ARTICLE 1

DISABILITY SERVICES

Section 1. Minnesota Statutes 2022, section 179A.54, is amended by adding a subdivision to read:

Subd. 11. Home Care Orientation Trust. (a) The state and an exclusive representative certified pursuant to this section may establish a joint labor and management trust, referred to as the Home Care Orientation Trust, for the exclusive purpose of rendering voluntary orientation training to individual providers of direct support services who are represented by the exclusive representative.

(b) Financial contributions by the state to the Home Care Orientation Trust shall be made by the state pursuant to a collective bargaining agreement negotiated under this section. All such financial contributions by the state shall be held in trust for the purpose of paying, from principal, from income, or from both, the costs associated with developing, delivering, and promoting voluntary orientation training for individual providers of direct support services working under a collective bargaining agreement and providing services through a covered program under section 256B.0711. The Home Care Orientation Trust shall be administered, managed, and otherwise controlled jointly by a board of trustees composed of an equal number of trustees appointed by the state and trustees appointed by the exclusive representative under this section. The trust shall not be an agent of either the state or of the exclusive representative.

(c) Trust administrative, management, legal, and financial services may be provided to the board of trustees by a third-party administrator, financial management institution, other appropriate entity, or any combination thereof, as designated by the board of trustees from time to time, and those services shall be paid from the money held in trust and created by the state's financial contributions to the Home Care Orientation Trust.

Subd. 12. (b) Financial contributions made by the state to the Home Care Orientation Trust shall be made pursuant to a collective bargaining agreement negotiated under this section. All such financial contributions made by the state shall be held in trust for the purpose of paying, from principal, from interest, or from both, the costs associated with developing, delivering, and promoting voluntary orientation training for individual providers of direct support services working under a collective bargaining agreement and providing services through a covered program under section 256B.0711. The Home Care Orientation Trust shall be administered, managed, and otherwise controlled jointly by a board of trustees composed of an equal number of trustees appointed by the state and trustees appointed by the exclusive representative under this section. The trust shall not be an agent of either the state or the exclusive representative.

(c) Trust administrative, management, legal, and financial services may be provided by the board of trustees by a third-party administrator, financial management institution, or other appropriate entity, as designated by the board of trustees from time to time, and those services shall be paid from the money held in trust and created by the state's financial contributions to the Home Care Orientation Trust.
The state is authorized to purchase liability insurance for members of the board of trustees appointed by the state.

Financial contributions to, participation in, or both contributions to and participation in the administration, management, or both the administration and management of the Home Care Orientation Trust shall not be considered an unfair labor practice under section 179A.13 or in violation of Minnesota law.

Sec. 2. Minnesota Statutes 2022, section 245A.03, subdivision 7, is amended to read:

(1) foster care settings where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF-DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care;

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community Licensing moratorium.

(a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter when the commissioner shall consider the resource need determination process in paragraph (b), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF-DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care;

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community Licensing moratorium.

Subd. 7. Licensing moratorium. (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter when the commissioner shall consider the resource need determination process in paragraph (b), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF-DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care;

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community Licensing moratorium.
access for disability inclusion waiver plans under section 256B.49 or elderly waiver plan
under chapter 256S and residing in the customized living setting before July 1, 2023, for
which a license is required. A customized living service provider subject to this exception
may rebut the presumption that a license is required by seeking a reconsideration of the
commissioner's determination. The commissioner's disposition of a request for
reconsideration is final and not subject to appeal under chapter 14. The exception is available
until June 30, December 31, 2023. This exception is available when:
(i) the person's customized living services are provided in a customized living service
setting serving four or fewer people under the brain injury or community access for disability
waiver under chapter 256B.49 or the elderly or the elderly waiver plan
in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;
(ii) the person's case manager provided the person with information about the choice of
service, service provider, and location of service, including in the person's home, to help
the person make an informed choice; and
(iii) the person's services provided in the licensed foster care or community residential
setting are less than or equal to the cost of the person's services delivered in the customized
living setting as determined by the lead agency.

(b) New foster care licenses or community residential setting licenses for a customized
living setting that is a single-family home in which customized living or 24-hour customized
living services were authorized and delivered on June 30, 2021, under the brain injury or
community access for disability inclusion waiver plans under section 256B.49 or the elderly
waiver under chapter 256S and for which a license is required. A customized living service
provider subject to this exception may rebut the presumption that a license is required by
seeking a reconsideration of the commissioner's determination. The commissioner's
disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available
until June 30, December 31, 2023. This exception is available when:
(i) the case manager of each resident of the customized living setting provided the person
with information about the choice of service, service provider, and location of service,
including in the person's home, to help the person make an informed choice about remaining
in the newly licensed setting; and
(ii) the estimated average cost of services provided in the licensed foster care or
community residential setting is less than or equal to the estimated average cost of services
delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or
community residential settings as defined under this subdivision. As part of the determination,
the commissioner shall consider the availability of foster care capacity in the area in which
the licensee seeks to operate, and the recommendation of the local county board. The
5.7 determination by the commissioner must be final. A determination of need is not required
5.8 for a change in ownership at the same address.
5.9 (c) When an adult resident served by the program moves out of a foster home that is not
5.10 the primary residence of the license holder according to section 256B.49, subdivision 15,
5.11 paragraph (f), or the adult community residential setting, the county shall immediately
5.12 inform the Department of Human Services Licensing Division. The department may decrease
5.13 the statewide licensed capacity for adult foster care settings.
5.14 (d) Residential settings that would otherwise be subject to the decreased license capacity
5.15 established in paragraph (c) shall be exempt if the license holder's beds are occupied by
5.16 residents whose primary diagnosis is mental illness and the license holder is certified under
5.17 the requirements in subdivision 6a or section 245D.33.
5.18 (e) A resource need determination process, managed at the state level, using the available
5.19 data required by section 144A.351, and other data and information shall be used to determine
5.20 where the reduced capacity determined under section 256B.493 will be implemented. The
5.21 commissioner shall consult with the stakeholders described in section 144A.351, and employ
5.22 a variety of methods to improve the state's capacity to meet the informed decisions of those
5.23 who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service
5.24 providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term
5.25 services and supports reports and statewide data and information.
5.26 (f) At the time of application and reapplication for licensure, the applicant and the license
5.27 holder that are subject to the moratorium or an exclusion established in paragraph (a) are
5.28 required to inform the commissioner whether the physical location where the foster care
5.29 will be provided is or will be the primary residence of the license holder for the entire period
5.30 of licensure. If the primary residence of the applicant or license holder changes, the applicant
5.31 or license holder must notify the commissioner immediately. The commissioner shall print
5.32 on the foster care license certificate whether or not the physical location is the primary
5.33 residence of the license holder.
5.34 (g) License holders of foster care homes identified under paragraph (f) that are not the primary
5.35 residence of the license holder and that also provide services in the foster care home
5.36 that are covered by a federally approved home and community-based services waiver, as
5.37 authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human
5.38 services licensing division that the license holder provides or intends to provide these
5.39 waiver-funded services.
5.40 (h) The commissioner may adjust capacity to address needs identified in section
5.41 144A.351. Under this authority, the commissioner may approve new licensed settings or
delicense existing settings. Delicensing of settings will be accomplished through a process
5.42 identified in section 256B.493.
4.30 the licensee seeks to operate, and the recommendation of the local county board. The
determination by the commissioner must be final. A determination of need is not required
4.31 for a change in ownership at the same address.
4.32 (c) When an adult resident served by the program moves out of a foster home that is not
4.33 the primary residence of the license holder according to section 256B.49, subdivision 15,
4.34 paragraph (f), or the adult community residential setting, the county shall immediately
4.35 inform the Department of Human Services Licensing Division. The department may decrease
4.36 the statewide licensed capacity for adult foster care settings.
4.37 (d) Residential settings that would otherwise be subject to the decreased license capacity
4.38 established in paragraph (c) shall be exempt if the license holder's beds are occupied by
4.39 residents whose primary diagnosis is mental illness and the license holder is certified under
4.40 the requirements in subdivision 6a or section 245D.33.
4.41 (e) A resource need determination process, managed at the state level, using the available
4.42 data required by section 144A.351, and other data and information shall be used to determine
4.43 where the reduced capacity determined under section 256B.493 will be implemented. The
4.44 commissioner shall consult with the stakeholders described in section 144A.351, and employ
4.45 a variety of methods to improve the state's capacity to meet the informed decisions of those
4.46 who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service
4.47 providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term
4.48 services and supports reports and statewide data and information.
4.49 (f) At the time of application and reapplication for licensure, the applicant and the license
4.50 holder that are subject to the moratorium or an exclusion established in paragraph (a) are
4.51 required to inform the commissioner whether the physical location where the foster care
5.52 will be provided is or will be the primary residence of the license holder for the entire period
5.53 of licensure. If the primary residence of the applicant or license holder changes, the applicant
5.54 or license holder must notify the commissioner immediately. The commissioner shall print
5.55 on the foster care license certificate whether or not the physical location is the primary
5.56 residence of the license holder.
5.57 (g) License holders of foster care homes identified under paragraph (f) that are not the primary
5.58 residence of the license holder and that also provide services in the foster care home
5.59 that are covered by a federally approved home and community-based services waiver, as
5.60 authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human
5.61 services licensing division that the license holder provides or intends to provide these
5.62 waiver-funded services.
5.63 (h) The commissioner may adjust capacity to address needs identified in section
5.64 144A.351. Under this authority, the commissioner may approve new licensed settings or
delicense existing settings. Delicensing of settings will be accomplished through a process
5.65 identified in section 256B.493.
The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

EFFECTIVE DATE. This section is effective retroactively from July 1, 2021.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

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

Subd. 3. Application fee for initial license or certification. (a) For fees required under subdivision 4, an applicant for an initial license or certification issued by the commissioner shall submit a $500 application fee with each new application required under this subdivision. An applicant for an initial day services facility license under chapter 245D shall submit a $250 application fee with each new application. The application fee shall not be prorated, is nonrefundable, and is in lieu of the annual license or certification fee that expires on December 31. The commissioner shall not process an application until the application fee is paid;

(b) Except as provided in clauses (1) to (3), an applicant shall apply for a license to provide services at a specific location;

(i) For a license to provide home and community-based services to persons with disabilities or age 65 and older under chapter 245D, an applicant shall submit an application to provide services statewide. Notwithstanding paragraph (c), applications received by the commissioner between July 1, 2013, and December 31, 2013, for licensure of services provided under chapter 245D must include an application fee that is equal to the annual license renewal fee under subdivision 4, paragraph (b), or $500, whichever is less. Applications received by the commissioner after January 1, 2014, must include the application fee.
Sec. 3. Minnesota Statutes 2022, section 245A.11, subdivision 7, is amended to read:

Subd. 7. Adult foster care; variance for alternate overnight supervision. (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts 7.24, 7.25, 7.26, 7.27, and 7.28 of this chapter necessary to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision, which may include the use of technology, is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a conditional license issued under section 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

(d) A variance granted by the commissioner according to this subdivision before January 1, 2014, to a license holder for an adult foster care home must transfer with the license when
the license converts to a community residential setting license under chapter 245D. The

terms and conditions of the variance remain in effect as approved at the time the variance

was granted. The variance requirements under this subdivision for alternative overnight

supervision do not apply to community residential settings licensed under chapter 245D.

EFFECTIVE DATE. This section is effective January 1, 2024.

Sec. 6. Minnesota Statutes 2022, section 245A.11, subdivision 7a, is amended to read:

Subd. 7a. (2) explain the discharge process when a resident served by the program requires

of written policies and procedures addressing the requirements in paragraphs (d) through

supervision do not apply to community residential settings licensed under chapter 245D.

EFFECTIVE DATE. This section is effective January 1, 2024.

8.32 the license converts to a community residential setting license under chapter 245D. The
terms and conditions of the variance remain in effect as approved at the time the variance
was granted. The variance requirements under this subdivision for alternative overnight
supervision do not apply to community residential settings licensed under chapter 245D.

7.29 EFFECTIVE DATE. This section is effective January 1, 2024.

8.1 Sec. 4. Minnesota Statutes 2022, section 245A.11, subdivision 7a, is amended to read:

Subd. 7a. Alternate overnight supervision technology; adult foster care and

community residential setting licenses. (a) The commissioner may grant an applicant or
license holder an adult foster care or community residential setting license for a residence
that does not have a caregiver in the residence during normal sleeping hours as required
under Minnesota Rules, part 9555.5105, subpart 37, item B, or section 245D.02, subdivision
33b, but uses monitoring technology to alert the license holder when an incident occurs that
may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license
holder must comply with all other requirements under Minnesota Rules, parts 9555.5105
to 9555.6265, or applicable requirements under chapter 245D, and the requirements under
this subdivision. The license printed by the commissioner must state in bold and large font:

(1) that the facility is under electronic monitoring; and

(2) the telephone number of the county's common entry point for making reports of
suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

8.15 (b) Applications for a license under this section must be submitted directly to the
Department of Human Services licensing division. The licensing division must immediately
notify the county licensing agency. The licensing division must collaborate with the county
licensing agency in the review of the application and the licensing of the program.

8.19 (c) Before a license is issued by the commissioner, and for the duration of the license,
the applicant or license holder must establish, maintain, and document the implementation
of written policies and procedures addressing the requirements in paragraphs (d) through
(f).

8.22 (d) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that will be admitted into the home,
and characteristics of populations that will not be accepted into the home;

(2) explain the discharge process when a resident served by the program requires
overnight supervision or other services that cannot be provided by the license holder due
to the limited hours that the license holder is on site;

(3) describe the types of events to which the program will respond with a physical
presence when those events occur in the home during time when staff are not on site, and
how the license holder's response plan meets the requirements in paragraph (e), clause (1)
or (2);
(4) establish a process for documenting a review of the implementation and effectiveness
of the response protocol for the response required under paragraph (e), clause (1) or (2).

The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license
holder's written policies and procedures must require a physical presence response drill to
be conducted for which the effectiveness of the response protocol under paragraph (e),
clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent
location in a common area of the home where they can be easily observed by a person
responding to an incident who is not otherwise affiliated with the home.

The license holder must document and include in the license application which
response alternative under clause (1) or (2) is in place for responding to situations that
might present a serious risk to the health, safety, or rights of residents served by the program:

(1) response alternative (1) requires only the technology to provide an electronic
notification or alert to the license holder that an event is underway that requires a response.

