subdivision
456.21 1, paragraph ~~(g)~~ (i).

46.21 subdivision 1a, including any legislatively authorized inflationary adjustments, for a housing
46.22 support provider located in Douglas County that operates two facilities and provides room
46.23 and board and supplementary services to adult males recovering from substance use disorder,
46.24 mental illness, or housing instability.

46.25 **EFFECTIVE DATE.** This section is effective July 1, 2022.

SEC. 15. MINNESOTA STATUTES 2020, SECTION 256S.16, AMENDMENT
FROM S4410-3, ARTICLE 2, SECTION 15, TO MATCH UES4410-2, ARTICLE
9, SECTION 23.

75.12 Sec. 15. Minnesota Statutes 2020, section 256S.16, is amended to read:

75.13 **256S.16 AUTHORIZATION OF ELDERLY WAIVER SERVICES AND SERVICE**
75.14 **RATES.**

75.15 Subdivision 1. Service rates; generally. A lead agency must use the service rates and
75.16 service rate limits published by the commissioner to authorize services.

75.17 Subd. 2. Shared services; rates. The commissioner shall establish a rate system for
75.18 shared homemaker services and shared chore services, based on homemaker rates for a
75.19 single individual under section 256S.215, subdivisions 9 to 11, and the chore rate for a
75.20 single individual under section 256S.215, subdivision 7. For two persons sharing services,
75.21 the rate paid to a provider must not exceed 1-1/2 times the rate paid for serving a single
75.22 individual, and for three persons sharing services, the rate paid to a provider must not exceed
75.23 two times the rate paid for serving a single individual. These rates apply only when all of
75.24 the criteria for the shared service have been met.

456.22 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 456.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
 456.24 when federal approval is obtained.

46.26 Sec. 42. Laws 2014, chapter 312, article 27, section 75, is amended to read:

46.27 Sec. 75. **PROVIDER RATE AND GRANT INCREASES EFFECTIVE JULY 1, 2014.**

46.28 (a) The commissioner of human services shall increase reimbursement rates, grants,
 46.29 allocations, individual limits, and rate limits, as applicable, by five percent for the rate period
 46.30 beginning July 1, 2014, for services rendered on or after July 1, 2014. County or tribal
 46.31 contracts for services, grants, and programs under paragraph (b) must be amended to pass
 46.32 through these rate increases by September 1, 2014.

47.1 (b) The rate changes described in this section must be provided to:

47.2 (1) home and community-based waived services for persons with developmental
 47.3 disabilities, including consumer-directed community supports, under Minnesota Statutes,
 47.4 section 256B.092;

47.5 (2) waived services under community alternatives for disabled individuals, including
 47.6 consumer-directed community supports, under Minnesota Statutes, section 256B.49;

47.7 (3) community alternative care waived services, including consumer-directed
 47.8 community supports, under Minnesota Statutes, section 256B.49;

47.9 (4) brain injury waived services, including consumer-directed community supports,
 47.10 under Minnesota Statutes, section 256B.49;

47.11 (5) home and community-based waived services for the elderly under Minnesota
 47.12 Statutes, section 256B.0915;

47.13 (6) nursing services and home health services under Minnesota Statutes, section
 47.14 256B.0625, subdivision 6a;

47.15 (7) personal care services and qualified professional supervision of personal care services
 47.16 under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;

47.17 (8) private duty nursing services under Minnesota Statutes, section 256B.0625,
 47.18 subdivision 7;

47.19 (9) community first services and supports under Minnesota Statutes, section 256B.85;

47.20 (10) essential community supports under Minnesota Statutes, section 256B.0922;

47.21 (11) day training and habilitation services for adults with developmental disabilities
 47.22 under Minnesota Statutes, sections 252.41 to 252.46, including the additional cost to counties
 47.23 of the rate adjustments on day training and habilitation services, provided as a social service;

- 47.24 (12) alternative care services under Minnesota Statutes, section 256B.0913;
- 47.25 (13) living skills training programs for persons with intractable epilepsy who need
- 47.26 assistance in the transition to independent living under Laws 1988, chapter 689;
- 47.27 (14) semi-independent living services (SILS) under Minnesota Statutes, section 252.275;
- 47.28 (15) consumer support grants under Minnesota Statutes, section 256.476;
- 47.29 (16) family support grants under Minnesota Statutes, section 252.32;
- 47.30 (17) housing access grants under Minnesota Statutes, section 256B.0658;
- 48.1 (18) self-advocacy grants under Laws 2009, chapter 101;
- 48.2 (19) technology grants under Laws 2009, chapter 79;
- 48.3 (20) aging grants under Minnesota Statutes, sections 256.975 to 256.977 and 256B.0917;
- 48.4 (21) deaf and hard-of-hearing grants, including community support services for deaf
- 48.5 and hard-of-hearing adults with mental illness who use or wish to use sign language as their
- 48.6 primary means of communication under Minnesota Statutes, section 256.01, subdivision 2;
- 48.7 (22) deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233,
- 48.8 256C.25, and 256C.261;
- 48.9 (23) Disability Linkage Line grants under Minnesota Statutes, section 256.01, subdivision
- 48.10 24;
- 48.11 (24) transition initiative grants under Minnesota Statutes, section 256.478;
- 48.12 (25) employment support grants under Minnesota Statutes, section 256B.021, subdivision
- 48.13 6; and
- 48.14 (26) grants provided to people who are eligible for the Housing Opportunities for Persons
- 48.15 with AIDS program under Minnesota Statutes, section 256B.492.
- 48.16 (c) A managed care plan or county-based purchasing plan receiving state payments for
- 48.17 the services grants and programs in paragraph (b) must include these increases in their
- 48.18 payments to providers. To implement the rate increase in paragraph (a), capitation rates
- 48.19 paid by the commissioner to managed care plans and county-based purchasing plans under
- 48.20 Minnesota Statutes, section 256B.69, shall reflect a five percent increase for the services
- 48.21 and programs specified in paragraph (b) for the period beginning July 1, 2014.
- 48.22 (d) Counties shall increase the budget for each recipient of consumer-directed community
- 48.23 supports by the amount in paragraph (a) on July 1, 2014.
- 48.24 (e) To receive the rate increase described in this section, providers under paragraphs (a)
- 48.25 and (b) must submit to the commissioner documentation that identifies a quality improvement
- 48.26 project that the provider will implement by June 30, 2015. Documentation must be provided
- 48.27 in a format specified by the commissioner. Projects must:

- 48.28 (1) improve the quality of life of home and community-based services recipients in a
48.29 meaningful way;
- 48.30 (2) improve the quality of services in a measurable way; or
- 49.1 (3) deliver good quality service more efficiently while using the savings to enhance
49.2 services for the participants served.
- 49.3 Providers listed in paragraph (b), clauses (7), (9), (10), and (13) to (26), are not subject to
49.4 this requirement.
- 49.5 (f) For a provider that fails to submit documentation described in paragraph (e) by a date
49.6 or in a format specified by the commissioner, the commissioner shall reduce the provider's
49.7 rate by one percent effective January 1, 2015.
- 49.8 (g) Providers that receive a rate increase under paragraph (a) shall use 80 percent of the
49.9 additional revenue to increase compensation-related costs for employees directly employed
49.10 by the program on or after July 1, 2014, except:
- 49.11 (1) persons employed in the central office of a corporation or entity that has an ownership
49.12 interest in the provider or exercises control over the provider; and
- 49.13 (2) persons paid by the provider under a management contract.
- 49.14 This requirement is subject to audit by the commissioner.
- 49.15 (h) Compensation-related costs include:
- 49.16 (1) wages and salaries;
- 49.17 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
49.18 taxes, workers' compensation, and mileage reimbursement;
- 49.19 (3) the employer's share of health and dental insurance, life insurance, disability insurance,
49.20 long-term care insurance, uniform allowance, pensions, and contributions to employee
49.21 retirement accounts; and
- 49.22 (4) other benefits provided and workforce needs, including the recruiting and training
49.23 of employees as specified in the distribution plan required under paragraph (m).
- 49.24 (i) For public employees under a collective bargaining agreement, the increase for wages
49.25 and benefits is available and pay rates must be increased only to the extent that the increases
49.26 comply with laws governing public employees' collective bargaining. Money received by
49.27 a provider for pay increases for public employees under paragraph (g) must be used only
49.28 for pay increases implemented between July 1, 2014, and August 1, 2014.
- 49.29 (j) For a provider that has employees that are represented by an exclusive bargaining
49.30 representative, the provider shall obtain a letter of acceptance of the distribution plan required
49.31 under paragraph (m), in regard to the members of the bargaining unit, signed by the exclusive
49.32 bargaining agent. Upon receipt of the letter of acceptance, the provider shall be deemed to

50.1 have met all the requirements of this section in regard to the members of the bargaining
50.2 unit. Upon request, the provider shall produce the letter of acceptance for the commissioner.

50.3 (k) The commissioner shall amend state grant contracts that include direct
50.4 personnel-related grant expenditures to include the allocation for the portion of the contract
50.5 related to employee compensation. Grant contracts for compensation-related services must
50.6 be amended to pass through these adjustments by September 1, 2014, and must be retroactive
50.7 to July 1, 2014.

50.8 (l) The Board on Aging and its area agencies on aging shall amend their grants that
50.9 include direct personnel-related grant expenditures to include the rate adjustment for the
50.10 portion of the grant related to employee compensation. Grants for compensation-related
50.11 services must be amended to pass through these adjustments by September 1, 2014, and
50.12 must be retroactive to July 1, 2014.

50.13 (m) A provider that receives a rate adjustment under paragraph (a) that is subject to
50.14 paragraph (g) shall prepare, and upon request submit to the commissioner, a distribution
50.15 plan that specifies the amount of money the provider expects to receive that is subject to
50.16 the requirements of paragraph (g), including how that money will be distributed to increase
50.17 compensation for employees. The commissioner may recover funds from a provider that
50.18 fails to comply with this requirement.

50.19 (n) By January 1, 2015, the provider shall post the distribution plan required under
50.20 paragraph (m) for a period of at least six weeks in an area of the provider's operation to
50.21 which all eligible employees have access and shall provide instructions for employees who
50.22 do not believe they have received the wage and other compensation-related increases
50.23 specified in the distribution plan. The instructions must include a mailing address, e-mail
50.24 address, and telephone number that the employee may use to contact the commissioner or
50.25 the commissioner's representative.

50.26 (o) For providers with rates established under Minnesota Statutes, section 256B.4914,
50.27 and with a historical rate established under Minnesota Statutes, section 256B.4913,
50.28 subdivision 4a, paragraph (b), that is greater than the rate established under Minnesota
50.29 Statutes, section 256B.4914, the requirements in paragraph (g) must only apply to the portion
50.30 of the rate increase that exceeds the difference between the rate established under Minnesota
50.31 Statutes, section 256B.4914, and the banding value established under Minnesota Statutes,
50.32 section 256B.4913, subdivision 4a, paragraph (b).