Under this alternative, no more than ten minutes will pass before the license holder will be
physically present on site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under
alternative (1), but more than ten minutes may pass before the license holder is present on
site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications
that will assist the license holder in communicating with and assessing the needs related to
the care, health, and safety of the foster care recipients. This interactive technology must
permit the license holder to remotely assess the well being of the resident served by the
program without requiring the initiation of the foster care recipient. Requiring the foster
care recipient to initiate a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable
of meeting the needs of the foster care recipients and assessing foster care recipients' needs
under item (i) during the absence of the license holder on site;

The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license
holder's written policies and procedures must require a physical presence response drill to
be conducted for which the effectiveness of the response protocol under paragraph (e),
clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent
location in a common area of the home where they can be easily observed by a person
responding to an incident who is not otherwise affiliated with the home.

The license holder must document and include in the license application which
response alternative under clause (1) or (2) is in place for responding to situations that
might present a serious risk to the health, safety, or rights of residents served by the program:

(1) response alternative (1) requires only the technology to provide an electronic
notification or alert to the license holder that an event is underway that requires a response.

Under this alternative, no more than ten minutes will pass before the license holder will be
physically present on site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under
alternative (1), but more than ten minutes may pass before the license holder is present on
site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications
that will assist the license holder in communicating with and assessing the needs related to
the care, health, and safety of the foster care recipients. This interactive technology must
permit the license holder to remotely assess the well being of the resident served by the
program without requiring the initiation of the foster care recipient. Requiring the foster
care recipient to initiate a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable
of meeting the needs of the foster care recipients and assessing foster care recipients' needs
under item (i) during the absence of the license holder on site;
(iii) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an identified emergency; and

(iv) each resident's individualized plan of care, support plan under sections 256B.0913, subdivision 8; 256B.092, subdivision 1b; 256B.49, subdivision 15; and 256S.10, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on site for that resident.

(f) Each resident's placement agreement, individual service agreement, and plan must clearly state that the adult foster care or community residential setting license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program under paragraph (e), clause (1) or (2); and a signed informed consent from each resident served by the program or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how the caregivers or direct support staff are trained on the use of the technology;

(4) the event types and license holder response times established under paragraph (e);

(5) how the license holder protects each resident's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. A resident served by the program may not be removed from a program under this subdivision for failure to consent to electronic monitoring. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(g) Nothing in this section requires the applicant or license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards, if the requirements of this section are incorporated into those documents.

(h) The commissioner may grant variances to the requirements of this section according to section 245A.04, subdivision 9.
For the purposes of paragraphs (d) through (h), "license holder" has the meaning under section 245A.02, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

(j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely determine what action the license holder needs to take to protect the well-being of the foster care recipient.

(k) The commissioner shall evaluate license applications using the requirements in paragraphs (d) to (f). The commissioner shall provide detailed application forms, including a checklist of criteria needed for approval.

(l) To be eligible for a license under paragraph (a), the adult foster care license holder must not have had a conditional license issued under section 245A.06 or any licensing sanction under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the residential setting.

(m) The commissioner shall review an application for an alternative overnight supervision license within 60 days of receipt of the application. When the commissioner receives an application that is incomplete because the applicant failed to submit required documents or that is substantially deficient because the documents submitted do not meet licensing requirements, the commissioner shall provide the applicant written notice that the application is incomplete or substantially deficient. In the written notice to the applicant, the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is substantially complete. An applicant's failure to submit a substantially complete application after receiving notice from the commissioner is a basis for license denial under section 245A.05. The commissioner shall complete subsequent review within 30 days.

(n) Once the application is considered complete under paragraph (m), the commissioner will approve or deny an application for an alternative overnight supervision license within 60 days.

(o) For the purposes of this subdivision, "supervision" means:

(1) oversight by a caregiver or direct support staff as specified in the individual resident's place agreement or support plan and awareness of the resident's needs and activities; and

(2) the presence of a caregiver or direct support staff in a residence during normal sleeping hours, unless a determination has been made and documented in the individual's support plan that the individual does not require the presence of a caregiver or direct support staff during normal sleeping hours.

EFFECTIVE DATE. This section is effective January 1, 2024.
Sec. 7. Minnesota Statutes 2022, section 245D.03, subdivision 1, is amended to read:

Subdivision 1. Applicability. (a) The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of basic support services and intensive support services.

(b) Basic support services provide the level of assistance, supervision, and care that is necessary to ensure the health and welfare of the person and do not include services that are specifically directed toward the training, treatment, habilitation, or rehabilitation of the person. Basic support services include:

1. in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, community alternative care, and community access for disability inclusion, developmental disabilities, and elderly waiver plans, excluding out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000, subpart 4;

2. adult companion services as defined under the brain injury, community access for disability inclusion, community alternative care, and elderly waiver plans; excluding adult companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

3. personal support as defined under the developmental disabilities waiver plan;

4. 24-hour emergency assistance, personal emergency response as defined under the community access for disability inclusion and developmental disabilities waiver plans;

5. night supervision services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

6. homemaker services as defined under the community access for disability inclusion, brain injury, community alternative care, developmental disabilities, and elderly waiver plans; excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only;

7. individual community living support under section 256S.13; and

8. individualized home supports services as defined under the brain injury, community alternative care, and community access for disability inclusion, and developmental disabilities waiver plans.
(c) Intensive support services provide assistance, supervision, and care that is necessary to ensure the health and welfare of the person and services specifically directed toward the training, habilitation, or rehabilitation of the person. Intensive support services include:

(1) intervention services, including:

(i) positive support services as defined under the brain injury and community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(ii) in-home or out-of-home crisis respite services as defined under the brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans; and

(iii) specialist services as defined under the current brain injury, community access for disability inclusion, community alternative care, and developmental disabilities waiver plans;

(2) in-home support services, including:

(i) in-home family support and supported living services as defined under the developmental disabilities waiver plan;

(ii) independent living services training as defined under the brain injury and community access for disability inclusion waiver plans;

(iii) semi-independent living services;

(iv) individualized home support with training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans; and

(v) individualized home support with family training services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities waiver plans;

(3) residential supports and services, including:

(i) supported living services as defined under the developmental disabilities waiver plan provided in a family or corporate child foster care residence, a family adult foster care residence, a community residential setting, or a supervised living facility;

(ii) foster care services as defined in the brain injury, community alternative care, and community access for disability inclusion waiver plans provided in a family or corporate child foster care residence, a family adult foster care residence, or a community residential setting;

(iii) community residential services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disabilities.
waiver plans provided in a corporate child foster care residence, a community residential
setting, or a supervised living facility;
(iv) family residential services as defined in the brain injury, community alternative
care, community access for disability inclusion, and developmental disabilities waiver plans
provided in a family child foster care residence or a family adult foster care residence; and
(v) residential services provided to more than four persons with developmental disabilities
in a supervised living facility, including ICFs/DD; and
(vi) life sharing as defined in the brain injury, community alternative care, community
access for disability inclusion, and developmental disabilities waiver plans;
(4) day services, including:
(i) structured day services as defined under the brain injury waiver plan;
(ii) day services under sections 252.41 to 252.46, and as defined under the brain injury,
community alternative care, community access for disability inclusion, and developmental
disabilities waiver plans;
(iii) day training and habilitation services under sections 252.41 to 252.46, and as defined
under the developmental disabilities waiver plan; and
(iv) prevocational services as defined under the brain injury, community alternative care,
community access for disability inclusion, and developmental disabilities waiver plans;
(5) employment exploration services as defined under the brain injury, community
alternative care, community access for disability inclusion, and developmental disabilities
waiver plans;
(6) employment development services as defined under the brain injury, community
alternative care, community access for disability inclusion, and developmental disabilities
waiver plans;
(7) employment support services as defined under the brain injury, community alternative
care, community access for disability inclusion, and developmental disabilities waiver plans;
and
(8) integrated community support as defined under the brain injury and community
access for disability inclusion waiver plans beginning January 1, 2021, and community
alternative care and developmental disabilities waiver plans beginning January 1, 2023;
EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval,
whichever is later. The commissioner of human services shall notify the revisor of statutes
when federal approval is obtained.
Sec. 5. Minnesota Statutes 2022, section 245D.04, subdivision 3, is amended to read:

Subd. 3. Protection-related rights. (a) A person’s protection-related rights include the right to:

1. have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;

2. access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;

3. be free from maltreatment;

4. be free from restraint, time out, seclusion, restrictive intervention, or other prohibited procedure identified in section 245D.06, subdivision 5, or successor provisions, except for:

   (i) emergency use of manual restraint to protect the person from imminent danger to self or others according to the requirements in section 245D.061 or successor provisions; or (ii)

   (5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;

6. be treated with courtesy and respect and receive respectful treatment of the person’s property;

7. reasonable observance of cultural and ethnic practice and religion;

8. be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

9. be informed of and use the license holder’s grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;

10. know the name, telephone number, and the website, email, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;

11. assert these rights personally, or have them asserted by the person’s family, authorized representative, or legal representative, without retaliation;

12. give or withhold written informed consent to participate in any research or experimental treatment;

13. associate with other persons of the person's choice in the community;

14. personal privacy, including the right to use the lock on the person’s bedroom or unit door.
(15) engage in chosen activities; and

(16) access to the person's personal possessions at any time, including financial resources.

(b) For a person residing in a residential site licensed according to chapter 245A, or
where the license holder is the owner, lessor, or tenant of the residential service site,
protection-related rights also include the right to:

(1) have daily, private access to and use of a non-coin-operated telephone for local calls
and long-distance calls made collect or paid for by the person;

(2) receive and send, without interference, uncensored, unopened mail or electronic
 correspondence or communication;

(3) have use of and free access to common areas in the residence and the freedom to
 come and go from the residence at will;

(4) choose the person's visitors and time of visits and have privacy for visits with the
 person's spouse, next of kin, legal counsel, religious adviser, or others, in accordance with
 section 363A.09 of the Human Rights Act, including privacy in the person's bedroom;

(5) have access to three nutritionally balanced meals and nutritious snacks between
 meals each day;

(6) have freedom and support to access food and potable water at any time;

(7) have the freedom to furnish and decorate the person's bedroom or living unit;

(8) a setting that is clean and free from accumulation of dirt, grease, garbage, peeling
 paint, mold, vermin, and insects;

(9) a setting that is free from hazards that threaten the person's health or safety; and

(10) a setting that meets the definition of a dwelling unit within a residential occupancy
 as defined in the State Fire Code;

(c) Restriction of a person's rights under paragraph (a), clauses (13) to (16), or paragraph
(b) is allowed only if determined necessary to ensure the health, safety, and well-being of
the person. Any restriction of those rights must be documented in the person's support plan
or support plan addendum. The restriction must be implemented in the least restrictive
alternative manner necessary to protect the person and provide support to reduce or eliminate
the need for the restriction in the most integrated setting and inclusive manner. The
documentation must include the following information:

(1) the justification for the restriction based on an assessment of the person's vulnerability
related to exercising the right without restriction;

(2) the objective measures set as conditions for ending the restriction;
(3) a schedule for reviewing the need for the restriction based on the conditions for
ending the restriction to occur semiannually from the date of initial approval, at a minimum,
or more frequently if requested by the person, the person's legal representative, if any, and
case manager; and

(4) signed and dated approval for the restriction from the person, or the person's legal
representative, if any. A restriction may be implemented only when the required approval
has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the
right must be immediately and fully restored.

(d) Notwithstanding the authority of a guardian to restrict interaction with others under
section 524.5-120, clause (10), for a person subject to guardianship or a person subject to
conservatorship, restriction of the person's rights under paragraph (b), clause (4), is allowed
for no more than 14 days unless the written notice of the restrictions imposed that was
provided to the court by the guardian is acknowledged and the restrictions imposed affirmed
as appropriate by the court.

Sec. 6. [245D.261] COMMUNITY RESIDENTIAL SETTINGS; REMOTE
OVERNIGHT SUPERVISION.

Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
the meanings given, unless otherwise specified.

(b) "Resident" means an adult residing in a community residential setting.

(c) "Technology" means:

(1) enabling technology, which is a device capable of live two-way communication or
engagement between a resident and direct support staff at a remote location; or

(2) monitoring technology, which is the use of equipment to oversee, monitor, and
supervise an individual who receives medical assistance waiver or alternative care services
under section 256B.0913, 256B.092, or chapter 256S.

Subd. 2. Documentation of permissible remote overnight supervision. A license
holder providing remote overnight supervision in a community residential setting in lieu of
on-site direct support staff must comply with the requirements of this chapter, including
the requirement under section 245D.02, subdivision 33b, paragraph (a), clause (3), that the
absence of direct support staff from the community residential setting while services are
being delivered must be documented in the resident's support plan or support plan addendum.

Subd. 3. Provider requirements for remote overnight supervision; commissioner
notification. (a) A license holder providing remote overnight supervision in a community
residential setting must:

(1) use technology;
(2) notify the commissioner of the community residential setting’s intent to use technology in lieu of on-site staff. The notification must:

(i) indicate a start date for the use of technology; and

(ii) attest that all requirements under this section are met and policies required under subdivision 4 are available upon request;

(3) clearly state in each person’s support plan addendum that the community residential setting is a program without the in-person presence of overnight direct support;

(4) include with each person’s support plan addendum the license holder’s protocols for responding to situations that present a serious risk to the health, safety, or rights of residents served by the program; and

(5) include in each person’s support plan addendum the person’s maximum permissible response time as determined by the person’s support team.

(b) Upon being notified via technology that an incident has occurred that may jeopardize the health, safety, or rights of a resident, the license holder must conduct an evaluation of the need for the physical presence of a staff member. If a physical presence is needed, a staff person, volunteer, or contractor must be on site to respond to the situation within the resident’s maximum permissible response time.

(c) A license holder must notify the commissioner if remote overnight supervision technology will no longer be used by the license holder.

(d) Upon receipt of notification of use of remote overnight supervision or discontinuation of use of remote overnight supervision by a license holder, the commissioner shall notify the county licensing agency and update the license.

Subd. 4. Required policies and procedures for remote overnight supervision. (a) A license holder providing remote overnight supervision must have policies and procedures that:

(1) protect the residents’ health, safety, and rights;

(2) explain the discharge process if a person served by the program requires in-person supervision or other services that cannot be provided by the license holder due to the limited hours that direct support staff are on site;

(3) explain the backup system for technology in times of electrical outages or other equipment malfunctions;

(4) include with each person’s support plan addendum the license holder’s protocols for equipment malfunctions;
18.6 (4) explain how the license holder trains the direct support staff on the use of the technology; and
18.7 (5) establish a plan for dispatching emergency response personnel to the site in the event of an identified emergency.
18.8 (b) Nothing in this section requires the license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards if the requirements of this section are incorporated into those documents.
18.9 (c) When no physical presence response is completed for a three-month period, the license holder must conduct a physical presence response drill. The effectiveness of the response protocol must be reviewed and documented.

18.10 Subd. 5. Consent to use of monitoring technology. If a license holder uses monitoring technology in a community residential setting, the license holder must obtain a signed informed consent form from each resident served by the program or the resident's legal representative documenting the resident's or legal representative's agreement to use of the specific monitoring technology used in the setting. The informed consent form documenting this agreement must also explain:
18.11 (1) how the license holder uses monitoring technology to provide remote supervision;
18.12 (2) the risks and benefits of using monitoring technology;
18.13 (3) how the license holder protects each resident's privacy while monitoring technology is being used in the setting; and
18.14 (4) how the license holder protects each resident's privacy when the monitoring technology system electronically records personally identifying data.

18.15 EFFECTIVE DATE. This section is effective January 1, 2024.
18.16 Sec. 9. Minnesota Statutes 2022, section 252.44, is amended to read:
18.17 252.44 LEAD AGENCY BOARD RESPONSIBILITIES.
18.18 When the need for day services in a county or Tribe has been determined under section 252.28, the board of commissioners for that lead agency shall:
18.19 (1) authorize the delivery of services according to the support plans and support plan addendums required as part of the lead agency's provision of case management services under sections 256B.0913, subdivision 8; 256B.092; subdivision 1b; 256B.49, subdivision 15; and 256S.10 and Minnesota Rules, parts 9525.0004 to 9525.0036;
18.20 (2) ensure that transportation is provided or arranged by the vendor in the most efficient and reasonable way possible; and
monitor and evaluate the cost and effectiveness of the services.

4. ensure that on or after August 1, 2026, employers do not hire any new employee at a wage that is less than the highest applicable minimum wage, regardless of whether the employer holds a special certificate from the United States Department of Labor under section 14(c) of the federal Fair Labor Standards Act; and

5. ensure that on or after August 1, 2028, any day service program, including county, Tribal, or privately funded day services, pay employees with disabilities the highest applicable minimum wage, regardless of whether the employer holds a special certificate from the United States Department of Labor under section 14(c) of the federal Fair Labor Standards Act.

Sec. 10. [252.54] STATEWIDE DISABILITY EMPLOYMENT TECHNICAL ASSISTANCE CENTER.

The commissioner must establish a statewide technical assistance center to provide resources and assistance to programs, people, and families to support individuals with disabilities to achieve meaningful and competitive employment in integrated settings. Duties of the technical assistance center include but are not limited to:

1. offering provider business model transition support to ensure ongoing access to employment and day services;

2. identifying and providing training on innovative, promising, and emerging practices;

3. maintaining a resource clearinghouse to serve as a hub of information to ensure programs, people, and families have access to high-quality materials and information;

4. fostering innovation and actionable progress by providing direct technical assistance to programs; and

5. cultivating partnerships and mentorship across support programs, people, and families in the exploration of and successful transition to competitive, integrated employment.

Sec. 11. [252.55] LEAD AGENCY EMPLOYMENT FIRST CAPACITY BUILDING GRANTS.

The commissioner shall establish a grant program to expand lead agency capacity to support people with disabilities to contemplate, explore, and maintain competitive, integrated employment options. Allowable uses of money include:

1. enhancing resources and staffing to support people and families in understanding employment options and navigating service options;

2. implementing and testing innovative approaches to better support people with disabilities and their families in achieving competitive, integrated employment; and
Sec. 45. Provider capacity grants for rural and underserved communities.

Subd. 1. Establishment and authority. (a) The commissioner of human services shall award grants to organizations that provide community-based services to rural or underserved communities. The grants must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and shall work with the commissioner of management and budget and the commissioner of the Department of Administration to mitigate barriers in accessing grant money.

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services or that serve historically underserved communities throughout the state.

Subd. 2. Eligibility. An eligible applicant for the capacity grants under subdivision 1 is an organization or provider that serves, or will serve, rural or underserved communities and:

(1) provides, or will provide, home and community-based services in the state; or
(2) serves, or will serve, as a connector for communities to available home and community-based services.

Subd. 3. Allowable grant activities. Grants under this section must be used by recipients for the following activities:

(1) expanding existing services;
(2) increasing access in rural or underserved areas;
(3) creating new home and community-based organizations;
(4) connecting underserved communities to benefits and available services; or

(3) other activities approved by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2023.

THE FOLLOWING SECTION WAS MOVED UP FROM UES2934-2, ARTICLE 1, SECTION 45

Sec. 45. Provider capacity grants for rural and underserved communities.

Subd. 1. Establishment and authority. (a) The commissioner of human services shall award grants to organizations that provide community-based services to rural or underserved communities. The grants must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and shall work with the commissioners of management and budget and administration to mitigate barriers in accessing grant money.

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services or that serve historically underserved communities throughout the state.

Subd. 2. Eligibility. An eligible applicant for the capacity grants under subdivision 1 is an organization or provider that serves, or will serve, rural or underserved communities and:

(1) provides, or will provide, home and community-based services in the state; or
(2) serves, or will serve, as a connector for communities to available home and community-based services.

Subd. 3. Allowable grant activities. Grants under this section must be used by recipients for the following activities:

(1) expanding existing services;
(2) increasing access in rural or underserved areas;
(3) creating new home and community-based organizations;
(4) connecting underserved communities to benefits and available services; or

(3) other activities approved by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2023.

THE FOLLOWING SECTION WAS MOVED UP FROM UES2934-2, ARTICLE 1, SECTION 45

Sec. 45. Provider capacity grants for rural and underserved communities.

Subd. 1. Establishment and authority. (a) The commissioner of human services shall award grants to organizations that provide community-based services to rural or underserved communities. The grants must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and shall work with the commissioners of management and budget and administration to mitigate barriers in accessing grant money.

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services or that serve historically underserved communities throughout the state.

Subd. 2. Eligibility. An eligible applicant for the capacity grants under subdivision 1 is an organization or provider that serves, or will serve, rural or underserved communities and:

(1) provides, or will provide, home and community-based services in the state; or
(2) serves, or will serve, as a connector for communities to available home and community-based services.

Subd. 3. Allowable grant activities. Grants under this section must be used by recipients for the following activities:

(1) expanding existing services;
(2) increasing access in rural or underserved areas;
(3) creating new home and community-based organizations;
(4) connecting underserved communities to benefits and available services; or

(3) other activities approved by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2023.

THE FOLLOWING SECTION WAS MOVED UP FROM UES2934-2, ARTICLE 1, SECTION 45

Sec. 45. Provider capacity grants for rural and underserved communities.

Subd. 1. Establishment and authority. (a) The commissioner of human services shall award grants to organizations that provide community-based services to rural or underserved communities. The grants must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and shall work with the commissioners of management and budget and administration to mitigate barriers in accessing grant money.

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services or that serve historically underserved communities throughout the state.

Subd. 2. Eligibility. An eligible applicant for the capacity grants under subdivision 1 is an organization or provider that serves, or will serve, rural or underserved communities and:

(1) provides, or will provide, home and community-based services in the state; or
(2) serves, or will serve, as a connector for communities to available home and community-based services.

Subd. 3. Allowable grant activities. Grants under this section must be used by recipients for the following activities:

(1) expanding existing services;
(2) increasing access in rural or underserved areas;
(3) creating new home and community-based organizations;
(4) connecting underserved communities to benefits and available services; or

(3) other activities approved by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2023.

THE FOLLOWING SECTION WAS MOVED UP FROM UES2934-2, ARTICLE 1, SECTION 45

Sec. 45. Provider capacity grants for rural and underserved communities.

Subd. 1. Establishment and authority. (a) The commissioner of human services shall award grants to organizations that provide community-based services to rural or underserved communities. The grants must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and shall work with the commissioners of management and budget and administration to mitigate barriers in accessing grant money.

(c) The commissioner shall limit expenditures under this subdivision to the amount appropriated for this purpose.

(d) The commissioner shall give priority to organizations that provide culturally specific and culturally responsive services or that serve historically underserved communities throughout the state.

Subd. 2. Eligibility. An eligible applicant for the capacity grants under subdivision 1 is an organization or provider that serves, or will serve, rural or underserved communities and:

(1) provides, or will provide, home and community-based services in the state; or
(2) serves, or will serve, as a connector for communities to available home and community-based services.

Subd. 3. Allowable grant activities. Grants under this section must be used by recipients for the following activities:

(1) expanding existing services;
(2) increasing access in rural or underserved areas;
(3) creating new home and community-based organizations;
(4) connecting underserved communities to benefits and available services; or

(3) other activities approved by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2023.
Sec. 44. SUPPORTING NEW AMERICANS IN THE LONG-TERM CARE WORKFORCE GRANTS.

Subd. 1. Definition. For the purposes of this section, "new American" means an individual born abroad and the individual's children, irrespective of immigration status.

Subd. 2. Grant program established. The commissioner of human services shall establish a grant program for organizations that support immigrants, refugees, and new Americans interested in entering the long-term care workforce.

Subd. 3. Eligibility. (a) The commissioner shall select projects for funding under this section. An eligible applicant for the grant program in subdivision 1 is an:

1. An organization or provider that is experienced in working with immigrants, refugees, and people born outside of the United States and that demonstrates cultural competency;
2. An organization or provider with the expertise and capacity to provide training, peer mentoring, supportive services, and workforce development or other services to develop and implement strategies for recruiting and retaining qualified employees.

(b) The commissioner shall prioritize applications from joint labor management programs.

Subd. 4. Allowable grant activities. Money allocated under this section must be used to:

1. Support immigrants, refugees, or new Americans to obtain or maintain employment in the long-term care workforce;
2. Develop connections to employment with long-term care employers and potential employees;
3. Provide recruitment, training, guidance, mentorship, and other support services necessary to encourage employment, employee retention, and successful community integration;
4. Provide career education, wraparound support services, and job skills training in high-demand health care and long-term care fields;
5. Pay for program expenses, including but not limited to hiring instructors and navigators, space rentals, and supportive services to help participants attend classes.

Allowable uses for supportive services include but are not limited to:

(i) Course fees;
(ii) child care costs;
(iii) transportation costs;
(iv) tuition fees;
(v) financial coaching fees;
(vi) mental health supports or
(vii) uniforms costs incurred as a direct result of participating in classroom instruction or training; or
(viii) repay student loan debt directly incurred as a result of pursuing a qualifying course of study or training.

THE FOLLOWING SECTION WAS MOVED UP FROM UES2934-2, ARTICLE 1, SECTION 42.

Sec. 42. HOME AND COMMUNITY-BASED WORKFORCE INCENTIVE FUND GRANTS.

Subdivision 1. Grant program established. The commissioner of human services shall establish grants for disability and home and community-based providers to assist with recruiting and retaining direct support and frontline workers.

Subd. 2. Definitions. (a) For purposes of this section, the following terms have the meanings given:

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

(c) "Eligible employer" means an organization enrolled in a Minnesota health care program or providing housing services and that is:

(1) a provider of home and community-based services under chapter 245D;
(2) a facility certified as an intermediate care facility for persons with developmental disabilities;
(3) "Eligible worker" means a worker who earns $30 per hour or less and is currently employed or recruited to be employed by an eligible employer.

Subd. 3. Allowable uses of grant money. (a) Grantees must use grant money to provide payments to eligible workers for the following purposes:

(1) retention, recruitment, and incentive payments;
(2) postsecondary loan and tuition payments;
Subd. 1. (a) Eligible employers may receive payments up to $1,000 per year from the home and community-based workforce incentive fund.

(b) The commissioner must develop a grant cycle distribution plan that allows for equitable distribution of money among eligible employers. The commissioner’s determination of the grant awards and amounts is final and is not subject to appeal.

Subd. 4. Attestation. As a condition of obtaining grant payments under this section, an eligible employer must attest and agree to the following:

(1) the employer is an eligible employer;
(2) the total number of eligible employees;
(3) the employer will distribute the entire value of the grant to eligible workers, as allowed under this section;
(4) the employer will create and maintain records under subdivision 6;
(5) the employer will not use the money appropriated under this section for any purpose other than the purposes permitted under this section; and
(6) the entire value of any grant amounts will be distributed to eligible workers identified by the employer.

Subd. 5. Distribution plan; report. (a) A provider agency or individual provider that receives a grant under subdivision 4 shall prepare, and upon request submit to the commissioner, a distribution plan that specifies the amount of money the provider expects to receive and how that money will be distributed for recruitment and retention purposes for eligible employees. Within 60 days of receiving the grant, the provider must post the distribution plan and leave it posted for a period of at least six months in an area of the provider’s operation to which all direct support professionals have access.

(b) Within 12 months of receiving a grant under this section, each provider agency or individual provider that receives a grant under subdivision 4 shall submit a report to the commissioner that includes the following information:

(1) a description of how grant money was distributed to eligible employees; and
(2) the total dollar amount distributed.
Subd. 5. Audits and recoupment. (a) The commissioner may perform an audit under this section up to six years after a grant is awarded to ensure:

1. the grantee used the money solely for allowable purposes under subdivision 3;
2. the grantee was truthful when making attestations under subdivision 4; and
3. the grantee complied with the conditions of receiving a grant under this section.

(b) If the commissioner determines that a grantee used grant money for purposes not authorized under this section, the commissioner must treat any amount used for a purpose not authorized under this section as an overpayment. The commissioner must recover any overpayment.

Subd. 6. Payments not to be considered income. (a) For the purposes of this subdivision, "subtraction" has the meaning given in section 290.0132, subdivision 1, paragraph (a), and the rules in that subdivision apply to this subdivision. The definitions in section 290.01 apply to this subdivision.

(b) The amount of a payment received under this section is a subtraction.