51.1 Sec. 43. Laws 2021, First Special Session chapter 7, article 17, section 14, is amended to
51.2 read:

51.3 Sec. 14. **TASK FORCE ON ELIMINATING SUBMINIMUM WAGES.**

51.4 Subdivision 1. **Establishment; purpose.** The Task Force on ~~Eliminating~~ Subminimum
51.5 Wages is established to develop a plan and make recommendations to ~~phase out payment~~
51.6 ~~of subminimum wages to people with disabilities on or before August 1, 2025~~ promote

456.25 Sec. 25. Laws 2021, First Special Session chapter 7, article 17, section 14, subdivision 3,
456.26 is amended to read:

456.27 Subd. 3. **Membership.** (a) The task force consists of ~~16~~ 20 members, appointed as
456.28 follows:

456.29 (1) the commissioner of human services or a designee;

456.30 (2) the commissioner of labor and industry or a designee;

456.31 (3) the commissioner of education or a designee;

457.1 (4) the commissioner of employment and economic development or a designee;

457.2 (5) a representative of the Department of Employment and Economic Development's
457.3 Vocational Rehabilitation Services Division appointed by the commissioner of employment
457.4 and economic development;

457.5 (6) one member appointed by the Minnesota Disability Law Center;

457.6 (7) one member appointed by The Arc of Minnesota;

457.7 (8) ~~three~~ four members who are persons with disabilities appointed by the commissioner
457.8 of human services, at least one of whom ~~must be~~ is neurodiverse, ~~and~~ at least one of whom
457.9 ~~must have~~ has a significant physical disability, ~~and~~ at least one of whom at the time of the
457.10 appointment is being paid a subminimum wage;

457.11 (9) two representatives of employers authorized to pay subminimum wage and one
457.12 representative of an employer who successfully transitioned away from payment of
457.13 subminimum wages to people with disabilities, appointed by the commissioner of human
457.14 services;

457.15 (10) one member appointed by the Minnesota Organization for Habilitation and
457.16 Rehabilitation;

457.17 (11) one member appointed by ARRM; ~~and~~

457.18 (12) one member appointed by the State Rehabilitation Council; and

457.19 (13) three members who are parents or guardians of persons with disabilities appointed
457.20 by the commissioner of human services, at least one of whom is a parent or guardian of a
457.21 person who is neurodiverse, at least one of whom is a parent or guardian of a person with

51.7 independence and increase opportunities for people with disabilities to earn competitive
51.8 wages.

51.9 Subd. 2. **Definitions.** For the purposes of this section, "subminimum wage" means wages
51.10 authorized under section 14(c) of the federal Fair Labor Standards Act, Minnesota Statutes,
51.11 section 177.28, subdivision 5, or Minnesota Rules, parts 5200.0030 and 5200.0040.

51.12 Subd. 3. **Membership.** (a) The task force consists of ~~16~~ 20 members, appointed as
51.13 follows:

51.14 (1) the commissioner of human services or a designee;

51.15 (2) the commissioner of labor and industry or a designee;

51.16 (3) the commissioner of education or a designee;

51.17 (4) the commissioner of employment and economic development or a designee;

51.18 (5) a representative of the Department of Employment and Economic Development's
51.19 Vocational Rehabilitation Services Division appointed by the commissioner of employment
51.20 and economic development;

51.21 (6) one member appointed by the Minnesota Disability Law Center;

51.22 (7) one member appointed by The Arc of Minnesota;

51.23 (8) ~~three~~ four members who are persons with disabilities appointed by the commissioner
51.24 of human services, at least one of whom ~~must be~~ is neurodiverse, ~~and~~ at least one of whom
51.25 ~~must have~~ has a significant physical disability, ~~and~~ at least one of whom at the time of the
51.26 appointment is being paid a subminimum wage;

51.27 (9) two representatives of employers authorized to pay subminimum wage and one
51.28 representative of an employer who successfully transitioned away from payment of
51.29 subminimum wages to people with disabilities, appointed by the commissioner of human
51.30 services;

52.1 (10) one member appointed by the Minnesota Organization for Habilitation and
52.2 Rehabilitation;

52.3 (11) one member appointed by ARRM; ~~and~~

52.4 (12) one member appointed by the State Rehabilitation Council; and

52.5 (13) three members who are parents or guardians of persons with disabilities appointed
52.6 by the commissioner of human services, at least one of whom is a parent or guardian of a
52.7 person who is neurodiverse, at least one of whom is a parent or guardian of a person with

457.22 a significant physical disability, and at least one of whom is a parent or guardian of a person
457.23 being paid a subminimum wage as of the date of the appointment.

457.24 (b) To the extent possible, membership on the task force under paragraph (a) shall reflect
457.25 geographic parity throughout the state and representation from Black, Indigenous, and
457.26 communities of color.

457.27 **EFFECTIVE DATE.** This section is effective the day following final enactment. The
457.28 commissioner of human services must make the additional appointments required under
457.29 this section within 30 days following final enactment.

52.8 a significant physical disability, and at least one of whom is a parent or guardian of a person
52.9 being paid a subminimum wage as of the date of the appointment.

52.10 (b) To the extent possible, membership on the task force under paragraph (a) shall reflect
52.11 geographic parity throughout the state and representation from Black, Indigenous, and
52.12 communities of color.

52.13 Subd. 4. **Appointment deadline; first meeting; chair.** Appointing authorities must
52.14 complete member selections by January 1, 2022. The commissioner of human services shall
52.15 convene the first meeting of the task force by February 15, 2022. The task force shall select
52.16 a chair from among its members at its first meeting.

52.17 Subd. 5. **Compensation.** Members shall be compensated and may be reimbursed for
52.18 expenses as provided in Minnesota Statutes, section 15.059, subdivision 3.

52.19 Subd. 6. **Duties; plan and recommendations.** The task force shall:

52.20 (1) develop a plan to phase out the payment of subminimum wages to people with
52.21 disabilities by August 1, 2025 promote independence and increase opportunities for people
52.22 with disabilities to earn competitive wages;

52.23 (2) consult with and advise the commissioner of human services on statewide plans for
52.24 limiting reducing reliance on subminimum wages in medical assistance home and
52.25 community-based services waivers under Minnesota Statutes, sections 256B.092 and
52.26 256B.49;

52.27 (3) engage with employees with disabilities paid subminimum wages and conduct
52.28 community education on the payment of subminimum wages to people with disabilities in
52.29 Minnesota;

52.30 (4) identify and collaborate with employees, employers, businesses, organizations,
52.31 agencies, and stakeholders impacted by the phase out of subminimum wage on how to
52.32 implement the plan and create sustainable work opportunities for employees with disabilities;

53.1 (5) propose a plan to establish and evaluate benchmarks for measuring annual progress
53.2 toward eliminating reducing reliance on subminimum wages;

53.3 (6) propose a plan to monitor and track outcomes of employees with disabilities, including
53.4 those who transition to competitive employment;

53.5 (7) identify initiatives, investment, training, and services designed to improve wages,
53.6 reduce unemployment rates, and provide support and sustainable work opportunities for
53.7 persons with disabilities;

- 53.8 (8) identify benefits to the state in eliminating in reducing reliance on subminimum wage
53.9 by August 1, 2025 wages;
- 53.10 (9) identify barriers to eliminating subminimum wage by August 1, 2025 wages, including
53.11 the cost of implementing and providing ongoing employment services, training, and support
53.12 for employees with disabilities and the cost of paying minimum wage wages to employees
53.13 with disabilities, and the potential impact on persons with disabilities who would be unable
53.14 to find sustainable employment in the absence of a subminimum wage or who would not
53.15 choose competitive employment;
- 53.16 (10) make recommendations to eliminate the barriers identified in clause (9); and
- 53.17 (11) identify and make recommendations for sustainable financial support, funding, and
53.18 resources for eliminating reducing reliance on subminimum wage by August 1, 2025 wages.
- 53.19 Subd. 7. **Duties; provider reinvention grants.** (a) The commissioner of human services
53.20 shall establish a provider reinvention grant program to promote independence and increase
53.21 opportunities for people with disabilities to earn competitive wages. The commissioner
53.22 shall make the grants available to at least the following:
- 53.23 (1) providers of disability services under Minnesota Statutes, sections 256B.092 and
53.24 256B.49, for developing and implementing a business plan to shift the providers' business
53.25 models away from paying waiver participants subminimum wages;
- 53.26 (2) organizations to develop peer-to-peer mentoring for people with disabilities who
53.27 have successfully transitioned to earning competitive wages;
- 53.28 (3) organizations to facilitate provider-to-provider mentoring to promote shifting away
53.29 from paying employees with disabilities a subminimum wage; and
- 53.30 (4) organizations to conduct family outreach and education on working with people with
53.31 disabilities who are transitioning from subminimum wage employment to competitive
53.32 employment.
- 54.1 (b) The provider reinvention grant program must be competitive. The commissioner of
54.2 human services must develop criteria for evaluating responses to requests for proposals.
54.3 Criteria for evaluating grant applications must be finalized no later than November 1, 2021.
54.4 The commissioner of human services shall administer grants in compliance with Minnesota
54.5 Statutes, sections 16B.97 and 16B.98, and related policies set forth by the Department of
54.6 Administration's Office of Grants Management.
- 54.7 (c) Grantees must work with the commissioner to develop their business model and, as
54.8 a condition of receiving grant funds, grantees must fully phase out the use of subminimum
54.9 wage by April 1, 2024, unless the grantee receives a waiver from the commissioner of
54.10 human services for a demonstrated need.

458.1 Sec. 26. Laws 2022, chapter 33, section 1, subdivision 5a, is amended to read:

458.2 Subd. 5a. **Base wage index; calculations.** The base wage index must be calculated as
458.3 follows:

458.4 (1) for supervisory staff, 100 percent of the median wage for community and social
458.5 services specialist (SOC code 21-1099), with the exception of the supervisor of positive
458.6 supports professional, positive supports analyst, and positive supports specialist, which is
458.7 100 percent of the median wage for clinical counseling and school psychologist (SOC code
458.8 19-3031);

458.9 (2) for registered nurse staff, 100 percent of the median wage for registered nurses (SOC
458.10 code 29-1141);

458.11 (3) for licensed practical nurse staff, 100 percent of the median wage for licensed practical
458.12 nurses (SOC code 29-2061);

458.13 (4) for residential asleep-overnight staff, the minimum wage in Minnesota for large
458.14 employers, with the exception of asleep-overnight staff for family residential services, which
458.15 is 36 percent of the minimum wage in Minnesota for large employers;

458.16 (5) for residential direct care staff, the sum of:

54.11 (d) Of the total amount available for provider reinvention grants, the commissioner may
54.12 award up to 25 percent of the grant funds to providers who have already successfully shifted
54.13 their business model away from paying employees with disabilities subminimum wages to
54.14 provide provider-to-provider mentoring to providers receiving a provider reinvention grant.