(c) Payments under this section are excluded from income, as defined in sections 290.0574, subdivision 2a; and 290A.03, subdivision 3.

(d) Notwithstanding any law to the contrary, payments under this section must not be considered income, assets, or personal property for purposes of determining eligibility or recertifying eligibility for:

1. child care assistance programs under chapter 119B;
2. general assistance, Minnesota supplemental aid, and food support under chapter 256D;
3. housing support under chapter 256J;
4. the Minnesota family investment program and diversionary work program under chapter 256J; and
5. economic assistance programs under chapter 256P.

(e) The commissioner must not consider payments under this section as income or assets under section 256H.056, subdivision 1a, paragraph (a), 3, or 3c, or for persons with eligibility determined under section 256B.057, subdivision 3, 3a, or 3b.

Subd. 7. Grants not to be considered income. (a) Notwithstanding any law to the contrary, grant awards under this section must not be considered income or assets under Minnesota Statutes, section 256B.056, subdivision 1a, paragraph (a), 3, or 3c, or for persons with eligibility determined under Minnesota Statutes, section 256B.057, subdivision 3, 3a, 3b, 4, or 9.
Sec. 10. [526.4771] SUPPORTED-DECISION-MAKING PROGRAMS.

Subdivision 1. Authorization. The commissioner of human services shall award general operating grants to public and private nonprofit organizations, counties, and Tribes to provide and promote supported decision making.

Subd. 2. Definitions. (a) For the purposes of this section, the terms in this section have the meanings given:

(b) "Supported decision making" has the meaning given in section 524.5-102, subdivision 16a.

(c) "Supported-decision-making services" means services provided to help an individual consider, access, or develop supported decision making, potentially as an alternative to more restrictive forms of decision making, including guardianship and conservatorship. The services may be provided to the individual, family members, or trusted support people. The individual may currently be a person subject to guardianship or conservatorship, but the services must not be used to help a person access a guardianship or conservatorship.

Subd. 3. Grants. (a) The grants must be distributed as follows:

(1) at least 75 percent of the grant money must be used to fund programs or organizations that provide supported-decision-making services;

(2) no more than 20 percent of the grant money may be used to fund county or Tribal programs that provide supported-decision-making services; and

(3) no more than five percent of the grant money may be used to fund programs or organizations that do not provide supported-decision-making services but do promote the use and advancement of supported decision making.

(b) The grants must be distributed in a manner to promote racial and geographic diversity in the populations receiving services as determined by the commissioner.

Subd. 4. Evaluation and report. By December 1, 2024, the commissioner must submit to the chairs and ranking minority members of the legislative committees with jurisdiction over human services finance and policy an interim report on the impact and outcomes of the grants, including the number of grants awarded and the organizations receiving the grants. The interim report must include any available evidence of how grantees were able to increase utilization of supported decision making and reduce or avoid more restrictive forms of decision making such as guardianship and conservatorship. By December 1, 2025, the commissioner must submit to the chairs and ranking minority members of the legislative committees with jurisdiction over human services finance and policy a final report on the impact and outcomes of the grants, including any updated information from the interim report and the total number of people served by the grants. The final report must also detail how the money was used to achieve the requirements in subdivision 3, paragraph (b).
Subd. 5. Applications. Any public or private nonprofit agency may apply to the commissioner for a grant under subdivision 3, paragraph (a), clause (1) or (3). Any county or Tribal agency in Minnesota may apply to the commissioner for a grant under subdivision 3, paragraph (a), clause (2). The application must be submitted in a form approved by the commissioner.

Subd. 6. Duties of grantees. Every public or private nonprofit agency, county, or Tribal agency that receives a grant to provide or promote supported decision making must comply with rules related to the administration of the grants.

Sec. 11. [256.4773] TECHNOLOGY FOR HOME GRANT.

Subdivision 1. Establishment. The commissioner must establish a technology for home grant program that provides assistive technology consultations and resources for people with disabilities who want to stay in their own home, move to their own home, or remain in a less restrictive residential setting. The grant program may be administered using a team approach that allows multiple professionals to assess and meet a person's assistive technology needs. The team may include but is not limited to occupational therapists, physical therapists, speech therapists, nurses, and engineers.

Subd. 2. Eligible applicants. An eligible applicant is a person who uses or is eligible for home care services under section 256B.0651, home and community-based services under section 256B.092 or 256B.49, personal care assistance under section 256B.0659, or community first services and supports under section 256B.85, and who meets one of the following conditions:

1. lives in the applicant's own home and may benefit from assistive technology for safety, communication, community engagement, or independence;
2. is currently seeking to live in the applicant's own home and needs assistive technology to meet that goal; or
3. resides in a residential setting under section 256B.4914, subdivision 3, and is seeking to reduce reliance on paid staff to live more independently in the setting.

Subd. 3. Allowable grant activities. The technology for home grant program must provide at-home, in-person assistive technology consultation and technical assistance to help people with disabilities live more independently. Allowable activities include but are not limited to:
1. consultations in people's homes, workplaces, or community locations;
2. connecting people to resources to help them live in their own homes, transition to their own homes, or live more independently in residential settings;
3. conducting training for and set up and installation of assistive technology; and
(d) participating on a person's care team to develop a plan to ensure assistive technology goals are met.

Subd. 4. Data collection and outcomes. Grantees must provide data summaries to the commissioner for the purpose of evaluating the effectiveness of the grant program. The commissioner must identify outcome measures to evaluate program activities to assess whether the grant programs help people transition to or remain in the least restrictive setting.

Sec. 12. Minnesota Statutes 2022, section 256B.0659, subdivision 1, is amended to read:

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

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

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

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


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

(g) "Extended personal care assistance service" means personal care assistance services included in a service plan under one of the home and community-based services waivers authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which

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25.4 exceed the amount, duration, and frequency of the state plan personal care assistance services for participants who:

25.6

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

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

25.9 (i) "Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community. For purposes of this paragraph, traveling includes driving and accompanying the recipient in the recipient's chosen mode of transportation and according to the recipient's personal care assistance care plan.

25.10 "Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

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

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

25.13 "Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

25.14 "Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

25.15 "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

25.16 "Self-administered medication" means medication taken orally, by injection, nebulizer, or insertion, or applied topically without the need for assistance.
"Service plan" means a written summary of the assessment and description of the services needed by the recipient. A monthly basis to the provider and kept in the recipient's health record. Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts. **EFFECTIVE DATE:** This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained. Sec. 13. Minnesota Statutes 2022, section 256B.0659, subdivision 12, is amended to read: Subd. 1. Documentation of personal care assistance services provided. (a) Personal care assistance services for a recipient must be documented daily by each personal care assistant, on a time sheet form approved by the commissioner. All documentation may be web-based, electronic, or paper documentation. The completed form must be submitted on a monthly basis to the provider and kept in the recipient's health record. (b) The activity documentation must correspond to the personal care assistance care plan and be reviewed by the qualified professional. (c) The personal care assistant time sheet must be on a form approved by the commissioner documenting time the personal care assistant provides services in the home. The following criteria must be included in the time sheet: (1) full name of personal care assistant and individual provider number; (2) provider name and telephone numbers; (3) full name of recipient and either the recipient's medical assistance identification number or date of birth; (4) consecutive dates, including month, day, and year, and arrival and departure times with a.m. or p.m. notations; (5) signatures of recipient or the responsible party; (6) personal signature of the personal care assistant; (7) any shared care provided, if applicable; (8) a statement that it is a federal crime to provide false information on personal care service billings for medical assistance payments; and (9) dates and location of recipient stays in a hospital, care facility, or incarceration; and **EFFECTIVE DATE:** This section is effective 90 days following federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained. Sec. 16. Minnesota Statutes 2022, section 256B.0659, subdivision 12, is amended to read: Subd. 12. Documentation of personal care assistance services provided. (a) Personal care assistance services for a recipient must be documented daily by each personal care assistant, on a time sheet form approved by the commissioner. All documentation may be web-based, electronic, or paper documentation. The completed form must be submitted on a monthly basis to the provider and kept in the recipient's health record. (b) The activity documentation must correspond to the personal care assistance care plan and be reviewed by the qualified professional. (c) The personal care assistant time sheet must be on a form approved by the commissioner documenting time the personal care assistant provides services in the home. The following criteria must be included in the time sheet: (1) full name of personal care assistant and individual provider number; (2) provider name and telephone numbers; (3) full name of recipient and either the recipient's medical assistance identification number or date of birth; (4) consecutive dates, including month, day, and year, and arrival and departure times with a.m. or p.m. notations; (5) signatures of recipient or the responsible party; (6) personal signature of the personal care assistant; (7) any shared care provided, if applicable; (8) a statement that it is a federal crime to provide false information on personal care service billings for medical assistance payments; and (9) dates and location of recipient stays in a hospital, care facility, or incarceration; and
(10) any time spent traveling, as described in subdivision 1, paragraph (i), including start and stop times with a.m. and p.m. designations, the origination site, and the destination site.

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

Sec. 14. Minnesota Statutes 2022, section 256B.0659, subdivision 19, is amended to read:

Subd. 19. Personal care assistance choice option; qualifications; duties. (a) Under personal care assistance choice, the recipient or responsible party shall:

1. recruit, hire, schedule, and terminate personal care assistants according to the terms of the written agreement required under subdivision 20, paragraph (a);
2. develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;
3. orient and train the personal care assistant with assistance as needed from the qualified professional;

(b) Notwithstanding any other provision of law, a care plan developed or amended via remote supervision may be executed by electronic signature.

(c) A personal care assistance provider agency must not conduct its first supervisory visit for a recipient and complete its initial personal care assistance care plan via a remote visit.

(d) A recipient may request to return to in-person supervisory visits at any time.

EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
(4) supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;

(5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;

(6) engage in an annual reassessment as required in subdivision 3a to determine continuing eligibility and service authorization; and

(7) use the same personal care assistance choice provider agency if shared personal assistance care is being used; and

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

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

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

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

(3) not be related as a parent, child, sibling, or spouse to the recipient or the personal care assistant; and

(4) ensure arm’s-length transactions without undue influence or coercion with the recipient and personal care assistant.

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

(1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including but not limited to purchasing and maintaining workers’ compensation, unemployment insurance, surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including but not limited to workers' compensation, unemployment insurance, and labor market data required under section 256B.4912, subdivision 1a;

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

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

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

(5) withhold and pay all applicable federal and state taxes;
(6) verify and keep records of hours worked by the personal care assistant and qualified professional;
(7) make the arrangements and pay taxes and other benefits, if any, and comply with any legal requirements for a Minnesota employer;
(8) enroll in the medical assistance program as a personal care assistance choice agency; and
(9) enter into a written agreement as specified in subdivision 20 before services are provided.

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

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

(1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;
(2) comply with general medical assistance coverage requirements;
(3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;
(4) comply with background study requirements;
(5) verify and keep records of hours worked by the personal care assistant and qualified professional;
(6) not engage in any agency-initiated direct contact or marketing in person, by phone, or other electronic means to potential recipients, guardians, or family members;
(7) pay the personal care assistant and qualified professional based on actual hours of services provided;
(8) withhold and pay all applicable federal and state taxes;
(9) document that the agency uses a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation;
(10) make the arrangements and pay unemployment insurance, taxes, workers’ compensation, liability insurance, and other benefits, if any;
(11) enter into a written agreement under subdivision 20 before services are provided;  
(12) report suspected neglect and abuse to the common entry point according to section 256B.0651;  
(13) provide the recipient with a copy of the home care bill of rights at start of service;  
(14) request reassessments at least 60 days prior to the end of the current authorization for personal care assistance services, on forms provided by the commissioner;  
(15) comply with the labor market reporting requirements described in section 256B.4912, subdivision 1a;  
(16) document that the agency uses the additional revenue due to the enhanced rate under subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements under subdivision 11, paragraph (d);  
(17) ensure that a personal care assistant driving a recipient under subdivision 1, paragraph (i), has a valid driver's license and the vehicle used is registered and insured according to Minnesota law.

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

Sec. 16. Minnesota Statutes 2022, section 256B.0911, subdivision 13, is amended to read:

Subd. 13. MnCHOICES assessor qualifications, training, and certification. (a) The commissioner shall develop and implement a curriculum and an assessor certification process.

(b) MnCHOICES certified assessors must:

1. either have a bachelor's degree in social work, nursing with a public health nursing certificate, or other closely related field with at least one year of home and community-based experience or be a registered nurse with at least two years of home and community-based experience; and  
2. have received training and certification specific to assessment and consultation for long-term care services in the state.

(c) Certified assessors shall demonstrate best practices in assessment and support planning, including person-centered planning principles, and have a common set of skills that ensure consistency and equitable access to services statewide.

(d) Certified assessors must be recertified every three years.
Sec. 21. Minnesota Statutes 2022, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. Case management services. (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application.

(b) Case management service activities provided to or arranged for a person include:

1. development of the person-centered support plan under subdivision 1b;
2. informing the individual or the individual’s legal guardian or conservator, or parent if the person is a minor, of service options, including all service options available under the waiver plan;
3. consulting with relevant medical experts or service providers;
4. assisting the person in the identification of potential providers of chosen services, including:
   i. providers of services provided in a non-disability-specific setting;
   ii. employment service providers;
   iii. providers of services provided in settings that are not controlled by a provider; and
   iv. providers of financial management services;
5. assisting the person to access services and assisting in appeals under section 256.045;
6. coordination of services, if coordination is not provided by another service provider;
7. evaluation and monitoring of the services identified in the support plan, which must incorporate at least one annual face-to-face visit by the case manager with each person; and
8. reviewing support plans and providing the lead agency with recommendations for service authorization based upon the individual’s needs identified in the support plan.

(c) Case management service activities that are provided to the person with a developmental disability shall be provided directly by county agencies or under contract.

If a county agency contracts for case management services, the county agency must provide each recipient of home and community-based services who is receiving contracted case management services with the contact information the recipient may use to file a grievance with the county agency about the quality of the contracted services the recipient is receiving from a county-contracted case manager. Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has a financial interest in the provision of any other services included in the recipient’s support plan. For purposes of this section, “private agency” means any agency that is not identified as a lead agency under section 256B.0911, subdivision 10;

...
Case managers are responsible for service provisions listed in paragraphs (a) and (b). Case managers shall collaborate with consumers, families, legal representatives, and relevant medical experts and service providers in the development and annual review of the person-centered support plan and habilitation plan.

(d) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

1. phasing out the use of prohibited procedures;
2. acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline; and
3. accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(e) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than 20 hours of case management education and disability-related training each year. The education and training must include person-centered planning, informed choice, cultural competency, employment planning, community living planning, self-direction options, and use of technology supports. By August 1, 2024, all case managers must complete an employment support training course identified by the commissioner of human services. For case managers hired after August 1, 2024, this training must be completed within the first six months of providing case management services. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 10.

Case managers must document completion of training in a system identified by the commissioner.
(2) a developmental or behavioral pediatrician who has at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in the areas of ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development.

(b) A level I treatment provider must be employed by an agency and:

(1) have at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development or an equivalent combination of documented coursework or hours of experience; and

(2) have or be at least one of the following:

(i) a master's degree in behavioral health or child development or related fields including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy; and meets at least one of the following:

(ii) a bachelor's degree in a behavioral health, child development, or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy, from an accredited college or university, and advanced certification in a treatment modality recognized by the department;

(iii) a board-certified behavior analyst; or

(iv) a board-certified assistant behavior analyst with 4,000 hours of supervised clinical experience that meets all registration, supervision, and continuing education requirements of the certification.

(c) A level II treatment provider must be employed by an agency and must be:

(i) a person who has a bachelor's degree from an accredited college or university in a behavioral or child development science or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy; and meets at least one of the following:

(ii) has at least 1,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development or a combination of coursework or hours of experience;

(ii) has certification as a board-certified assistant behavior analyst from the Behavior Analyst Certification Board;
(iii) is a registered behavior technician as defined by the Behavior Analyst Certification Board; or

(iv) is certified in one of the other treatment modalities recognized by the department; or

(2) a person who has:

(i) an associate's degree in a behavioral or child development science or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy from an accredited college or university; and

(ii) at least 2,000 hours of supervised clinical experience in delivering treatment to people with ASD or a related condition. Hours worked as a mental health behavioral aide or level III treatment provider may be included in the required hours of experience; or

(3) a person who has at least 4,000 hours of supervised clinical experience in delivering treatment to people with ASD or a related condition. Hours worked as a mental health behavioral aide or level III treatment provider may be included in the required hours of experience; or

(4) a person who is a graduate student in a behavioral science, child development science, or related field and is receiving clinical supervision by a QSP affiliated with an agency to meet the clinical training requirements for experience and training with people with ASD or a related condition; or

(5) a person who is at least 18 years of age and who:

(i) is fluent in a non-English language or is an individual certified by a Tribal Nation; or

(ii) completed the level III EIDBI training requirements; and

(iii) receives observation and direction from a QSP or level I treatment provider at least once a week until the person meets 1,000 hours of supervised clinical experience.

(d) A level III treatment provider must be employed by an agency, have completed the level III training requirement, be at least 18 years of age, and have at least one of the following:

(1) a high school diploma or commissioner of education-selected high school equivalency certification;

(2) fluency in a non-English language or Tribal Nation certification;

(3) one year of experience as a primary personal care assistant, community health worker, waiver service provider, or special education assistant to a person with ASD or a related condition within the previous five years; or

(4) completion of all required EIDBI training within six months of employment. 

(ii) completed the level III EIDBI training requirements; and

(iii) receives observation and direction from a QSP or level I treatment provider at least once a week until the person meets 1,000 hours of supervised clinical experience.

(d) A level III treatment provider must be employed by an agency, have completed the level III training requirement, be at least 18 years of age, and have at least one of the following:

(1) a high school diploma or commissioner of education-selected high school equivalency certification;

(2) fluency in a non-English language or Tribal Nation certification;

(3) one year of experience as a primary personal care assistant, community health worker, waiver service provider, or special education assistant to a person with ASD or a related condition within the previous five years; or

(4) completion of all required EIDBI training within six months of employment.
EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 18. Minnesota Statutes 2022, section 256B.49, subdivision 11, is amended to read:

Subd. 11. Authority. (a) The commissioner is authorized to apply for home and community-based service waivers, as authorized under section 1915(c) of the federal Social Security Act to serve persons under the age of 65 who are determined to require the level of care provided in a nursing home and persons who require the level of care provided in a hospital. The commissioner shall apply for the home and community-based waivers in order to:

(1) promote the support of persons with disabilities in the most integrated settings;
(2) expand the availability of services for persons who are eligible for medical assistance;
(3) promote cost-effective options to institutional care; and
(4) obtain federal financial participation;

(b) The provision of waiver services to medical assistance recipients with disabilities shall comply with the requirements outlined in the federally approved applications for home and community-based services and subsequent amendments, including provision of services according to a service plan designed to meet the needs of the individual, except when applying a size limitation to a setting, the commissioner must treat residents under 55 years of age who are receiving services under the brain injury or the community access for disability inclusion waiver as if the residents are 55 years of age or older if the residents lived and received services in the setting on or before March 1, 2023. For purposes of this section, the approved home and community-based application is considered the necessary federal requirement.

(c) The commissioner shall provide interested persons serving on agency advisory committees, task forces, the Centers for Independent Living, and others who request to be on a list to receive, notice of, and an opportunity to comment on, at least 30 days before any effective dates, (1) any substantive changes to the state's disability services program manual, or (2) changes or amendments to the federally approved applications for home and community-based waivers, prior to their submission to the federal Centers for Medicare and Medicaid Services.

(d) The commissioner shall seek approval, as authorized under section 1915(c) of the federal Social Security Act, to allow medical assistance eligibility under this section for children under age 21 without deeming of parental income or assets.

(e) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Act, to allow medical assistance eligibility under this section for individuals under age 65 without deeming the spouse's income or assets.
(f) The commissioner shall comply with the requirements in the federally approved transition plan for the home and community-based services waivers authorized under this section, except when applying a size limitation to a setting, the commissioner must treat residents under 55 years of age who are receiving services under the brain injury or the community access for disability inclusion waiver as if the residents are 55 years of age or older if the residents lived and received services in the setting on or before March 1, 2023.

(p) The commissioner shall seek federal approval to allow for the reconfiguration of the 1915(c) home and community-based waivers in this section, as authorized under section 1915(c) of the federal Social Security Act, to implement a two-waiver program structure.

(h) The commissioner shall seek federal approval for the 1915(c) home and community-based waivers in this section, as authorized under section 1915(c) of the federal Social Security Act, to implement an individual resource allocation methodology.

EFFECTIVE DATE: This section is effective retroactively from January 11, 2021.

36.17 Sec. 23. Minnesota Statutes 2022, section 256B.49, subdivision 13, is amended to read:

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

36.19 (1) finalizing the person-centered written support plan within the timelines established by the commissioner and section 256B.0911, subdivision 29;

36.20 (2) informing the recipient or the recipient's legal guardian or conservator of service options, including all service options available under the waiver plans;

36.21 (3) assisting the recipient in the identification of potential service providers of chosen services, including:

36.22 (i) available options for case management service and providers;

36.23 (ii) providers of services provided in a non-disability-specific setting;

36.24 (iii) employment service providers;

36.25 (iv) providers of services provided in settings that are not community residential settings; and

36.26 (v) providers of financial management services;

36.27 (4) assisting the recipient to access services and assisting with appeals under section 256.045; and

36.28 (5) coordinating, evaluating, and monitoring of the services identified in the service plan.
(b) The case manager may delegate certain aspects of the case management service activities to another individual provided there is oversight by the case manager. The case manager may not delegate those aspects which require professional judgment including:

1. finalizing the person-centered support plan;
2. ongoing assessment and monitoring of the person's needs and adequacy of the approved person-centered support plan; and
3. adjustments to the person-centered support plan.

(c) Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has any financial interest in the provision of any other services included in the recipient's support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision 10.

(d) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

1. phasing out the use of prohibited procedures;
2. acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline; and
3. accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(e) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than 20 hours of case management education and disability-related training each year. The education and training must include person-centered planning, informed choice, cultural competency, employment planning, community living planning, self-direction options, and use of technology supports. By August 1, 2024, all case managers must complete an employment support training course identified by the commissioner of human services. For case managers hired after August 1, 2024, this training must be completed within the first six months of providing case management services. For the purposes of this section, "person-centered planning" or
"person-centered" has the meaning given in section 256B.0911, subdivision 10.

managers shall document completion of training in a system identified by the commissioner.

19. Minnesota Statutes 2022, section 256B.49, subdivision 28, is amended to read:

Customized living moratorium for brain injury and community access for disability inclusion waivers. (a) Notwithstanding section 245A.03, subdivision 2, paragraph (a), clause (23), to prevent new development of customized living settings that otherwise meet the residential program definition under section 245A.02, subdivision 14, the commissioner shall not enroll new customized living settings serving four or fewer people in a single-family home to deliver customized living services as defined under the brain injury or community access for disability inclusion waiver plans under this section.

(b) The commissioner may approve an exception to paragraph (a) when an existing customized living setting changes ownership at the same address and must approve an exception to paragraph (a) when the same owner relocates an existing customized living setting to a new address.

(c) Customized living settings operational on or before June 30, 2021, are considered existing customized living settings.

(d) For any new customized living settings serving four or fewer people in a single-family home to deliver customized living services as defined in paragraph (a) and that was not operational on or before June 30, 2021, the authorizing lead agency is financially responsible for all home and community-based service payments in the setting.

(e) For purposes of this subdivision, "operational" means customized living services are authorized and delivered to a person in the customized living setting.

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

24. Minnesota Statutes 2022, section 256B.4905, subdivision 4a, is amended to read:

Informed choice in employment policy. It is the policy of this state that working-age individuals who have disabilities:

(1) can work and achieve competitive integrated employment with appropriate services and supports, as needed;

(2) make informed choices about their postsecondary education, work, and career goals, and

(3) will be offered the opportunity to make an informed choice, at least annually, to pursue postsecondary education or to work and earn a competitive wage; and

(4) will be offered benefits planning assistance and supports to understand available work incentive programs and to understand the impact of work on benefits.
Sec. 20. **Minnesota Statutes 2022, section 256B.4905, subdivision 5a, is amended to read:**

Subd. 5a. **Employment first implementation for disability waiver services.** (a) The commissioner of human services shall ensure that:

1. The disability waivers under sections 256B.092 and 256B.49 support the presumption that all working-age Minnesotans with disabilities can work and achieve competitive integrated employment with appropriate services and supports, as needed; and

2. Each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to work and earn a competitive wage before being offered exclusively day services as defined in section 245D.03, subdivision 1, paragraph (c), clause (4), or successor provisions.

(b) Nothing in this subdivision prohibits a waiver recipient of working age, after an informed decision-making process and during a person-centered planning process, from choosing employment at a special minimum wage under a 14(c) certificate as provided by Code of Federal Regulations, title 29, sections 525.1 to 525.24. For any waiver recipient who chooses employment at a special minimum wage, the commissioner must not impose any limitations on the length of disability services provided to support the recipient's informed choice or limitations on the reimbursement rates for the disability waiver services provided to support the recipient's informed choice.

Sec. 25. **[256B.4906] SUBMINIMUM WAGES IN HOME AND COMMUNITY-BASED SERVICES PROHIBITION; REQUIREMENTS.**

Subdivision 1. **Subminimum wage outcome reporting.** (a) A provider of home and community-based services for people with developmental disabilities under section 256B.092 or home and community-based services for people with disabilities under section 256B.49 that holds a credential listed in clause (1) or (2) as of August 1, 2023, must submit to the commissioner of human services data on individuals who are currently being paid subminimum wages or were being paid subminimum wages by the provider organization as of August 1, 2023:

1. A certificate through the United States Department of Labor under United States Code, title 29, section 214(c), of the Fair Labor Standards Act authorizing the payment of subminimum wages to workers with disabilities; or

2. A permit by the Minnesota Department of Labor and Industry under section 177.28.

(b) The report required under paragraph (a) must include the following data about each individual being paid subminimum wages:

1. Name:
Subd. 2. Prohibition of subminimum wages. Providers of home and community-based services are prohibited from paying a person with a disability wages below the state minimum wage pursuant to section 177.24, or below the prevailing local minimum wage on the basis of the person's disability. A special certificate authorizing the payment of less than the minimum wage to a person with a disability issued pursuant to a law of this state or to a federal law is without effect as of August 1, 2028.
(5) developmental disabilities waiver;
(6) elderly waiver; and
(7) Minnesota senior health option.

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

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

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

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

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

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

Sec. 22. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision
to read:

Subd. 1b. Direct support professional annual labor market survey. (a) The
commissioner shall develop and administer a survey of direct care staff who work for
organizations that provide services under the following programs:

(1) home and community-based services for seniors under chapter 256S and section
256B.3913, home and community-based services for people with developmental disabilities
under section 256B.092, and home and community-based services for people with disabilities
under section 256B.49;

(2) personal care assistance services under section 256B.0625; subdivision 19a;

(3) community first services and supports under section 256B.85; nursing services and home
health services under section 256B.0625, subdivision 6a; home care nursing services under
section 256B.0625, subdivision 7; and

(4) financial management services for participants who directly employ direct-care staff
through consumer support grants under section 256.476; the personal care assistance choice
program under section 256B.0659, subdivisions 18 to 20; community first services and
(b) The survey must collect information about the individual experience of the direct-care staff and any other information necessary to assess the overall economic viability and well-being of the workforce.

c) For purposes of this subdivision, "direct-care staff" means employees, including self-employed individuals and individuals directly employed by a participant in a consumer-directed service delivery option, providing direct service to participants under this section. Direct-care staff does not include executive, managerial, or administrative staff.

d) Individually identifiable data submitted to the commissioner under this section are considered private data on individuals as defined by section 13.02, subdivision 12.

e) The commissioner shall analyze data submitted under this section annually to assess the overall economic viability and well-being of the workforce and the impact of the state of workforce on access to services.

Sec. 23. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision to read:

Subd. 1c. Annual labor market report. The commissioner shall publish annual reports on provider and state-level labor market data, including but not limited to the data outlined in subdivisions 1a and 1b.