54.15 Subd. 8. **Report.** By February 15, 2023, the task force shall submit to the chairs and
54.16 ranking minority members of the committees and divisions in the senate and house of
54.17 representatives with jurisdiction over employment and wages and over health and human
54.18 services a report with recommendations to ~~eliminate by August 1, 2025, the payment of~~
54.19 ~~subminimum wage~~ increase opportunities for people with disabilities to earn competitive
54.20 wages, and any changes to statutes, laws, or rules required to implement the recommendations
54.21 of the task force. The task force must include in the report a recommendation concerning
54.22 continuing the task force beyond its scheduled expiration.

54.23 Subd. 9. **Administrative support.** The commissioner of human services shall provide
54.24 meeting space and administrative services to the task force.

54.25 Subd. 10. **Expiration.** The task force shall conclude their duties and expire on March
54.26 31, 2024.

54.27 **EFFECTIVE DATE.** This section is effective the day following final enactment. The
54.28 commissioner of human services must make the additional appointments required under
54.29 this section within 30 days following final enactment.

54.30 Sec. 44. Laws 2022, chapter 33, section 1, subdivision 5a, is amended to read:

54.31 Subd. 5a. **Base wage index; calculations.** The base wage index must be calculated as
54.32 follows:

55.1 (1) for supervisory staff, 100 percent of the median wage for community and social
55.2 services specialist (SOC code 21-1099), with the exception of the supervisor of positive
55.3 supports professional, positive supports analyst, and positive supports specialist, which is
55.4 100 percent of the median wage for clinical counseling and school psychologist (SOC code
55.5 19-3031);

55.6 (2) for registered nurse staff, 100 percent of the median wage for registered nurses (SOC
55.7 code 29-1141);

55.8 (3) for licensed practical nurse staff, 100 percent of the median wage for licensed practical
55.9 nurses (SOC code 29-2061);

55.10 (4) for residential asleep-overnight staff, the minimum wage in Minnesota for large
55.11 employers, with the exception of asleep-overnight staff for family residential services, which
55.12 is 36 percent of the minimum wage in Minnesota for large employers;

55.13 (5) for residential direct care staff, the sum of:

458.17 (i) 15 percent of the subtotal of 50 percent of the median wage for home health and
458.18 personal care aide (SOC code 31-1120); 30 percent of the median wage for nursing assistant
458.19 (SOC code 31-1131); and 20 percent of the median wage for social and human services
458.20 aide (SOC code 21-1093); and

458.21 (ii) 85 percent of the subtotal of 40 percent of the median wage for home health and
458.22 personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant
458.23 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
458.24 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
458.25 21-1093);

458.26 (6) for adult day services staff, 70 percent of the median wage for nursing assistant (SOC
458.27 code 31-1131); and 30 percent of the median wage for home health and personal care aide
458.28 (SOC code 31-1120);

458.29 (7) for day support services staff and prevocational services staff, 20 percent of the
458.30 median wage for nursing assistant (SOC code 31-1131); 20 percent of the median wage for
458.31 psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social
458.32 and human services aide (SOC code 21-1093);

459.1 (8) for positive supports analyst staff, 100 percent of the median wage for substance
459.2 abuse, behavioral disorder, and mental health counselor (SOC code 21-1018);

459.3 (9) for positive supports professional staff, 100 percent of the median wage for clinical
459.4 counseling and school psychologist (SOC code 19-3031);

459.5 (10) for positive supports specialist staff, 100 percent of the median wage for psychiatric
459.6 technicians (SOC code 29-2053);

459.7 (11) for individualized home supports with family training staff, 20 percent of the median
459.8 wage for nursing aide (SOC code 31-1131); 30 percent of the median wage for community
459.9 social service specialist (SOC code 21-1099); 40 percent of the median wage for social and
459.10 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
459.11 technician (SOC code 29-2053);

459.12 (12) for individualized home supports with training services staff, 40 percent of the
459.13 median wage for community social service specialist (SOC code 21-1099); 50 percent of
459.14 the median wage for social and human services aide (SOC code 21-1093); and ten percent
459.15 of the median wage for psychiatric technician (SOC code 29-2053);

459.16 (13) for employment support services staff, 50 percent of the median wage for
459.17 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
459.18 community and social services specialist (SOC code 21-1099);

459.19 (14) for employment exploration services staff, 50 percent of the median wage for
459.20 ~~rehabilitation counselor (SOC code 21-1015)~~ education, guidance, school, and vocational
459.21 counselors (SOC code 21-1012); and 50 percent of the median wage for community and
459.22 social services specialist (SOC code 21-1099);

55.14 (i) 15 percent of the subtotal of 50 percent of the median wage for home health and
55.15 personal care aide (SOC code 31-1120); 30 percent of the median wage for nursing assistant
55.16 (SOC code 31-1131); and 20 percent of the median wage for social and human services
55.17 aide (SOC code 21-1093); and

55.18 (ii) 85 percent of the subtotal of 40 percent of the median wage for home health and
55.19 personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant
55.20 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
55.21 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
55.22 21-1093);

55.23 (6) for adult day services staff, 70 percent of the median wage for nursing assistant (SOC
55.24 code 31-1131); and 30 percent of the median wage for home health and personal care aide
55.25 (SOC code 31-1120);

55.26 (7) for day support services staff and prevocational services staff, 20 percent of the
55.27 median wage for nursing assistant (SOC code 31-1131); 20 percent of the median wage for
55.28 psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social
55.29 and human services aide (SOC code 21-1093);

55.30 (8) for positive supports analyst staff, 100 percent of the median wage for substance
55.31 abuse, behavioral disorder, and mental health counselor (SOC code 21-1018);

55.32 (9) for positive supports professional staff, 100 percent of the median wage for clinical
55.33 counseling and school psychologist (SOC code 19-3031);

56.1 (10) for positive supports specialist staff, 100 percent of the median wage for psychiatric
56.2 technicians (SOC code 29-2053);

56.3 (11) for individualized home supports with family training staff, 20 percent of the median
56.4 wage for nursing aide (SOC code 31-1131); 30 percent of the median wage for community
56.5 social service specialist (SOC code 21-1099); 40 percent of the median wage for social and
56.6 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
56.7 technician (SOC code 29-2053);

56.8 (12) for individualized home supports with training services staff, 40 percent of the
56.9 median wage for community social service specialist (SOC code 21-1099); 50 percent of
56.10 the median wage for social and human services aide (SOC code 21-1093); and ten percent
56.11 of the median wage for psychiatric technician (SOC code 29-2053);

56.12 (13) for employment support services staff, 50 percent of the median wage for
56.13 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
56.14 community and social services specialist (SOC code 21-1099);

56.15 (14) for employment exploration services staff, 50 percent of the median wage for
56.16 ~~rehabilitation counselor (SOC code 21-1015)~~ education, guidance, school, and vocational
56.17 counselors (SOC code 21-1012); and 50 percent of the median wage for community and
56.18 social services specialist (SOC code 21-1099);

459.23 (15) for employment development services staff, 50 percent of the median wage for
459.24 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
459.25 of the median wage for community and social services specialist (SOC code 21-1099);

459.26 (16) for individualized home support without training staff, 50 percent of the median
459.27 wage for home health and personal care aide (SOC code 31-1120); and 50 percent of the
459.28 median wage for nursing assistant (SOC code 31-1131);

459.29 (17) for night supervision staff, 40 percent of the median wage for home health and
459.30 personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant
459.31 (SOC code 31-1131); 20 percent of the median wage for psychiatric technician (SOC code
459.32 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
459.33 21-1093); and

460.1 (18) for respite staff, 50 percent of the median wage for home health and personal care
460.2 aide (SOC code 31-1131); and 50 percent of the median wage for nursing assistant (SOC
460.3 code 31-1014).;

460.4 EFFECTIVE DATE. This section is effective January 1, 2023, or upon federal approval,
460.5 whichever is later. The commissioner of human services shall notify the revisor of statutes
460.6 when federal approval is obtained.

56.19 (15) for employment development services staff, 50 percent of the median wage for
56.20 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
56.21 of the median wage for community and social services specialist (SOC code 21-1099);

56.22 (16) for individualized home support without training staff, 50 percent of the median
56.23 wage for home health and personal care aide (SOC code 31-1120); and 50 percent of the
56.24 median wage for nursing assistant (SOC code 31-1131); and

56.25 (17) for night supervision staff, 40 percent of the median wage for home health and
56.26 personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant
56.27 (SOC code 31-1131); 20 percent of the median wage for psychiatric technician (SOC code
56.28 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
56.29 21-1093); and

56.30 (18) for respite staff, 50 percent of the median wage for home health and personal care
56.31 aide (SOC code 31-1131); and 50 percent of the median wage for nursing assistant (SOC
56.32 code 31-1014).

57.1 EFFECTIVE DATE. This section is effective January 1, 2023, or upon federal approval,
57.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
57.3 when federal approval is obtained.

57.4 Sec. 45. Laws 2022, chapter 33, section 1, subdivision 5b, is amended to read:

57.5 Subd. 5b. Standard component value adjustments. The commissioner shall update
57.6 the client and programming support, transportation, and program facility cost component
57.7 values as required in subdivisions 6 to 9a 9 for changes in the Consumer Price Index. The
57.8 commissioner shall adjust these values higher or lower, publish these updated values, and
57.9 load them into the rate management system as follows:

57.10 (1) on January 1, 2022, by the percentage change in the CPI-U from the date of the
57.11 previous update to the data available on December 31, 2019;

57.12 (2) on January 1, 2023, by the percentage change in the CPI-U from the date of previous
57.13 update to the data available on December 31, 2021;

57.14 (3) on ~~November 1, 2024~~ January 1, 2025, by the percentage change in the CPI-U from
57.15 the date of the previous update to the data available as of December 31, ~~2021~~ 2023; and

57.16 ~~(3)~~ (4) on ~~July 1, 2026~~ January 1, 2027, and every two years thereafter, by the percentage
57.17 change in the CPI-U from the date of the previous update to the data available ~~30~~ 12 months
57.18 and one day prior to the scheduled update.

57.19 EFFECTIVE DATE. This section is effective January 1, 2023, or upon federal approval,
57.20 whichever is later. The commissioner of human services shall notify the revisor of statutes
57.21 when federal approval is obtained.

57.22 Sec. 46. Laws 2022, chapter 33, section 1, subdivision 5c, is amended to read:

57.23 Subd. 5c. **Removal of after-framework adjustments.** Any rate adjustments applied to
57.24 the service rates calculated under this section outside of the cost components and rate
57.25 methodology specified in this section shall be removed from rate calculations upon
57.26 implementation of the updates under subdivisions 5 ~~and~~, 5b, and 5f.

57.27 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
57.28 whichever is later. The commissioner of human services shall notify the revisor of statutes
57.29 when federal approval is obtained.

58.1 Sec. 47. Laws 2022, chapter 33, section 1, subdivision 5d, is amended to read:

58.2 Subd. 5d. **Unavailable data for updates and adjustments.** If Bureau of Labor Statistics
58.3 occupational codes or Consumer Price Index items specified in subdivisions 5 ~~or~~, 5b, or 5f
58.4 are unavailable in the future, the commissioner shall recommend to the legislature codes or
58.5 items to update and replace.

58.6 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
58.7 whichever is later. The commissioner of human services shall notify the revisor of statutes
58.8 when federal approval is obtained.

58.9 Sec. 48. Laws 2022, chapter 33, section 1, subdivision 5e, is amended to read:

58.10 Subd. 5e. **Inflationary update spending requirement.** (a) At least 80 percent of the
58.11 marginal increase in revenue from the rate adjustment applied to the service rates calculated
58.12 under subdivisions 5 and 5b beginning on January 1, 2022, for services rendered between
58.13 January 1, 2022, and March 31, 2024, must be used to increase compensation-related costs
58.14 for employees directly employed by the program on or after January 1, 2022.

58.15 (b) For the purposes of this subdivision, compensation-related costs include:

58.16 (1) wages and salaries;

58.17 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
58.18 taxes, workers' compensation, and mileage reimbursement;

58.19 (3) the employer's paid share of health and dental insurance, life insurance, disability
58.20 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
58.21 employee retirement accounts; and

58.22 (4) benefits that address direct support professional workforce needs above and beyond
58.23 what employees were offered prior to January 1, 2022, implementation of the applicable
58.24 rate adjustment, including retention and recruitment bonuses and tuition reimbursement.

58.25 (c) Compensation-related costs for persons employed in the central office of a corporation
58.26 or entity that has an ownership interest in the provider or exercises control over the provider,

58.27 or for persons paid by the provider under a management contract, do not count toward the
58.28 80 percent requirement under this subdivision.

58.29 (d) A provider agency or individual provider that receives a rate subject to the
58.30 requirements of this subdivision shall prepare, and upon request submit to the commissioner,
58.31 a distribution plan that specifies the amount of money the provider expects to receive that
58.32 is subject to the requirements of this subdivision, including how that money was or will be
59.1 distributed to increase compensation-related costs for employees. Within 60 days of final
59.2 implementation of a rate adjustment subject to the requirements of this subdivision, the
59.3 provider must post the distribution plan and leave it posted for a period of at least six months
59.4 in an area of the provider's operation to which all direct support professionals have access.
59.5 The posted distribution plan must include instructions regarding how to contact the
59.6 commissioner or commissioner's representative if an employee believes the employee has
59.7 not received the compensation-related increase described in the plan.

59.8 (e) ~~This subdivision expires June 30, 2024~~ At least 80 percent of the marginal increase
59.9 in revenue from the rate adjustments applied to service rates calculated under subdivisions
59.10 5, 5b, and 5f beginning on January 1, 2023, and on January 1, 2025, for services rendered
59.11 on or after those dates must be used to increase compensation-related costs for employees
59.12 directly employed by the program.

59.13 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
59.14 whichever is later. The commissioner of human services shall notify the revisor of statutes
59.15 when federal approval is obtained.

59.16 Sec. 49. Laws 2022, chapter 33, section 1, is amended by adding a subdivision to read:

59.17 Subd. 5f. **Competitive workforce factor adjustments.** (a) On January 1, 2023, and
59.18 every two years thereafter, the commissioner shall update the competitive workforce factor
59.19 to equal the differential between:

59.20 (1) the most recently available wage data by SOC code for the weighted average wage
59.21 for direct care staff for residential services and direct care staff for day services; and

59.22 (2) the most recently available wage data by SOC code of the weighted average wage
59.23 of comparable occupations.

59.24 (b) For each update of the competitive workforce factor, the update shall not decrease
59.25 the competitive workforce factor by more than 2.0. If the competitive workforce factor is
59.26 less than or equal to zero, then the competitive workforce factor is zero.

59.27 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
59.28 whichever is later. The commissioner of human services shall notify the revisor of statutes
59.29 when federal approval is obtained.

460.7 Sec. 27. Laws 2022, chapter 33, section 1, subdivision 9a, is amended to read:

460.8 Subd. 9a. **Respite services; component values and calculation of payment rates.** (a)

460.9 For the purposes of this section, respite services include respite services provided to an

460.10 individual outside of any service plan for a day program or residential support service.

460.11 (b) Component values for respite services are:

460.12 (1) competitive workforce factor: 4.7 percent;

460.13 (2) supervisory span of control ratio: 11 percent;

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

460.15 (4) employee-related cost ratio: 23.6 percent;

460.16 (5) general administrative support ratio: 13.25 percent;

460.17 (6) program-related expense ratio: 2.9 percent; and

460.18 (7) absence and utilization factor ratio: 3.9 percent.

460.19 (c) A unit of service for respite services is 15 minutes.

460.20 (d) Payments for respite services must be calculated as follows unless the service is

460.21 reimbursed separately as part of a residential support services or day program payment rate:

460.22 (1) determine the number of units of service to meet an individual's needs;

460.23 (2) determine the appropriate hourly staff wage rates derived by the commissioner as

460.24 provided in subdivisions 5 and 5a;

460.25 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the

460.26 product of one plus the competitive workforce factor;

460.27 (4) for a recipient requiring deaf and hard-of-hearing customization under subdivision

460.28 12, add the customization rate provided in subdivision 12 to the result of clause (3);

460.29 (5) multiply the number of direct staffing hours by the appropriate staff wage;

461.1 (6) multiply the number of direct staffing hours by the product of the supervisory span

461.2 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);

461.3 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the

461.4 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing

461.5 rate;

70.2 Sec. 61. **REPEALER.**

70.3 Laws 2022, chapter 33, section 1, subdivision 9a, is repealed.

461.6 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
461.7 employee-related cost ratio;
461.8 (9) this is the subtotal rate;
461.9 (10) sum the standard general administrative support ratio, the program-related expense
461.10 ratio, and the absence and utilization factor ratio;
461.11 (11) divide the result of clause (9) by one minus the result of clause (10). This is the
461.12 total payment amount;
461.13 (12) for respite services provided in a shared manner, divide the total payment amount
461.14 in clause (11) by the number of service recipients, not to exceed three; and
461.15 (13) for night supervision provided in a shared manner, divide the total payment amount
461.16 in clause (11) by the number of service recipients, not to exceed two; and
461.17 (13) (14) adjust the result of clause clauses (12) and (13) by a factor to be determined
461.18 by the commissioner to adjust for regional differences in the cost of providing services.

461.19 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
461.20 whichever occurs later. The commissioner of human services shall notify the revisor of
461.21 statutes when federal approval is obtained.

70.4 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
70.5 whichever is later. The commissioner of human services shall notify the revisor of statutes
70.6 when federal approval is obtained.

59.30 Sec. 50. Laws 2022, chapter 33, section 1, subdivision 10c, is amended to read:
59.31 Subd. 10c. **Reporting and analysis of competitive workforce factor.** (a) Beginning
59.32 February 1, ~~2021~~ 2024, and every two years thereafter, the commissioner shall report to the
60.1 chairs and ranking minority members of the legislative committees and divisions with
60.2 jurisdiction over health and human services policy and finance an analysis of the competitive
60.3 workforce factor.
60.4 (b) The report must include recommendations to update the competitive workforce factor
60.5 using:
60.6 (1) the most recently available wage data by SOC code for the weighted average wage
60.7 for direct care staff for residential services and direct care staff for day services;
60.8 (2) the most recently available wage data by SOC code of the weighted average wage
60.9 of comparable occupations; and
60.10 (3) workforce data as required under subdivision 10b.

60.11 (c) ~~The commissioner shall not recommend an increase or decrease of the competitive~~
 60.12 ~~workforce factor from the current value by more than two percentage points. If, after a~~
 60.13 ~~biennial analysis for the next report, the competitive workforce factor is less than or equal~~
 60.14 ~~to zero, the commissioner shall recommend a competitive workforce factor of zero This~~
 60.15 ~~subdivision expires upon submission of the calendar year 2030 report.~~

60.16 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 60.17 whichever is later. The commissioner of human services shall notify the revisor of statutes
 60.18 when federal approval is obtained.

60.19 Sec. 51. Laws 2022, chapter 40, section 6, is amended to read:

60.20 Sec. 6. **COMMISSIONER OF HUMAN SERVICES; TEMPORARY STAFFING**
 60.21 **POOL; APPROPRIATION.**

60.22 (a) The commissioner of human services shall establish a temporary emergency staffing
 60.23 pool for congregate settings and for providers or recipients of home- and community-based
 60.24 services experiencing staffing crises. Vendor contracts may include retention bonuses,
 60.25 sign-on bonuses, and payment for hours on call. The commissioner may pay for necessary
 60.26 training, travel, and lodging expenses of the temporary staff. Contracts for temporary staffing
 60.27 executed under this section: (1) should minimize the recruitment away from providers'
 60.28 current workforces; and (2) may not be executed with an individual until at least 30 days
 60.29 since the individual was last employed in Minnesota by one of the types of facilities,
 60.30 providers, or individuals listed in paragraph (g).

60.31 (b) Temporary staff, at the request of the commissioner, may be deployed to providers
 60.32 of home- and community-based services, individual recipients of home- and
 61.1 community-based services, and long-term care facilities and other congregate care residential
 61.2 facilities and programs experiencing an emergency staffing crisis on or after the effective
 61.3 date of this section. Temporary staff must be provided at no cost to the provider, individual
 61.4 recipient, facility, or program receiving the temporary staff.

61.5 (c) Members of the temporary staffing pool under this section are not state employees.

61.6 (d) The commissioner must coordinate the activities under this section with any other
 61.7 impacted state agencies, to appropriately prioritize locations to deploy contracted temporary
 61.8 staff.

61.9 (e) The commissioner must give priority for deploying staff to providers, individual
 61.10 recipients, facilities, and programs with the most significant staffing crises and where, but
 61.11 for this assistance, residents or service recipients would be at significant risk of injury due
 61.12 to the need to transfer to another facility or a hospital for adequately staffed care.