Sec. 24. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision to read:

Subd. 16. Rates established by the commissioner. For homemaker services eligible for reimbursement under the developmental disabilities waiver, the brain injury waiver, the community alternative care waiver, and the community access for disability inclusion waiver, the commissioner must establish rates equal to the rates established under sections 256S.21 to 256S.215 for the corresponding homemaker services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 25. Minnesota Statutes 2022, section 256B.4914, subdivision 3, is amended to read:

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

1. 24-hour customized living;
2. adult day services;
3. community residential services;
4. customized living;
5. day support services;
6. employment development services;
7. employment exploration services;
8. employment support services;
9. family residential services;
10. individualized home supports;
11. individualized home supports with family training;
12. individualized home supports with training;
13. integrated community supports;
14. life sharing;
15. positive support services;
16. prevocational services;
17. residential support services;
18. respite services;
19. transportation services; and
20. other services as approved by the federal government in the state home and community-based services waiver plan.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
Sec. 26. Minnesota Statutes 2022, section 256B.4914, subdivision 4, is amended to read:

Subd. 4. Data collection for rate determination. (a) Rates for applicable home and community-based waivered services, including customized rates under subdivision 12, are set by the rates management system;

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

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

(1) shared staffing hours;

(2) individual staffing hours;

(3) direct registered nurse hours;

(4) direct licensed practical nurse hours;

(5) staffing ratios;

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

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

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

(9) service hours provided through monitoring technology;

(d) Updates to individual data must include:

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

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

(e) Lead agencies shall review and approve all services reflecting each individual's needs, and the values to calculate the final payment rate for services with variables under subdivisions 6 to 8a for each individual. Lead agencies must notify the individual and the service provider of the final agreed-upon values and rate, and provide information that is identical to what was entered into the rates management system. If a value used was mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
agencies to correct it. Lead agencies must respond to these requests. When responding to the request, the lead agency must consider:

1. meeting the health and welfare needs of the individual or individuals receiving services by service site, identified in their support plan under section 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;
2. meeting the requirements for staffing under subdivision 2, paragraphs (h), (n), and (o); and meeting or exceeding the licensing standards for staffing required under section 245D.09, subdivision 1; and
3. meeting the staffing ratio requirements under subdivision 2, paragraph (o), and meeting or exceeding the licensing standards for staffing required under section 245D.31.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

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

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

1. on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2019; and
2. on November 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2021; and
3. on January 1, 2026, and every two years thereafter, based on wage data by SOC from the Bureau of Labor Statistics available 22 months and one day prior to the scheduled update.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Subd. 5a. Base wage index; calculations. The base wage index must be calculated as follows:

Sec. 27. Minnesota Statutes 2022, section 256B.4914, subdivision 5, is amended to read:

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

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

1. on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2019; and
2. on November 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics available as of December 31, 2021; and
3. on January 1, 2026, and every two years thereafter, based on wage data by SOC from the Bureau of Labor Statistics available 30 months and one day prior to the scheduled update.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2022, section 256B.4914, subdivision 5a, is amended to read:

1. Subd. 5a. Base wage index; calculations. The base wage index must be calculated as follows:
(1) for supervisory staff, 100 percent of the median wage for community and social services specialist (SOC code 21-1099), with the exception of the supervisor of positive supports professional, positive supports analyst, and positive supports specialist, which is 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(2) for registered nurse staff, 100 percent of the median wage for registered nurses (SOC code 29-1141);

(3) for licensed practical nurse staff, 100 percent of the median wage for licensed practical nurses (SOC code 29-2061);

(4) for residential asleep-overnight staff, the minimum wage in Minnesota for large employers, with the exception of asleep-overnight staff for family residential services, which is 36 percent of the minimum wage in Minnesota for large employers;

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

(i) 15 percent of the subtotal of 50 percent of the median wage for home health and personal care aide (SOC code 31-1120); 30 percent of the median wage for nursing assistant (SOC code 31-1111); and 20 percent of the median wage for social and human services aide (SOC code 21-1093); and

(ii) 85 percent of the subtotal of 40 percent of the median wage for home health and personal care aide (SOC code 31-1120); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(6) for adult day services staff, 70 percent of the median wage for nursing assistant (SOC code 31-1131); and 30 percent of the median wage for home health and personal care aide (SOC code 31-1120);

(7) for day support services staff and prevocational services staff, 20 percent of the median wage for nursing assistant (SOC code 31-1131); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(8) for positive supports analyst staff, 100 percent of the median wage for substance abuse, behavioral disorder, and mental health counselor (SOC code 21-1018);

(9) for positive supports professional staff, 100 percent of the median wage for clinical counseling and school psychologist, all other (SOC code 19-3033); and

(10) for positive supports specialist staff, 100 percent of the median wage for psychiatric technicians (SOC code 29-2053);
(11) for individualized home supports with family training staff, 20 percent of the median wage for nursing aide (SOC code 31-1131); 30 percent of the median wage for community rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for home health and personal care aide (SOC code 31-1120); and 50 percent of the median wage for nursing assistant (SOC code 31-1131);

(12) for individualized home supports with training services staff, 40 percent of the median wage for community and social services specialist (SOC code 21-1099); 50 percent of the median wage for psychiatric technician (SOC code 29-2053);

(13) for employment support services staff, 50 percent of the median wage for community and social services specialist (SOC code 21-1099); 50 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(14) for employment exploration services staff, 50 percent of the median wage for rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(15) for employment development services staff, 50 percent of the median wage for community and social services specialist (SOC code 21-1099); 50 percent of the median wage for community and social services specialist (SOC code 21-1099); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(16) for individualized home support without training staff, 50 percent of the median wage for community and social services specialist (SOC code 21-1099); 50 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(17) for night supervision staff, 40 percent of the median wage for home health and personal care aide (SOC code 31-1120); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(18) for respite staff, 50 percent of the median wage for home health and personal care aide (SOC code 31-1120); and 50 percent of the median wage for nursing assistant (SOC code 31-1131);

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 29. Minnesota Statutes 2022, section 256B.4914, subdivision 5b, is amended to read:

Subd. 5b. Standard component value adjustments. The commissioner shall update the client and programming support, transportation, and program facility cost component values as required in subdivisions 6 to 10 for changes in the Consumer Price Index. The commissioner shall adjust these values higher
commissioner shall adjust these values higher or lower, publish these updated values, and load them into the rate management system as follows:

(1) on January 1, 2022, by the percentage change in the CPI-U from the date of the previous update to the data available on December 31, 2019, and

(2) on November 1, 2024, by the percentage change in the CPI-U from the date of the previous update to the data available as of December 31, 2021, and

(3) on July 1, 2026, and every two years thereafter, by the percentage change in the CPI-U from the date of the previous update to the data available 30 months and one day prior to the scheduled update.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 30. Minnesota Statutes 2022, section 256B.4914, subdivision 5c, is amended to read:

Subd. 5c. Removal of after-framework adjustments. Any rate adjustments applied to the service rates calculated under this section outside of the cost components and rate methodology specified in this section shall be removed from rate calculations upon implementation of the updates under subdivisions 5 and 5b, and 5f.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 31. Minnesota Statutes 2022, section 256B.4914, subdivision 5d, is amended to read:

Subd. 5d. Unavailable data for updates and adjustments. If Bureau of Labor Statistics occupational codes or Consumer Price Index items specified in subdivision 5 or 5b or 5f are unavailable in the future, the commissioner shall recommend to the legislature codes or items to update and replace.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 32. Minnesota Statutes 2022, section 256B.4914, subdivision 5e, is amended to read:

Subd. 5e. Inflationary update spending requirement. (a) At least 80 percent of the marginal increase in revenue from the rate adjustment applied to the service rate adjustments calculated under subdivisions 5 and 5b beginning on January 1, 2022, and March 31, 2024, or after the day of implementation of the adjustment must be used to increase compensation-related costs for employees directly employed by the program on or after January 1, 2022.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
(b) For the purposes of this subdivision, compensation-related costs include:

1. wages and salaries;
2. the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, and mileage reimbursement;
3. the employer's paid share of health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, pensions, and contributions to employee retirement accounts; and
4. benefits that address direct support professional workforce needs above and beyond what employees were offered prior to January 1, 2022 implementation of the applicable rate adjustment, including retention and recruitment bonuses and tuition reimbursement.

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

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

This subdivision expires June 30, 2024.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 33. Minnesota Statutes 2022, section 256B.4914, is amended by adding a subdivision to read:

Subd. 5f Competitive workforce factor adjustments. (a) On January 1, 2024, and every two years thereafter, the commissioner shall update all competitive workforce factors to equal the differential between:
(1) the most recently available wage data by SOC code for the weighted average wage for direct care staff for residential support services and direct care staff for day programs; and
(2) the most recently available wage data by SOC code of the weighted average wage of comparable occupations.

- For each update of the competitive workforce factor, the update must not decrease the competitive workforce factor by more than 2.0. If the competitive workforce factor is less than or equal to zero, then the competitive workforce factor is zero.

**EFFECTIVE DATE:** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 30. Minnesota Statutes 2022, section 256B.4914, subdivision 6, is amended to read:

Subd. 6. Residential support services; generally.
(a) For purposes of this section, residential support services includes 24-hour customized living services, community residential services, customized living services, family residential services, and integrated community supports.
(b) A unit of service for residential support services is a day. Any portion of any calendar day, within allowable Medicaid rules, where an individual spends time in a residential setting is billable as a day. The number of days authorized for all individuals enrolling in residential support services must include every day that services start and end.
(c) When the available shared staffing hours in a residential setting are insufficient to meet the needs of an individual who enrolled in residential support services after January 1, 2014, then individual staffing hours shall be used.

**EFFECTIVE DATE:** This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 34. Minnesota Statutes 2022, section 256B.4914, subdivision 8, is amended to read:

Subd. 8. Unit-based services with programming; component values and calculation of payment rates.
(a) For the purpose of this section, unit-based services with programming include employment exploration services, employment development services, employment support services, individualized home supports with family training, individualized home supports with training, and positive support services provided to an individual outside of any service plan for a day program or residential support service.
(b) Component values for unit-based services with programming are:
(1) competitive workforce factor: 4.7 percent;
(2) supervisory span of control ratio: 11 percent;

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

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

(5) program plan support ratio: 15.5 percent;

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

(7) general administrative support ratio: 13.25 percent;

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

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

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

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

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

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

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

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

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

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

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

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

(9) for employee-related expenses, multiply the result of clause (8) by one plus the employee-related cost ratio;
(10) for client programming and supports, multiply the result of clause (9) by one plus the client programming and support ratio;

(11) this is the subtotal rate;

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

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

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

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

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

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

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

EFFECTIVE DATE: This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 35. Minnesota Statutes 2022, section 256B.4914, subdivision 9, is amended to read:

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

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

(1) competitive workforce factor: 4.7 percent;

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

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

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

(5) program plan support ratio: 7.0 percent;
(6) client programming and support ratio: 2.3 percent, updated as specified in subdivision 5b;

(7) general administrative support ratio: 13.25 percent;

(8) program-related expense ratio: 2.9 percent; and

(9) absence and utilization factor ratio: 3.9 percent;

(c) A unit of service for unit-based services without programming is 15 minutes.

(d) Payments for unit-based services without programming must be calculated as follows unless the services are reimbursed separately as part of a residential support services or day program payment rate:

1. determine the number of units of service to meet a recipient's needs;

2. determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 to 5a;

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

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

5. multiply the number of direct staffing hours by the appropriate staff wage;

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

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

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

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

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

11. this is the subtotal rate;

12. sum the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;
(13) divide the result of clause (11) by one minus the result of clause (12). This is the total payment amount;
(14) for individualized home supports without training provided in a shared manner, divide the total payment amount in clause (13) by the number of service recipients, not to exceed three; and
(15) adjust the result of clause (14) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 36. Minnesota Statutes 2022, section 256B.4914, subdivision 10, is amended to read:

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

(1) differences in the underlying cost to provide services and care across the state;
(2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and units of transportation for all day services, which must be collected from providers using the rate management worksheet and entered into the rates management system; and
(3) the distinct underlying costs for services provided by a license holder under sections 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided by a license holder certified under section 245D.33.
(b) The commissioner, in consultation with stakeholders, shall review and evaluate the following values already in subdivisions 6 to 9, or issues that impact all services, including, but not limited to:

(1) values for transportation rates;
(2) values for services where monitoring technology replaces staff time;
(3) values for indirect services;
(4) values for nursing;
(5) values for the facility use rate in day services, and the weightings used in the day service ratios and adjustments to those weightings;
(6) values for workers' compensation as part of employee-related expenses;
(7) values for unemployment insurance as part of employee-related expenses;
(8) direct care workforce labor market measures;
any changes in state or federal law with a direct impact on the underlying cost of providing home and community-based services;
outcome measures, determined by the commissioner, for home and community-based services rates determined under this section; and
different competitive workforce factors by service, as determined under subdivision 10b.
(c) The commissioner shall report to the chairs and the ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance with the information and data gathered under paragraphs (a) and (b) on January 15, 2021, with a full report, and a full report once every four years thereafter.
(d) Beginning July 1, 2022, the commissioner shall renew analysis and implement changes to the regional adjustment factors once every six years. Prior to implementation, the commissioner shall consult with stakeholders on the methodology to calculate the adjustment.

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 37. Minnesota Statutes 2022, section 256B.4914, subdivision 10a, is amended to read:

Subd. 10a. Reporting and analysis of cost data. (a) The commissioner must ensure that wage values and component values in subdivisions 5 to 9a reflect the cost to provide the service. As determined by the commissioner, in consultation with stakeholders identified in subdivision 17, a provider enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner to support research on the cost of providing services that have rates determined by the disability waiver rates system. Requested cost data may include, but is not limited to:

(1) worker wage costs;
(2) benefits paid;
(3) supervisor wage costs;
(4) executive wage costs;
(5) vacation, sick, and training time paid;
(6) taxes, workers' compensation, and unemployment insurance costs paid;
(7) administrative costs paid;
(8) program costs paid;
(9) transportation costs paid;
(10) vacancy rates; and
(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any five-year period, a provider must submit cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner shall provide each provider a 90-day notice prior to its submission due date. If a provider fails to submit required reporting data, the commissioner shall provide notice to providers that have not provided required data 30 days after the required submission date, and a second notice for providers who have not provided required data 60 days after the required submission date. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments shall be made once data is received by the commissioner.

(c) The commissioner shall provide each provider a 90-day notice prior to its submission due date. If a provider fails to submit required reporting data, the commissioner shall provide notice to providers that have not provided required data 30 days after the required submission date, and a second notice for providers who have not provided required data 60 days after the required submission date. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments shall be made once data is received by the commissioner.