61.13 (f) A provider, individual recipient, facility, or program may seek onetime assistance
 61.14 per setting or individual service recipient from the temporary staffing pool only after the
 61.15 provider, individual recipient, facility, or program has used all resources available to obtain
 61.16 temporary staff but is unable to meet the provider's, individual's, facility's, or program's
 61.17 temporary staffing needs. A provider, individual, facility, or program may apply for

- 61.18 temporary staff for up to 21 days. Applicants must submit a proposed plan for ensuring
 61.19 resident safety at the end of that time period.
- 61.20 (g) Providers, individuals, facilities, and programs eligible to obtain temporary staff
 61.21 from the temporary staffing pool include:
- 61.22 (1) nursing facilities;
- 61.23 (2) assisted living facilities;
- 61.24 (3) intermediate care facilities for persons with developmental disabilities;
- 61.25 (4) adult foster care ~~or~~, community residential settings, or integrated community supports
 61.26 settings;
- 61.27 (5) licensed substance use disorder treatment facilities;
- 61.28 (6) unlicensed county-based substance use disorder treatment facilities;
- 61.29 (7) licensed facilities for adults with mental illness;
- 61.30 (8) licensed detoxification programs;
- 61.31 (9) licensed withdrawal management programs;
- 62.1 (10) licensed children's residential facilities;
- 62.2 (11) licensed child foster residence settings;
- 62.3 (12) unlicensed, Tribal-certified facilities that perform functions similar to the licensed
 62.4 facilities listed in this paragraph;
- 62.5 (13) boarding care homes;
- 62.6 (14) board and lodging establishments serving people with disabilities or disabling
 62.7 conditions;
- 62.8 (15) board and lodging establishments with special services;
- 62.9 (16) supervised living facilities;
- 62.10 (17) supportive housing;
- 62.11 (18) sober homes;
- 62.12 (19) community-based halfway houses for people exiting the correctional system;
- 62.13 (20) shelters serving people experiencing homelessness;
- 62.14 (21) drop-in centers for people experiencing homelessness;
- 62.15 (22) homeless outreach services for unsheltered individuals;
- 62.16 (23) shelters for people experiencing domestic violence; ~~and~~

461.22 Sec. 28. Laws 2022, chapter 40, section 7, is amended to read:

461.23 Sec. 7. **APPROPRIATION; TEMPORARY STAFFING POOL.**

461.24 ~~\$1,029,000~~ \$3,181,000 in fiscal year 2022 is appropriated from the general fund to the
461.25 commissioner of human services for the temporary staffing pool described in this act. This
461.26 is a onetime appropriation and is available until ~~June 30, 2022~~ September 30, 2023.

461.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.

461.28 Sec. 29. **WORKFORCE INCENTIVE FUND GRANTS.**

461.29 Subdivision 1. **Grant program established.** The commissioner of human services shall
461.30 establish grants for behavioral health, housing, disability, and home and community-based
462.1 older adult providers to assist with recruiting and retaining direct support and frontline
462.2 workers.

462.3 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
462.4 meanings given.

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

62.17 (24) temporary isolation spaces for people who test positive for COVID-19;

62.18 (25) individuals who use consumer-directed community supports;

62.19 (26) individuals who use the personal care assistance choice program;

62.20 (27) personal care assistance provider agencies;

62.21 (28) individuals who use the community first services and supports budget model;

62.22 (29) agency-providers of community first services and supports; and

62.23 (30) providers of individualized home supports.

62.24 (h) Notwithstanding Minnesota Statutes, chapter 16C, the commissioner may maintain,
62.25 extend, or renew contracts for temporary staffing entered into on or after September 1, 2020.
62.26 The commissioner may also enter into new contracts with eligible entities for temporary
62.27 staff deployed in the temporary staffing pool. The commissioner may use up to 6.5 percent
62.28 of this funding for the commissioner's costs related to administration of this program.

63.1 (i) The commissioner shall seek all allowable FEMA reimbursement for the costs of this
63.2 activity.

SEC. 12. LAWS 2022, CHAPTER 40, SECTION 7, AMENDMENT FROM S4410-3, ARTICLE 18, SECTION 12, TO MATCH UES4410-2, ARTICLE 9, SECTION 28.

494.1 Sec. 12. Laws 2022, chapter 40, section 7, is amended to read:

494.2 Sec. 7. **APPROPRIATION; TEMPORARY STAFFING POOL.**

494.3 ~~\$1,029,000~~ \$5,145,000 in fiscal year 2022 is appropriated from the general fund to the
494.4 commissioner of human services for the temporary staffing pool described in this act. This
494.5 is a onetime appropriation and is available until June 30, 2023.

- 462.6 (c) "Eligible employer" means an organization enrolled in a Minnesota health care
462.7 program or providing housing services that is:
- 462.8 (1) a provider of home and community-based services under Minnesota Statutes, chapter
462.9 245D;
- 462.10 (2) an agency provider or financial management service provider under Minnesota
462.11 Statutes, section 256B.85;
- 462.12 (3) a home care provider licensed under Minnesota Statutes, sections 144A.43 to
462.13 144A.482;
- 462.14 (4) a facility certified as an intermediate care facility for persons with developmental
462.15 disabilities;
- 462.16 (5) a provider of home care services as defined in Minnesota Statutes, section 256B.0651,
462.17 subdivision 1, paragraph (d);
- 462.18 (6) an agency as defined in Minnesota Statutes, section 256B.0949, subdivision 2;
- 462.19 (7) a provider of mental health day treatment services for children or adults;
- 462.20 (8) a provider of emergency services as defined in Minnesota Statutes, section 256E.36;
- 462.21 (9) a provider of housing support as defined in Minnesota Statutes, chapter 256I;
- 462.22 (10) a provider of housing stabilization services as defined in Minnesota Statutes, section
462.23 256B.051;
- 462.24 (11) a provider of transitional housing programs as defined in Minnesota Statutes, section
462.25 256E.33;
- 462.26 (12) a provider of substance use disorder services as defined in Minnesota Statutes,
462.27 chapter 245G;
- 462.28 (13) an eligible financial management service provider serving people through
462.29 consumer-directed community supports under Minnesota Statutes, sections 256B.092 and
462.30 256B.49, and chapter 256S, and consumer support grants under Minnesota Statutes, section
462.31 256.476;
- 463.1 (14) a provider of customized living services as defined in Minnesota Statutes, section
463.2 256S.02, subdivision 12; or
- 463.3 (15) a provider who serves children with an emotional disorder or adults with mental
463.4 illness under Minnesota Statutes, section 245I.011 or 256B.0671, providing services,
463.5 including:
- 463.6 (i) assertive community treatment;
- 463.7 (ii) intensive residential treatment services;

- 463.8 (iii) adult rehabilitative mental health services;
- 463.9 (iv) mobile crisis services;
- 463.10 (v) children's therapeutic services and supports;
- 463.11 (vi) children's residential services;
- 463.12 (vii) psychiatric residential treatment services;
- 463.13 (viii) outpatient mental health treatment provided by mental health professionals,
- 463.14 community mental health center services, or certified community behavioral health clinics;
- 463.15 and
- 463.16 (ix) intensive mental health outpatient treatment services.
- 463.17 (d) "Eligible worker" means a worker who earns \$30 per hour or less and has worked
- 463.18 in an eligible profession for at least six months. Eligible workers may receive up to \$5,000
- 463.19 annually in payments from the workforce incentive fund.
- 463.20 Subd. 3. Allowable uses of grant money. (a) Grantees must use money awarded to
- 463.21 provide payments to eligible workers for the following purposes:
- 463.22 (1) retention and incentive payments;
- 463.23 (2) postsecondary loan and tuition payments;
- 463.24 (3) child care costs;
- 463.25 (4) transportation-related costs; and
- 463.26 (5) other costs associated with retaining and recruiting workers, as approved by the
- 463.27 commissioner.
- 463.28 (b) The commissioner must develop a grant cycle distribution plan that allows for
- 463.29 equitable distribution of funding among eligible employer types. The commissioner's
- 463.30 determination of the grant awards and amounts is final and is not subject to appeal.
- 464.1 (c) The commissioner must make efforts to prioritize eligible employers owned by
- 464.2 persons who are Black, Indigenous, and people of color and small- to mid-sized eligible
- 464.3 employers.
- 464.4 Subd. 4. Attestation. As a condition of obtaining grant payments under this section, an
- 464.5 eligible employer must attest and agree to the following:
- 464.6 (1) the employer is an eligible employer;
- 464.7 (2) the total number of eligible employees;

- 464.8 (3) the employer will distribute the entire value of the grant to eligible employees, as
464.9 allowed under this section;
- 464.10 (4) the employer will create and maintain records under subdivision 6;
- 464.11 (5) the employer will not use the money appropriated under this section for any purpose
464.12 other than the purposes permitted under this section; and
- 464.13 (6) the entire value of any grant amounts must be distributed to eligible employees
464.14 identified by the provider.
- 464.15 Subd. 5. **Audits and recoupment.** (a) The commissioner may perform an audit under
464.16 this section up to six years after the grant is awarded to ensure:
- 464.17 (1) the grantee used the money solely for the purposes stated in subdivision 3;
- 464.18 (2) the grantee was truthful when making attestations under subdivision 5; and
- 464.19 (3) the grantee complied with the conditions of receiving a grant under this section.
- 464.20 (b) If the commissioner determines that a grantee used awarded money for purposes not
464.21 authorized under this section, the commissioner must treat any amount used for a purpose
464.22 not authorized under this section as an overpayment. The commissioner must recover any
464.23 overpayment.
- 464.24 Subd. 6. **Self-directed services workforce.** Grants paid to eligible employees providing
464.25 services within the covered programs defined in Minnesota Statutes, section 256B.0711,
464.26 do not constitute a change in a term or condition for individual providers in covered programs
464.27 and are not subject to the state's obligation to meet and negotiate under Minnesota Statutes,
464.28 chapter 179A.
- 464.29 Subd. 7. **Grants not to be considered income.** (a) For the purposes of this subdivision,
464.30 "subtraction" has the meaning given in Minnesota Statutes, section 290.0132, subdivision
465.1 1, paragraph (a), and the rules in that subdivision apply for this subdivision. The definitions
465.2 in Minnesota Statutes, section 290.01, apply to this subdivision.
- 465.3 (b) The amount of grant awards received under this section is a subtraction.
- 465.4 (c) Grant awards under this section are excluded from income, as defined in Minnesota
465.5 Statutes, sections 290.0674, subdivision 2a, and 290A.03, subdivision 3.
- 465.6 (d) Notwithstanding any law to the contrary, grant awards under this section must not
465.7 be considered income, assets, or personal property for purposes of determining eligibility
465.8 or recertifying eligibility for:
- 465.9 (1) child care assistance programs under Minnesota Statutes, chapter 119B;
- 465.10 (2) general assistance, Minnesota supplemental aid, and food support under Minnesota
465.11 Statutes, chapter 256D;

- 465.12 (3) housing support under Minnesota Statutes, chapter 256I;
- 465.13 (4) Minnesota family investment program and diversionary work program under
- 465.14 Minnesota Statutes, chapter 256J; and
- 465.15 (5) economic assistance programs under Minnesota Statutes, chapter 256P.
- 465.16 (e) The commissioner of human services must not consider grant awards under this
- 465.17 section as income or assets under Minnesota Statutes, section 256B.056, subdivision 1a,
- 465.18 paragraph (a); 3; or 3c, or for persons with eligibility determined under Minnesota Statutes,
- 465.19 section 256B.057, subdivision 3, 3a, or 3b.
- 465.20 **EFFECTIVE DATE.** This section is effective July 1, 2022.
- 465.21 Sec. 30. **DIRECT CARE SERVICE CORPS PILOT PROJECT.**
- 465.22 Subdivision 1. **Establishment.** HealthForce Minnesota at Winona State University must
- 465.23 develop a pilot project establishing the Minnesota Direct Care Service Corps. The pilot
- 465.24 program must utilize financial incentives to attract postsecondary students to work as personal
- 465.25 care assistants or direct support professionals. HealthForce Minnesota must establish the
- 465.26 financial incentives and minimum work requirements to be eligible for incentive payments.
- 465.27 The financial incentive must increase with each semester that the student participates in the
- 465.28 Minnesota Direct Care Service Corps.
- 465.29 Subd. 2. **Pilot sites.** (a) Pilot sites must include one postsecondary institution in the
- 465.30 seven-county metropolitan area and at least one postsecondary institution outside of the
- 465.31 seven-county metropolitan area. If more than one postsecondary institution outside the
- 466.1 metropolitan area is selected, one must be located in northern Minnesota and the other must
- 466.2 be located in southern Minnesota.
- 466.3 (b) After satisfactorily completing the work requirements for a semester, the pilot site
- 466.4 or its fiscal agent must pay students the financial incentive developed for the pilot project.
- 466.5 Subd. 3. **Evaluation and report.** (a) HealthForce Minnesota must contract with a third
- 466.6 party to evaluate the pilot project's impact on health care costs, retention of personal care
- 466.7 assistants, and patients' and providers' satisfaction of care. The evaluation must include the
- 466.8 number of participants, the hours of care provided by participants, and the retention of
- 466.9 participants from semester to semester.
- 466.10 (b) By January 4, 2024, HealthForce Minnesota must report the findings under paragraph
- 466.11 (a) to the chairs and ranking members of the legislative committees with jurisdiction over
- 466.12 human services policy and finance.

466.13 Sec. 31. DIRECTION TO COMMISSIONER OF HUMAN SERVICES;
466.14 LIFE-SHARING SERVICES.

466.15 Subdivision 1. Recommendations required. The commissioner of human services shall
466.16 develop recommendations for establishing life sharing as a covered medical assistance
466.17 waiver service.

466.18 Subd. 2. Definition. For the purposes of this section, "life sharing" means a
466.19 relationship-based living arrangement between an adult with a disability and an individual
466.20 or family in which they share their lives and experiences while the adult with a disability
466.21 receives support from the individual or family using person-centered practices.

466.22 Subd. 3. Stakeholder engagement and consultation. (a) The commissioner must
466.23 proactively solicit participation in the development of the life-sharing medical assistance
466.24 service through a robust stakeholder engagement process that results in the inclusion of a
466.25 racially, culturally, and geographically diverse group of interested stakeholders from each
466.26 of the following groups:

- 466.27 (1) providers currently providing or interested in providing life-sharing services;
- 466.28 (2) people with disabilities accessing or interested in accessing life-sharing services;
- 466.29 (3) disability advocacy organizations; and
- 466.30 (4) lead agencies.

467.1 (b) The commissioner must proactively seek input into and assistance with the
467.2 development of recommendations for establishing the life-sharing service from interested
467.3 stakeholders.

467.4 (c) The commissioner must provide a method for the commissioner and interested
467.5 stakeholders to cofacilitate public meetings. The first meeting must occur before January
467.6 31, 2023. The commissioner must host the cofacilitated meetings at least monthly through
467.7 October 31, 2023. All meetings must be accessible to all interested stakeholders, recorded,
467.8 and posted online within one week of the meeting date.

467.9 Subd. 4. Required topics to be discussed during development of the
467.10 recommendations. The commissioner and the interested stakeholders must discuss the
467.11 following topics:

- 467.12 (1) the distinction between life sharing and adult family foster care;
- 467.13 (2) successful life-sharing models used in other states;
- 467.14 (3) services and supports that could be included in a life-sharing service;
- 467.15 (4) potential barriers to providing or accessing life-sharing services;
- 467.16 (5) solutions to remove identified barriers to providing or accessing life-sharing services;

68.3 Sec. 59. DIRECTION TO COMMISSIONER OF HUMAN SERVICES;
68.4 LIFE-SHARING SERVICES.

68.5 Subdivision 1. Recommendations required. The commissioner of human services shall
68.6 develop recommendations for establishing life sharing as a covered medical assistance
68.7 waiver service.

68.8 Subd. 2. Definition. For the purposes of this section, "life sharing" means a
68.9 relationship-based living arrangement between an adult with a disability and an individual
68.10 or family in which they share their lives and experiences while the adult with a disability
68.11 receives support from the individual or family using person-centered practices.

68.12 Subd. 3. Stakeholder engagement and consultation. (a) The commissioner must
68.13 proactively solicit participation in the development of the life-sharing medical assistance
68.14 service through a robust stakeholder engagement process that results in the inclusion of a
68.15 racially, culturally, and geographically diverse group of interested stakeholders from each
68.16 of the following groups:

- 68.17 (1) providers currently providing or interested in providing life-sharing services;
- 68.18 (2) people with disabilities accessing or interested in accessing life-sharing services;
- 68.19 (3) disability advocacy organizations; and
- 68.20 (4) lead agencies.

68.21 (b) The commissioner must proactively seek input into and assistance with the
68.22 development of recommendations for establishing the life-sharing service from interested
68.23 stakeholders.

68.24 (c) The commissioner must provide a method for the commissioner and interested
68.25 stakeholders to cofacilitate public meetings. The first meeting must occur before January
68.26 31, 2023. The commissioner must host the cofacilitated meetings at least monthly through
68.27 December 31, 2023. All meetings must be accessible to all interested stakeholders, recorded,
68.28 and posted online within one week of the meeting date.

68.29 Subd. 4. Required topics to be discussed during development of the
68.30 recommendations. The commissioner and the interested stakeholders must discuss the
68.31 following topics:

- 68.32 (1) the distinction between life sharing and adult family foster care;
- 69.1 (2) successful life-sharing models used in other states;
- 69.2 (3) services and supports that could be included in a life-sharing service;
- 69.3 (4) potential barriers to providing or accessing life-sharing services;
- 69.4 (5) solutions to remove identified barriers to providing or accessing life-sharing services;

467.17 (6) potential medical assistance payment methodologies for life-sharing services;
467.18 (7) expanding awareness of the life-sharing model; and
467.19 (8) draft language for legislation necessary to define and implement life-sharing services.
467.20 Subd. 5. **Report to the legislature.** By December 31, 2023, the commissioner must
467.21 provide to the chairs and ranking minority members of the house of representatives and
467.22 senate committees and divisions with jurisdiction over direct care services a report
467.23 summarizing the discussions between the commissioner and the interested stakeholders and
467.24 the commissioner's recommendations. The report must also include any draft legislation
467.25 necessary to define and implement life-sharing services.
467.26 Sec. 32. **TASK FORCE ON DISABILITY SERVICES ACCESSIBILITY.**
467.27 Subdivision 1. **Establishment; purpose.** The Task Force on Disability Services
467.28 Accessibility is established to evaluate the accessibility of current state and county disability
467.29 services and to develop and evaluate plans to address barriers to accessibility.
467.30 Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have
467.31 the meanings given.
468.1 (b) "Accessible" means that a service or program is easily navigated without
468.2 accommodation or assistance, or, if reasonable accommodations are needed to navigate a
468.3 service or program, accommodations are chosen by the participant and effectively
468.4 implemented without excessive burden to the participant. Accessible communication means
468.5 communication that a person understands, with appropriate accommodations as needed,
468.6 including language or other interpretation.
468.7 (c) "Commissioner" means the commissioner of the Department of Human Services.
468.8 (d) "Disability services" means services provided through Medicaid, including personal
468.9 care assistance, home care, other home and community-based services, waivers, and other
468.10 home and community-based disability services provided through lead agencies.
468.11 (e) "Lead agency" means a county, Tribe, or health plan under contract with the
468.12 commissioner to administer disability services.
468.13 (f) "Task force" means the Task Force on Disability Services Accessibility.
468.14 Subd. 3. **Membership.** (a) The task force consists of 24 members as follows:
468.15 (1) the commissioner of human services or a designee;
468.16 (2) one member appointed by the Minnesota Council on Disability;
468.17 (3) the ombudsman for mental health and developmental disabilities or a designee;

69.5 (6) potential medical assistance payment methodologies for life-sharing services;
69.6 (7) expanding awareness of the life-sharing model; and
69.7 (8) draft language for legislation necessary to define and implement life-sharing services.
69.8 Subd. 5. **Report to the legislature.** By December 31, 2023, the commissioner must
69.9 provide to the chairs and ranking minority members of the house of representatives and
69.10 senate committees and divisions with jurisdiction over direct care services a report
69.11 summarizing the discussions between the commissioner and the interested stakeholders and
69.12 the commissioner's recommendations. The report must also include any draft legislation
69.13 necessary to define and implement life-sharing services.

- 468.18 (4) two representatives of counties or Tribal agencies appointed by the commissioner
468.19 of human services;
- 468.20 (5) one member appointed by the Minnesota Association of County Social Service
468.21 Administrators;
- 468.22 (6) one member appointed by the Minnesota Disability Law Center;
- 468.23 (7) one member appointed by the Arc of Minnesota;
- 468.24 (8) one member appointed by the Autism Society of Minnesota;
- 468.25 (9) one member appointed by the Service Employees International Union;
- 468.26 (10) five members appointed by the commissioner of human services who are people
468.27 with disabilities, including at least one individual who has been denied services from the
468.28 state or county and two individuals who use different types of disability services;
- 468.29 (11) three members appointed by the commissioner of human services who are parents
468.30 of children with disabilities who use different types of disability services;
- 469.1 (12) one member appointed by the Association of Residential Resources in Minnesota;
- 469.2 (13) one member appointed by the Minnesota First Provider Alliance;
- 469.3 (14) one member appointed by the Minnesota Commission of the Deaf, DeafBlind and
469.4 Hard of Hearing;
- 469.5 (15) one member appointed by the Minnesota Organization for Habilitation and
469.6 Rehabilitation; and
- 469.7 (16) two members appointed by the commissioner of human services who are direct
469.8 service professionals.
- 469.9 (b) To the extent possible, membership on the task force under paragraph (a) shall reflect
469.10 geographic parity throughout the state and representation from Black and Indigenous
469.11 communities and communities of color.
- 469.12 (c) The membership terms, compensation, expense reimbursement, and removal and
469.13 filling of vacancies of task force members are as provided in section 15.059.
- 469.14 Subd. 4. **Appointment deadline; first meeting; chair.** Appointing authorities must
469.15 complete member selections by August 1, 2022. The commissioner shall convene the first
469.16 meeting of the task force by September 15, 2022. The task force shall select a chair from
469.17 among its members at its first meeting. The chair shall convene all subsequent meetings.
- 469.18 Subd. 5. **Goals.** The goals of the task force include:
- 469.19 (1) developing plans and executing methods to investigate accessibility of disability
469.20 services, including consideration of the following inquiries:

469.21 (i) how accessible is the program or service without assistance or accommodation,
469.22 including what accessibility options exist, how the accessibility options are communicated,
469.23 what communication options are available, what trainings are provided to ensure accessibility
469.24 options are implemented, and available processes for filing consumer accessibility complaints
469.25 and correcting administrative errors;

469.26 (ii) the impact of accessibility barriers on individuals' access to services, including
469.27 information about service denials or reductions due to accessibility issues, and aggregate
469.28 information about reductions and denials related to disability or support need types and
469.29 reasons for reductions and denials; and

469.30 (iii) what areas of discrepancy exist between declared state and county disability policy
469.31 goals and enumerated state and federal laws and the experiences of people who have
469.32 disabilities in accessing services;

470.1 (2) identifying areas of inaccessibility creating inefficiencies that financially impact the
470.2 state and counties, including:

470.3 (i) the number and cost of appeals, including the number of appeals of service denials
470.4 or reductions that are ultimately overturned;

470.5 (ii) the cost of crisis intervention because of service failure; and

470.6 (iii) the cost of redoing work that was not done correctly initially; and

470.7 (3) assessing the efficacy of possible solutions.