(d) The commissioner shall analyze cost data submitted under paragraph (a) and, in consultation with stakeholders identified in subdivision 17, may submit recommendations in conjunction with reports submitted to the legislature according to subdivision 10, paragraph (a).

The commissioner shall release cost data in an aggregate form, and cost data from individual providers shall not be released except as provided for in current law.

The commissioner, in consultation with stakeholders identified in subdivision 17, shall develop and implement a process for providing training and technical assistance necessary to support provider submission of cost documentation required under paragraph (a).

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
Sec. 38. Minnesota Statutes 2022, section 256B.4914; subdivision 10c, is amended to read:

Subd. 10c. Reporting and analysis of competitive workforce factor. (a) Beginning February 1, 2023, and every two years thereafter, the commissioner shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance an analysis of the competitive workforce factor.

(b) The report must include recommendations to update the competitive workforce factor using:

(1) the most recently available wage data by SOC code for the weighted average wage for direct care staff for residential services and direct care staff for day services;

(2) the most recently available wage data by SOC code of the weighted average wage of comparable occupations; and

(3) workforce data as required under subdivision 10b.

(c) The commissioner shall not recommend an increase or decrease of the competitive workforce factor from the current value by more than two percentage points. If, after a biennial analysis for the next report, the competitive workforce factor is less than or equal to zero, the commissioner shall recommend a competitive workforce factor of zero. This subdivision expires upon submission of the calendar year 2030 report.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 32. Minnesota Statutes 2022, section 256B.4914, is amended by adding a subdivision to read:

Subd. 10d. Direct care staff; compensation. (a) A provider paid with rates determined under subdivision 6 must use a minimum of 66 percent of the revenue generated by rates determined under that subdivision for direct care staff compensation.

(b) A provider paid with rates determined under subdivision 7 must use a minimum of 45 percent of the revenue generated by rates determined under that subdivision for direct care compensation.

(c) A provider paid with rates determined under subdivision 8 or 9 must use a minimum of 60 percent of the revenue generated by rates determined under those subdivisions for direct care compensation.

(d) Compensation under this subdivision includes:

(1) wages:
47.6 (2) taxes and workers' compensation;
47.7 (3) health insurance;
47.8 (4) dental insurance;
47.9 (5) vision insurance;
47.10 (6) life insurance;
47.11 (7) short-term disability insurance;
47.12 (8) long-term disability insurance;
47.13 (9) retirement spending;
47.14 (10) tuition reimbursement;
47.15 (11) wellness programs;
47.16 (12) paid vacation time;
47.17 (13) paid sick time; or
47.18 (14) other items of monetary value provided to direct care staff.

EFFECTIVE DATE. This section is effective January 1, 2025.

Sec. 39. Minnesota Statutes 2022, section 256B.4914, subdivision 12, is amended to read:

(a) For persons determined to have higher needs based on being deaf or hard-of-hearing, the direct-care costs must be increased by an adjustment factor prior to calculating the rate under subdivisions 6 to 9a. The customization rate with respect to deaf or hard-of-hearing persons shall be $2.50 per hour for waiver recipients who meet the respective criteria as determined by the commissioner.
(b) For the purposes of this section, "deaf and hard-of-hearing" means:
(i) the person has a developmental disability and:
(ii) an assessment score which indicates a hearing impairment that is severe or that the person has no useful hearing;
(iii) an expressive communications score that indicates the person uses single signs or gestures, uses an augmentative communication aid, or does not have functional communication, or the person's expressive communications is unknown; and
(iv) a communication score which indicates the person comprehends signs, gestures, and modeling prompts or does not comprehend verbal, visual, or gestural communication, or that the person's receptive communication score is unknown; or...
the person receives long-term care services and has an assessment score that indicates
the person hears only very loud sounds, the person has no useful hearing, or a determination
cannot be made; and the person receives long-term care services and has an assessment that
indicates the person communicates needs with sign language, symbol board, written
messages, gestures, or an interpreter; communicates with inappropriate content; makes
garbled sounds or displays echolalia; or does not communicate needs;

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval,
whichever is later. The commissioner of human services shall notify the revisor of statutes
when federal approval is obtained.

Sec. 40. Minnesota Statutes 2022, section 256B.4914, subdivision 14, is amended to read:

Subd. 14. Exceptions. (a) In a format prescribed by the commissioner, lead agencies

must identify individuals with exceptional needs that cannot be met under the disability

waiver rate system. The commissioner shall use that information to evaluate and, if necessary,

approve an alternative payment rate for those individuals. Whether granted, denied, or

modified, the commissioner shall respond to all exception requests in writing. The

commissioner shall include in the written response the basis for the action and provide

notification of the right to appeal under paragraph (h). A lead agency shall submit all exception

requests along with its recommendation in writing. A lead agency shall submit all exception

requests along with its recommendation to the commissioner.

(b) Lead agencies must act on an exception request within 30 days and notify the initiator

of the request of their recommendation in writing. A lead agency shall submit all exception

requests along with its recommendation to the commissioner.

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

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

(2) an individual's rate determined under subdivisions 6 to 9a is so insufficient that it

has resulted in an individual receiving a notice of discharge from the individual's provider;

or

(3) an individual's service needs, including behavioral changes, require a level of service

which necessitates a change in provider or which requires the current provider to propose

service changes beyond those currently authorized.

(d) Exception requests must include the following information:

(1) the service needs required by each individual that are not accounted for in subdivisions

6 to 9a;

(2) the service rate requested and the difference from the rate determined in subdivisions

6 to 9a;

(3) a basis for the underlying costs used for the rate exception and any accompanying

documentation; and

(4) any contingencies for approval.

Exception requests must include the following information:

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

(2) an individual's rate determined under subdivisions 6 to 9a is so insufficient that it

has resulted in an individual receiving a notice of discharge from the individual's provider;

or

(3) an individual's service needs, including behavioral changes, require a level of service

which necessitates a change in provider or which requires the current provider to propose

service changes beyond those currently authorized.

(d) Exception requests must include the following information:

(1) the service needs required by each individual that are not accounted for in subdivisions

6 to 9a;

(2) the service rate requested and the difference from the rate determined in subdivisions

6 to 9a;

(3) a basis for the underlying costs used for the rate exception and any accompanying

documentation; and

(4) any contingencies for approval.
Approved rate exceptions shall be managed within lead agency allocations under sections 256B.092 and 256B.49.

(f) Individual disability waiver recipients, an interested party, or the license holder that would receive the rate exception increase may request that a lead agency submit an exception request. A lead agency that denies such a request shall notify the individual waiver recipient, interested party, or license holder of its decision and the reasons for denying the request in writing within no later than 30 days after the request has been made and shall submit its denial to the commissioner in accordance with paragraph (b). The reasons for the denial must be based on the failure to meet the criteria in paragraph (c).

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

(E) Approved rate exceptions shall be managed within lead agency allocations under sections 256B.092 and 256B.49.

(f) Individual disability waiver recipients, an interested party, or the license holder that would receive the rate exception increase may request that a lead agency submit an exception request. A lead agency that denies such a request shall notify the individual waiver recipient, interested party, or license holder of its decision and the reasons for denying the request in writing within no later than 30 days after the request has been made and shall submit its denial to the commissioner in accordance with paragraph (b). The reasons for the denial must be based on the failure to meet the criteria in paragraph (c).

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
Sec. 34. Minnesota Statutes 2022, section 256B.4914, is amended by adding a subdivision to read:

Subd. 19. Payments for family residential and life sharing services. The commissioner shall establish rates for family residential services and life sharing services based on a person's assessed need, as described in the federally-approved waiver plans. Rates for life sharing services must be ten percent higher than the corresponding family residential services rate.

EFFECTIVE DATE. This section is effective January 1, 2026, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 41. Minnesota Statutes 2022, section 256B.492, is amended to read:

256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH DISABILITIES.

(a) Individuals receiving services under a home and community-based waiver under section 256B.092 or 256B.49 may receive services in the following settings:

(1) home and community-based settings that comply with:

(i) all requirements identified by the federal Centers for Medicare and Medicaid Services in the Code of Federal Regulations, title 42, section 441.301(c);

(ii) the requirements of the federally approved transition plan and waiver plans for each home and community-based services waiver except when applying a size limitation to a setting, the commissioner must treat residents under 55 years of age who are receiving services under the brain injury or the community access for disability inclusion waiver as if the residents are 55 years of age or older if the residents lived and received services in the setting on or before March 1, 2023; and

(2) settings required by the Housing Opportunities for Persons with AIDS Program;

(b) The settings in paragraph (a) must not have the qualities of an institution which include, but are not limited to: regimented meal and sleep times, limitations on visitors, and lack of privacy. Restrictions agreed to and documented in the person's individual service plan shall not result in a residence having the qualities of an institution as long as the restrictions for the person are not imposed upon others in the same residence and are the least restrictive alternative, imposed for the shortest possible time to meet the person's needs;
Sec. 35. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision to read:

Subd. 19. ICF/DD rate transition. (a) Effective January 1, 2024, the daily operating payment rate for a class A intermediate care facility for persons with developmental disabilities is increased by $50.

(b) Effective July 1, 2023, the daily operating payment rate for a class B intermediate care facility for persons with developmental disabilities is increased by $50.

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

Sec. 42. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision to read:

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

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

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

Sec. 43. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision to read:

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

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

(1) wages and salaries;

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

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

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
58.27 (4) benefits that address direct support professional workforce needs above and beyond
what employees were offered prior to implementation of the rate increases;
58.28 (c) Compensation-related costs for persons employed in the central office of a corporation
or entity that has an ownership interest in the provider or exercises control over the provider;
58.29 or for persons paid by the provider under a management contract, do not count toward the
58.30 80 percent requirement under this subdivision;
58.31 (d) A provider agency or individual provider that receives additional revenue subject to
58.32 the requirements of this subdivision shall prepare, and upon request submit to the
58.33 commissioner, a distribution plan that specifies the amount of money the provider expects
58.34 to receive that is subject to the requirements of this subdivision, including how that money
58.35 was or will be distributed to increase compensation-related costs for employees. Within 60
58.36 days of final implementation of the new rate methodology or any rate adjustment subject
58.37 to the requirements of this subdivision, the provider must post the distribution plan and
58.38 leave it posted for a period of at least six months in an area of the provider's operation to
58.39 which all direct support professionals have access. The posted distribution plan must include
58.40 instructions regarding how to contact the commissioner, or the commissioner's representative,
58.41 if an employee has not received the compensation-related increase described in the plan;
58.42 Sec. 45. Minnesota Statutes 2022, section 256B.85, subdivision 7, is amended to read:
58.43 Subd. 7. Community first services and supports; covered services. Services and
58.44 supports covered under CFSS include:
58.45 (1) assistance to accomplish activities of daily living (ADLs); instrumental activities of
daily living (IADLs); and health-related procedures and tasks through hands-on assistance
58.46 to accomplish the task or constant supervision and cueing to accomplish the task;
58.47 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
accomplish activities of daily living, instrumental activities of daily living, or health-related
tasks;
58.48 (3) expenditures for items, services, supports, environmental modifications, or goods,
including assistive technology. These expenditures must:
58.49 (i) relate to a need identified in a participant's CFSS service delivery plan; and
58.50 (ii) increase independence or substitute for human assistance; to the extent that
58.51 expenditures would otherwise be made for human assistance for the participant's assessed
58.52 needs;
58.53 (4) observation and redirection for behavior or symptoms where there is a need for
58.54 assistance;
58.55 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices;
to ensure continuity of the participant's services and supports;
(6) services provided by a consultation services provider as defined under subdivision 17; that is under contract with the department and enrolled as a Minnesota health care program provider;

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

(b) CFSS services provided by a support worker who is a parent, stepparent, or legal guardian of a participant under age 18, or who is the participant's spouse. These support workers shall not:

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

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

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

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

Sec. 46. Minnesota Statutes 2022, section 256B.85, is amended by adding a subdivision to read:

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

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

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

(d) if a participant's spouse is a support worker providing CFSS services, the spouse may provide up to 60 hours of medical assistance home and community-based services in a seven-day period.
(e) Paragraphs (b) to (d) must not be construed to permit an increase in either the total authorized service budget for an individual or the total number of authorized service units.

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

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

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Sec. 36. Minnesota Statutes 2022, section 256B.851, subdivision 3, is amended to read:

Subd. 3. Payment rates; base wage index. When initially establishing the base wage component values, the commissioner must use the Minnesota-specific median wage for the standard occupational classification (SOC) codes published by the Bureau of Labor Statistics in the edition of the Occupational Handbook available January 1, 2021, published in March 2021. The commissioner must calculate the base wage component values as follows for:

1. personal care assistance services, CFSS, extended personal care assistance services, and enhanced CFSS. The base wage component value equals the median wage for personal care aide (SOC code 31-1120);
2. enhanced rate personal care assistance services and enhanced rate CFSS. The base wage component value equals the product of median wage for personal care aide (SOC code 31-1120) and the value of the enhanced rate under section 256B.0659, subdivision 17a; and
3. qualified professional services and CFSS worker training and development. The base wage component value equals the sum of 70 percent of the median wage for registered nurse (SOC code 29-1141), 15 percent of the median wage for health care social worker (SOC code 21-1099), and 15 percent of the median wage for social and human service assistant (SOC code 21-1093).

**EFFECTIVE DATE.** This section is effective January 1, 2024, or within 90 days of federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 37. Minnesota Statutes 2022, section 256B.851, subdivision 5, is amended to read:

Subd. 5. Payment rates; component values. (a) The commissioner must use the following component values:

1. employee vacation, sick, and training factor, 8.71 percent;
2. employer taxes and workers' compensation factor, 11.56 percent;
3. employee benefits factor, 12.04 percent;
4. employer taxes and workers' compensation factor, 8.71 percent;
5. employee benefits factor, 12.04 percent;
6. employer taxes and workers' compensation factor, 11.56 percent;
(4) client programming and supports factor, 2.30 percent;

(5) program plan support factor, 7.00 percent;

(6) general business and administrative expenses factor, 13.25 percent;

(7) program administration expenses factor, 2.90 percent; and

(8) absence and utilization factor, 3.90 percent.