470.8 Subd. 6. **Duties; plan and recommendations.** (a) The task force shall work with the
470.9 commissioner to identify investigative areas and to develop a plan to conduct an accessibility
470.10 assessment of disability services provided by lead agencies and the Department of Human
470.11 Services. The assessment shall:

470.12 (1) identify accessibility barriers and impediments created by current policies, procedures,
470.13 and implementation;

470.14 (2) identify and analyze accessibility barrier and impediment impacts on different
470.15 demographics;

470.16 (3) gather information from:

470.17 (i) the Department of Human Services;

470.18 (ii) relevant state agencies and staff;

470.19 (iii) counties and relevant staff;

470.20 (iv) people who use disability services;

470.21 (v) disability advocates; and

- 470.22 (vi) family members and other support people for individuals who use disability services;
- 470.23 (4) identify barriers to accessibility improvements in state and county services; and
- 470.24 (5) identify benefits to the state and counties in improving accessibility of disability
- 470.25 services.
- 470.26 (b) For the purposes of the assessment, disability services include:
- 470.27 (1) access to services;
- 470.28 (2) explanation of services;
- 470.29 (3) maintenance of services;
- 471.1 (4) application of services;
- 471.2 (5) services participant understanding of rights and responsibilities;
- 471.3 (6) communication regarding services;
- 471.4 (7) requests for accommodations;
- 471.5 (8) processes for filing complaints or grievances; and
- 471.6 (9) processes for appealing decisions denying or reducing services or eligibility.
- 471.7 (c) The task force shall collaborate with stakeholders, counties, and state agencies to
- 471.8 develop recommendations from the findings of the assessment and to create sustainable and
- 471.9 accessible changes to county and state services to improve outcomes for people with
- 471.10 disabilities. The recommendations shall include:
- 471.11 (1) recommendations to eliminate barriers identified in the assessment, including but
- 471.12 not limited to recommendations for state legislative action, state policy action, and lead
- 471.13 agency changes;
- 471.14 (2) benchmarks for measuring annual progress toward increasing accessibility in county
- 471.15 and state disability services to be annually evaluated by the commissioner and the Minnesota
- 471.16 Council on Disability;
- 471.17 (3) a proposed method for monitoring and tracking accessibility in disability services;
- 471.18 (4) proposed initiatives, training, and services designed to improve accessibility and
- 471.19 effectiveness of county and state disability services, including recommendations for needed
- 471.20 electronic or other communication changes in order to facilitate accessible communication
- 471.21 for participants; and
- 471.22 (5) recommendations for sustainable financial support and resources for improving
- 471.23 accessibility.

471.24 (d) The task force shall oversee preparation of a report outlining the findings from the
471.25 accessibility assessment in paragraph (a) and the recommendations developed pursuant to
471.26 paragraph (b) according to subdivision 7.

471.27 Subd. 7. **Report.** By September 30, 2023, the task force shall submit a report with
471.28 recommendations to the chairs and ranking minority members of the committees and divisions
471.29 in the senate and house of representatives with jurisdiction over health and human services.
471.30 This report must comply with subdivision 6, paragraph (d), include any changes to statutes,
471.31 laws, or rules required to implement the recommendations of the task force, and include a
471.32 recommendation concerning continuing the task force beyond its scheduled expiration.

472.1 Subd. 8. **Administrative support.** The commissioner of human services shall provide
472.2 meeting space and administrative services to the task force.

472.3 Subd. 9. **Expiration.** The task force expires on June 30, 2023.

472.4 Sec. 33. **DIRECTION TO COMMISSIONER; SHARED SERVICES.**

472.5 (a) By December 1, 2022, the commissioner of human services shall seek any necessary
472.6 changes to home and community-based services waiver plans regarding sharing services in
472.7 order to:

472.8 (1) permit shared services for more services, including chore, homemaker, and night
472.9 supervision;

472.10 (2) permit shared services for some services for higher ratios, including individualized
472.11 home supports without training, individualized home supports with training, and
472.12 individualized home supports with family training for a ratio of one staff person to three
472.13 recipients;

472.14 (3) ensure that individuals who are seeking to share services permitted under the waiver
472.15 plans in an own-home setting are not required to live in a licensed setting in order to share
472.16 services so long as all other requirements are met; and

472.17 (4) issue guidance for shared services, including:

472.18 (i) informed choice for all individuals sharing the services;

472.19 (ii) guidance for when multiple shared services by different providers occur in one home
472.20 and how lead agencies and individuals shall determine that shared service is appropriate to
472.21 meet the needs, health, and safety of each individual for whom the lead agency provides
472.22 case management or care coordination; and

472.23 (iii) guidance clarifying that an individual's decision to share services does not reduce
472.24 any determination of the individual's overall or assessed needs for services.

472.25 (b) The commissioner shall develop or provide guidance outlining:

67.5 Sec. 58. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; SHARED**
67.6 **SERVICES.**

67.7 (a) By December 1, 2022, the commissioner of human services shall seek any necessary
67.8 changes to home and community-based services waiver plans regarding sharing services in
67.9 order to:

67.10 (1) permit shared services for more services, including chore, homemaker, and night
67.11 supervision;

67.12 (2) permit shared services for some services for higher ratios, including individualized
67.13 home supports without training, individualized home supports with training, and
67.14 individualized home supports with family training for a ratio of one staff person to three
67.15 recipients;

67.16 (3) ensure that individuals who are seeking to share services permitted under the waiver
67.17 plans in an own-home setting are not required to live in a licensed setting in order to share
67.18 services so long as all other requirements are met; and

67.19 (4) issue guidance for shared services, including:

67.20 (i) informed choice for all individuals sharing the services;

67.21 (ii) guidance for when multiple shared services by different providers occur in one home
67.22 and how lead agencies and individuals shall determine that shared service is appropriate to
67.23 meet the needs, health, and safety of each individual for whom the lead agency provides
67.24 case management or care coordination; and

67.25 (iii) guidance clarifying that an individual's decision to share services does not reduce
67.26 any determination of the individual's overall or assessed needs for services.

67.27 (b) The commissioner shall develop or provide guidance outlining:

472.26 (1) instructions for shared services support planning;
472.27 (2) person-centered approaches and informed choice in shared services support planning;
472.28 and
472.29 (3) required contents of shared services agreements.
472.30 (c) The commissioner shall seek and utilize stakeholder input for any proposed changes
472.31 to waiver plans and any shared services guidance.

473.1 Sec. 34. **DIRECTION TO COMMISSIONER; DISABILITY WAIVER SHARED**
473.2 **SERVICES RATES.**

473.3 The commissioner of human services shall provide a rate system for shared homemaker
473.4 services and shared chore services provided under Minnesota Statutes, sections 256B.092
473.5 and 256B.49. For two persons sharing services, the rate paid to a provider must not exceed
473.6 1-1/2 times the rate paid for serving a single individual, and for three persons sharing
473.7 services, the rate paid to a provider must not exceed two times the rate paid for serving a
473.8 single individual. These rates apply only when all of the criteria for the shared service have
473.9 been met.

473.10 Sec. 35. **DIRECTION TO COMMISSIONER; CONSUMER-DIRECTED**
473.11 **COMMUNITY SUPPORTS.**

473.12 The commissioner of human services shall increase individual budgets for people
473.13 receiving consumer-directed community supports available under programs established
473.14 pursuant to home and community-based service waivers authorized under section 1915(c)
473.15 of the federal Social Security Act and Minnesota Statutes, sections 256B.092 and 256B.49,
473.16 by 2.8 percent.

473.17 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
473.18 whichever is later. The commissioner of human services shall notify the revisor of statutes
473.19 when federal approval is obtained.

67.28 (1) instructions for shared services support planning;
67.29 (2) person-centered approaches and informed choice in shared services support planning;
67.30 and
67.31 (3) required contents of shared services agreements.
68.1 (c) The commissioner shall seek and utilize stakeholder input for any proposed changes
68.2 to waiver plans and any shared services guidance.

66.27 Sec. 57. **DIRECTION TO COMMISSIONER; DISABILITY WAIVER SHARED**
66.28 **SERVICES RATES.**

66.29 The commissioner of human services shall establish a rate system for shared homemaker
66.30 services and shared chore services provided under Minnesota Statutes, sections 256B.092
66.31 and 256B.49. For two persons sharing services, the rate paid to a provider must not exceed
67.1 1-1/2 times the rate paid for serving a single individual, and for three persons sharing
67.2 services, the rate paid to a provider must not exceed two times the rate paid for serving a
67.3 single individual. These rates apply only when all of the criteria for the shared service have
67.4 been met.

63.3 Sec. 52. **PERSONAL CARE ASSISTANCE ENHANCED RATE FOR PERSONS**
63.4 **WHO USE CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

63.5 The commissioner of human services shall increase the annual budgets for participants
63.6 who use consumer-directed community supports under Minnesota Statutes, sections
63.7 256B.0913, subdivision 5, clause (17); 256B.092, subdivision 1b, paragraph (a), clause (4);
63.8 256B.49, subdivision 16, paragraph (c); and chapter 256S, by 43 percent for participants
63.9 who are determined by assessment to be eligible for ten or more hours of personal care
63.10 assistance services or community first services and supports per day when the participant
63.11 uses direct support services provided by a worker employed by the participant who has
63.12 completed training identified in Minnesota Statutes, section 256B.0659, subdivision 11,
63.13 paragraph (d), or 256B.85, subdivision 16, paragraph (e).

63.14 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
63.15 whichever occurs later. The commissioner of human services shall notify the revisor of
63.16 statutes when federal approval is obtained.

63.17 Sec. 53. **RATE INCREASE FOR CERTAIN HOME CARE SERVICES.**

63.18 Subdivision 1. **Rate increases.** (a) Effective January 1, 2023, or upon federal approval,
63.19 whichever is later, the commissioner of human services shall increase payment rates for
63.20 home health aide visits by 14 percent from the rates in effect on December 31, 2022. The
63.21 commissioner must apply the annual rate increases under Minnesota Statutes, section
63.22 256B.0653, subdivision 8, to the rates resulting from the application of the rate increases
63.23 under this paragraph.

63.24 (b) Effective January 1, 2023, or upon federal approval, whichever is later, the
63.25 commissioner shall increase payment rates for respiratory therapy under Minnesota Rules,
63.26 part 9505.0295, subpart 2, item E, and for home health services and home care nursing
63.27 services under Minnesota Statutes, section 256B.0651, subdivision 2, clauses (1) to (3),
63.28 except home health aide visits, by 38.8 percent from the rates in effect on December 31,
63.29 2022. The commissioner must apply the annual rate increases under Minnesota Statutes,
63.30 sections 256B.0653, subdivision 8, and 256B.0654, subdivision 5, to the rates resulting
63.31 from the application of the rate increase under this paragraph.

63.32 Subd. 2. **Spending requirements.** (a) At least 80 percent of the marginal increase in
63.33 revenue for home care services resulting from implementation of the rate increases under
64.1 this section for services rendered on or after the day of implementation of the increase must
64.2 be used to increase compensation-related costs for employees directly employed by the
64.3 provider to provide the services.

64.4 (b) For the purposes of this subdivision, compensation-related costs include:

64.5 (1) wages and salaries;

64.6 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
64.7 taxes, workers' compensation, and mileage reimbursement;

64.8 (3) the employer's paid share of health and dental insurance, life insurance, disability
64.9 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
64.10 employee retirement accounts; and

64.11 (4) benefits that address direct support professional workforce needs above and beyond
64.12 what employees were offered prior to implementation of the rate increases.

64.13 (c) Compensation-related costs for persons employed in the central office of a corporation
64.14 or entity that has an ownership interest in the provider or exercises control over the provider,
64.15 or for persons paid by the provider under a management contract, do not count toward the
64.16 80 percent requirement under this subdivision.

64.17 (d) A provider agency or individual provider that receives additional revenue subject to
64.18 the requirements of this subdivision shall prepare, and upon request submit to the
64.19 commissioner, a distribution plan that specifies the amount of money the provider expects
64.20 to receive that is subject to the requirements of this subdivision, including how that money
64.21 was or will be distributed to increase compensation-related costs for employees. Within 60
64.22 days of final implementation of the new rate methodology or any rate adjustment subject
64.23 to the requirements of this subdivision, the provider must post the distribution plan and
64.24 leave it posted for a period of at least six months in an area of the provider's operation to
64.25 which all direct support professionals have access. The posted distribution plan must include
64.26 instructions regarding how to contact the commissioner, or the commissioner's representative,
64.27 if an employee has not received the compensation-related increase described in the plan.

64.28 Sec. 54. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES;**
64.29 **ADDITIONAL DWRS RATE INCREASES.**

64.30 Subdivision 1. **Additional rate increases.** (a) In addition to the rate increases described
64.31 in the amendments contained in this act to Minnesota Statutes, section 256B.4914, the
64.32 commissioner shall further adjust the rates as described in paragraphs (b) to (f) until the net
64.33 increase in the rates established under Minnesota Statutes, section 256B.4914, as amended
65.1 in this act, and under this section are equivalent to a three-year appropriation of \$253,001,000
65.2 for fiscal years 2023, 2024, and 2025. The commissioner shall apply the rate changes in
65.3 this section after applying other changes contained in this act. The commissioner shall apply
65.4 the rate changes in this section in the order presented in the following paragraphs. If the
65.5 three-year appropriation target is reached after applying the provisions of a paragraph, the
65.6 commissioner shall not apply the provisions in the remaining paragraphs.

65.7 (b) Notwithstanding Minnesota Statutes, section 256B.4914, subdivision 5, paragraph
65.8 (b), clause (2), as added by amendment in this act, on January 1, 2023, the commissioner
65.9 shall adjust the data used to update the base wage index by using up to the most recently
65.10 available wage data by SOC code from the Bureau of Labor Statistics. If the estimated cost
65.11 of fully implementing the rate adjustment in this paragraph exceeds the three-year
65.12 appropriation target, the commissioner shall proportionately reduce the estimated change
65.13 to the wage index to reach the target.

65.14 (c) Notwithstanding Minnesota Statutes, section 256B.4914, subdivision 5b, clause (2),
65.15 as added by amendment in this act, on January 1, 2023, the commissioner shall adjust the
65.16 data used to update the client and programming support, transportation, and program facility
65.17 cost component values by using up to the most recently available data. If the estimated cost
65.18 of fully implementing the rate adjustment in this paragraph exceeds the three-year
65.19 appropriation target, the commissioner shall proportionately reduce the estimated change
65.20 to component values to reach the target.

65.21 (d) Notwithstanding the provision in Minnesota Statutes, section 256B.4914, subdivision
65.22 5f, paragraph (a), as added by amendment in this act, requiring a biennial update of the
65.23 competitive workforce factor, on January 1, 2024, the commissioner shall update the
65.24 competitive workforce factor. If the estimated cost of fully implementing the rate adjustment
65.25 in this paragraph exceeds the three-year appropriation target, the commissioner shall cap
65.26 the increase in the competitive workforce factor to reach the target.

65.27 (e) Notwithstanding the provision in Minnesota Statutes, section 256B.4914, subdivision
65.28 5, paragraph (b), as amended in this act, on January 1, 2024, the commissioner shall update
65.29 the base wage index in Minnesota Statutes, section 256B.4914, subdivision 5a, based on
65.30 the most recently available wage data by SOC from the Bureau of Labor Statistics. If the
65.31 estimated cost of fully implementing the rate adjustment in this paragraph exceeds the
65.32 three-year appropriation target, the commissioner shall proportionately reduce the estimated
65.33 change to component values to reach the target.

66.1 (f) Notwithstanding the provision in Minnesota Statutes, section 256B.4914, subdivision
 66.2 5b, as amended in this act, on January 1, 2024, the commissioner shall update the client and
 66.3 programming support, transportation, and program facility cost component values based
 66.4 on the most recently available wage data by SOC from the Bureau of Labor Statistics. If
 66.5 the estimated cost of fully implementing the rate adjustment in this paragraph exceeds the
 66.6 three-year appropriation target, the commissioner shall proportionately reduce the estimated
 66.7 change to component values to reach the target.

66.8 Subd. 2. **Spending requirements.** A program or provider that receives a rate increase
 66.9 under this section is subject to the requirements of Minnesota Statutes, section 256B.4914,
 66.10 subdivision 5e.

66.11 Sec. 55. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES;**
 66.12 **APPLICATION OF ICF/DD RATE INCREASES.**

66.13 The commissioner of human services shall apply the rate increases under Minnesota
 66.14 Statutes, section 256B.5012, subdivisions 19 and 20, as follows:

66.15 (1) apply Minnesota Statutes, section 256B.5012, subdivision 19; and

66.16 (2) apply any required rate increase as required under Minnesota Statutes, section
 66.17 256B.5012, subdivision 20, to the results of clause (1).

66.18 Sec. 56. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; BUDGET**
 66.19 **EXCEPTIONS FOR COMMUNITY RESIDENTIAL SETTINGS.**

66.20 The commissioner of human services must take steps to inform individuals, families,
 66.21 and lead agencies of the amendments to Minnesota Statutes, section 256B.4911, subdivision
 66.22 4, and widely disseminate easily understood instructions for quickly applying for a budget
 66.23 exception under that section.

66.24 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
 66.25 whichever is later. The commissioner of human services shall notify the revisor of statutes
 66.26 when federal approval is obtained.

473.20 Sec. 36. **DIRECTION TO COMMISSIONER; DIRECT SUPPORT SERVICES**
 473.21 **WORKFORCE COLLECTIVE BARGAINING.**

473.22 Notwithstanding Minnesota Statutes, section 256B.851, subdivision 11, or any other
 473.23 law to the contrary, the commissioner of management and budget shall meet and negotiate
 473.24 in good faith with the exclusive representative of individual providers under Minnesota
 473.25 Statutes, section 179A.54, for an amendment to the current contract covering individual
 473.26 providers to establish a mutually acceptable increase in wages and benefits made possible
 473.27 by the funds provided by the rate increase in this act. Any such amendment agreed upon
 473.28 between the state and the exclusive representative of individual providers must be submitted
 473.29 for acceptance or rejection in accordance with Minnesota Statutes, section 179A.54,
 473.30 subdivision 5, and is subject to an appropriation by the legislature.

474.1 Sec. 37. **DIRECTION TO COMMISSIONER; INTERMEDIATE CARE FACILITIES**
474.2 **FOR PERSONS WITH DISABILITIES RATE STUDY.**

474.3 The commissioner of human services shall study medical assistance payment rates for
474.4 intermediate care facilities for persons with disabilities under Minnesota Statutes, sections
474.5 256B.5011 to 256B.5015; make recommendations on establishing a new payment rate
474.6 methodology for these facilities; and submit a report to the chairs and ranking minority
474.7 members of the legislative committees with jurisdiction over human services finance by
474.8 February 15, 2023, that includes the recommendations and any draft legislation necessary
474.9 to implement the recommendations.

69.14 Sec. 60. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FINANCIAL**
69.15 **MANAGEMENT SERVICES PROVIDERS.**

69.16 The commissioner of human services shall accept on a rolling basis proposals submitted
69.17 in response to "Request for Proposals for Qualified Grantees to Provide Vendor
69.18 Fiscal/Employer Agent Financial Management Services," published on May 2, 2016.
69.19 Responders must comply with all proposal instructions and requirements as set forth in the
69.20 request for proposals except the submission deadlines. The commissioner shall evaluate all
69.21 responsive proposals submitted under this section regardless of the date on which the proposal
69.22 is submitted. The commissioner shall conduct phase I and phase II evaluations using the
69.23 same procedures and evaluation standards set forth in the request for proposals. The
69.24 commissioner shall contact responders who submit substantially complete proposals to
69.25 provide further or missing information or to clarify the responder's proposal. The
69.26 commissioner shall select all responders that successfully move on to phase III evaluation.
69.27 For all proposals that move on to phase III evaluation, the commissioner shall not exercise
69.28 the commissioner's right to reject any or all proposals. The commissioner shall not compare
69.29 proposals that successfully move on to phase III evaluation. The commissioner shall not
69.30 reject a proposal that successfully moved on to phase III evaluation after determining that
69.31 another proposal is more advantageous to the state. This section expires upon publication
69.32 of a new request for proposals related to financial management services providers.

70.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.