(b) For purposes of implementation, the commissioner shall use the following implementation components:

(1) personal care assistance services and CFSS: 25.45 percent; 88.19 percent; and

(2) enhanced rate personal care assistance services and enhanced rate CFSS: 25.45 percent; and

(3) qualified professional services and CFSS worker training and development: 24.46 percent.

c) Effective January 1, 2025, for purposes of implementation, the commissioner shall use the following implementation components:

(1) personal care assistance services and CFSS: 92.10 percent;

(2) enhanced rate personal care assistance services and enhanced rate CFSS: 92.10 percent; and

(3) qualified professional services and CFSS worker training and development: 92.10 percent.

d) Beginning January 1, 2025, the commissioner shall use the following worker retention components:

(1) for workers who have provided fewer than 1,001 cumulative hours in personal care assistance services or CFSS, the worker retention component is zero percent;

(2) for workers who have provided between 1,001 and 2,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 2.17 percent;

(3) for workers who have provided between 2,001 and 6,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 4.36 percent;

(4) for workers who have provided between 6,001 and 10,000 cumulative hours in personal care assistance services or CFSS, the worker retention component is 7.35 percent; and

(5) for workers who have provided more than 10,000 hours in personal care assistance services or CFSS, the worker retention component is 10.81 percent.
The commissioner shall define the appropriate worker retention component based on the total number of units billed for services rendered by the individual provider since July 1, 2017. The worker retention component must be determined by the commissioner for each individual provider and is not subject to appeal.

EFFECTIVE DATE. The amendments to paragraph (b) are effective January 1, 2024, or 90 days after federal approval, whichever is later. Paragraph (b) expires January 1, 2025, or 90 days after federal approval, whichever is later. Paragraphs (c), (d), and (e) are effective January 1, 2025, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 48. Minnesota Statutes 2022, section 256B.851, subdivision 6, is amended to read:

Subd. 6. Payment rates; rate determination. (a) The commissioner must determine the rate for personal care assistance services, CFSS, extended personal care assistance services, extended CFSS, qualified professional services, and CFSS worker training and development as follows:

1. Multiply the appropriate total wage component value calculated in subdivision 4 by one plus the employee vacation, sick, and training factor in subdivision 5;
2. For program plan support, multiply the result of clause (1) by one plus the program plan support factor in subdivision 5;
3. For employee-related expenses, add the employer taxes and workers’ compensation factor in subdivision 5 and the employee benefits factor in subdivision 5. The sum is employee-related expenses. Multiply the product of clause (2) by one plus the value for employee-related expenses;
4. For client programming and supports, multiply the product of clause (3) by one plus the client programming and supports factor in subdivision 5;
5. For administrative expenses, add the general business and administrative expenses factor in subdivision 5, the program administration expenses factor in subdivision 5, and the absence and utilization factor in subdivision 5;
6. Divide the result of clause (4) by one minus the result of clause (5). The quotient is the hourly rate;
7. Multiply the hourly rate by the appropriate implementation component under subdivision 5. This is the adjusted hourly rate; and
8. Divide the adjusted hourly rate by four. The quotient is the total adjusted payment rate.

The amendments to paragraph (b) are effective January 1, 2024, or within 90 days of federal approval, whichever is later. Paragraph (b) expires January 1, 2025, or within 90 days of federal approval of paragraph (c), whichever is later. Paragraphs (c) to (e) are effective January 1, 2025, or within 90 days of federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 38. Minnesota Statutes 2022, section 256B.851, subdivision 6, is amended to read:

Subd. 6. Payment rates; rate determination. (a) The commissioner must determine the rate for personal care assistance services, CFSS, extended personal care assistance services, extended CFSS, qualified professional services, and CFSS worker training and development as follows:

1. Multiply the appropriate total wage component value calculated in subdivision 4 by one plus the employee vacation, sick, and training factor in subdivision 5;
2. For program plan support, multiply the result of clause (1) by one plus the program plan support factor in subdivision 5;
3. For employee-related expenses, add the employer taxes and workers’ compensation factor in subdivision 5 and the employee benefits factor in subdivision 5. The sum is employee-related expenses. Multiply the product of clause (2) by one plus the value for employee-related expenses;
4. For client programming and supports, multiply the product of clause (3) by one plus the client programming and supports factor in subdivision 5;
5. For administrative expenses, add the general business and administrative expenses factor in subdivision 5, the program administration expenses factor in subdivision 5, and the absence and utilization factor in subdivision 5;
6. Divide the result of clause (4) by one minus the result of clause (5). The quotient is the hourly rate;
7. Multiply the hourly rate by the appropriate implementation component under subdivision 5. This is the adjusted hourly rate; and
8. Divide the adjusted hourly rate by four. The quotient is the total adjusted payment rate.
In processing claims, the commissioner shall incorporate the worker retention component specified in subdivision 5 by multiplying one plus the total adjusted payment rate by the appropriate worker retention component under subdivision 5, paragraph (d).

The commissioner must publish the total adjusted final payment rates. This section is effective January 1, 2025, or 90 days after federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 39. Minnesota Statutes 2022, section 256D.425, subdivision 1, is amended to read:

Subdivision 1. Persons entitled to receive aid. A person who is aged, blind, or 18 years of age or older and disabled and who is receiving supplemental security benefits under Title XVI on the basis of age, blindness, or disability (or would be eligible for such benefits except for excess income) is eligible for a payment under the Minnesota supplemental aid program, if the person's net income is less than the standards in section 256D.44.

A person who is receiving benefits under the Minnesota supplemental aid program in the month prior to becoming eligible under section 1619(b) of the Social Security Act is eligible for a payment under the Minnesota supplemental aid program while they remain in section 1619(b) status. Persons who are not receiving Supplemental Security Income benefits under Title XVI of the Social Security Act or disability insurance benefits under Title II of the Social Security Act due to exhausting time limited benefits are not eligible to receive benefits under the MSA program. Persons who are not receiving Social Security or other maintenance benefits for failure to meet or comply with the Social Security or other maintenance program requirements are not eligible to receive benefits under the MSA program. Persons who are found ineligible for Supplemental Security Income because of excess income, but whose income is within the limits of the Minnesota supplemental aid program, must have blindness or disability determined by the state medical review team.

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

Sec. 49. Minnesota Statutes 2022, section 256S.2101, subdivision 1, is amended to read:

Subdivision 1. Phase-in for disability waiver customized living rates. All rates and rate components for community access for disability inclusion customized living and brain injury customized living under section 256B.4914 shall must be the sum of ten percent of the rates calculated under sections 256S.211 to 256S.215 and 78.4 percent of the rates calculated using the rate methodology in effect as of June 30, 2017.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
Sec. 40. Minnesota Statutes 2022, section 268.19, subdivision 1, is amended to read:

Subdivision 1. Use of data. (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12; and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

1. state and federal agencies specifically authorized access to the data by state or federal law;
2. any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;
3. any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;
4. the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;
5. human rights agencies within Minnesota that have enforcement powers;
6. the Department of Revenue to the extent necessary for its duties under Minnesota law;
7. public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;
8. the Department of Labor and Industry and the Commerce Fraud Bureau in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;
9. the Department of Human Services and the Office of Inspector General and its agents within the Department of Human Services; including county fraud investigators; for investigations related to recipient or provider fraud and employees of providers when the provider is suspected of committing public assistance fraud;
10. the Department of Human Services for the purpose of evaluating medical assistance services and supporting program improvement;
11. local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program and other cash assistance programs, the Supplemental Nutrition Assistance Program, and the Supplemental Nutrition Assistance Program Employment and Training program by...
providing data on recipients and former recipients of Supplemental Nutrition Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K; child care assistance under chapter 119B, or medical programs under chapter 256B or 256L; or formerly codified under chapter 256D;

(12) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(13) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(14) the United States Immigration and Customs Enforcement has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(15) the Department of Health for the purposes of epidemiologic investigations;

(16) the Department of Corrections for the purposes of case planning and internal research for preprobation, probation, and postprobation employment tracking of offenders sentenced to probation and postconfinement employment tracking of committed offenders;

(17) the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201; and

(18) the Office of Higher Education for purposes of supporting program improvement, system evaluation, and research initiatives including the Statewide Longitudinal Education Data System;

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02; subdivisions 3 and 13; and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding; administrative or judicial; for preparation of a defense;

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings; administrative or judicial; unless the action is initiated by the department.

Sec. 50. Laws 2021, First Special Session chapter 7, article 17, section 20, is amended to read:

Subdivision 1. Appropriation. (a) This act includes $0 in fiscal year 2022 and $5,588,000 in fiscal year 2023 to address challenges related to attracting and maintaining direct care workers who provide home and community-based services for people with disabilities and
older adults. The general fund base included in this act for this purpose is $5,588,000 in fiscal year 2024 and $0 in fiscal year 2025.

(b) At least 90 percent of funding for this provision must be directed to workers who earn 200–300 percent or less of the most current federal poverty level issued by the United States Department of Health and Human Services.

(c) The commissioner must consult with stakeholders to finalize a report detailing the final plan for use of the funds. The commissioner must publish the report by March 1, 2022, and notify the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

Subd. 2. Public assistance eligibility. Notwithstanding any law to the contrary, workforce development grant money received under this section is not income, assets, or personal property for purposes of determining eligibility or recertifying eligibility for:

1. child care assistance programs under Minnesota Statutes, chapter 119B;
2. general assistance, Minnesota supplemental aid, and food support under Minnesota Statutes, chapter 256D;
3. housing support under Minnesota Statutes, chapter 256I;
4. the Minnesota family investment program and diversionary work program under Minnesota Statutes, chapter 256J; and
5. economic assistance programs under Minnesota Statutes, chapter 256P.

Subd. 3. Medical assistance eligibility. Notwithstanding any law to the contrary, workforce development grant money received under this section is not income or assets for the purposes of determining eligibility for medical assistance under Minnesota Statutes, section 256B.955, subdivision 1a, paragraph (a), 3, or 3c; or 256B.957, subdivision 3, 3a, 3b, 3c, or 4.

EFFECTIVE DATE. This section is effective the day following final enactment.
Subd. 2. Grant program established. The commissioner of human services shall establish a new American legal and social services workforce grant program for organizations that assist eligible workers:

(1) in seeking or maintaining legal or citizenship status to become or remain legally authorized for employment in any field or industry, including but not limited to the long-term care workforce; or

(2) to provide supports during the legal process or while seeking qualified legal assistance.

Subd. 3. Distribution of grants. The commissioner shall ensure that grant money is awarded to organizations and entities that demonstrate that they have the qualifications, experience, expertise, cultural competency, and geographic reach to offer legal or social services under this section to eligible workers. In distributing grant awards, the commissioner shall prioritize organizations or entities serving populations for whom existing legal services and social services for the purposes listed in subdivision 2 are unavailable or insufficient.

Subd. 4. Eligible grantees. Organizations or entities eligible to receive grant money under this section include local governmental units, federally recognized Tribal Nations, and nonprofit organizations as defined under section 501(c)(3) of the Internal Revenue Code that provide legal or social services to eligible populations. Priority should be given to organizations and entities that serve populations in areas of the state where worker shortages are most acute.

Subd. 5. Grantee duties. Organizations or entities receiving grant money under this section must provide services that include the following activities:

(1) intake, assessment, referral, orientation, legal advice, or representation to eligible workers to seek or maintain legal or citizenship status and secure or maintain legal authorization for employment in the United States; or

(2) social services designed to help eligible populations meet their immediate basic needs during the process of seeking or maintaining legal status and legal authorization for employment, including but not limited to accessing housing, food, employment or employment training, education, course fees, community orientation, transportation, child care, and medical care. Social services may also include navigation services to address ongoing needs once immediate basic needs have been met and repaying student loan debt directly incurred as a result of pursuing a qualifying course of study or training.

Subd. 6. Reporting. (a) Grant recipients under this section must collect and report to the commissioner information on program participation and program outcomes. The commissioner shall determine the form and timing of reports.

(b) Grant recipients providing immigration legal services under this section must collect and report to the commissioner data that are consistent with the requirements established.
Sec. 46. APPROVAL OF CORPORATE FOSTER CARE MORATORIUM

EXCEPTIONS.

(a) The commissioner of human services may approve or deny corporate foster care moratorium exceptions requested under Minnesota Statutes, section 245A.03, subdivision 7, paragraph (a), clause (5), prior to approval of a service provider's home and community-based services license under Minnesota Statutes, chapter 245D. Approval of the moratorium exception must not be construed as final approval of a service provider's home and community-based services or community residential setting license.

(b) Approval under paragraph (a) must be available only for service providers that have requested a home and community-based services license under Minnesota Statutes, chapter 245D.

(c) Approval under paragraph (a) must be rescinded if the service provider's application for a home and community-based services or community residential setting license is denied.

(d) This section expires December 31, 2023.

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

Sec. 48. EARLY INTENSIVE DEVELOPMENTAL AND BEHAVIORAL INTERVENTION LICENSURE STUDY.

(a) The commissioner of human services must review the medical assistance early intensive developmental and behavioral intervention (EIDBI) service and evaluate the need for licensure or other regulatory modifications. At a minimum, the evaluation must include:

(1) an examination of current Department of Human Services-licensed programs that are similar to EIDBI;

(2) an environmental scan of licensure requirements for Medicaid autism programs in other states; and

(3) consideration of health and safety needs for populations with autism and related conditions.
The commissioner must consult with interested stakeholders, including self-advocates who use EIDBI services, EIDBI providers, parents of youth who use EIDBI services, and advocacy organizations. The commissioner must convene stakeholder meetings to obtain feedback on licensure or regulatory recommendations.

MEMORANDUMS OF UNDERSTANDING.

The memorandums of understanding with Service Employees International Union Healthcare Minnesota and Iowa, submitted by the commissioner of management and budget on February 27, 2023, are ratified.

The labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota and Iowa, submitted to the Legislative Coordinating Commissioner on February 27, 2023, is ratified.

Sec. 47. BUDGET INCREASE FOR CONSUMER-DIRECTED COMMUNITY SUPPORTS.

(a) Effective January 1, 2024, or upon federal approval, whichever is later, consumer-directed community support budgets identified in the waiver plans under Minnesota Statutes, sections 256B.092 and 256B.49, and chapter 256S and the alternative care program under Minnesota Statutes, section 256B.0913, must be increased by 8.49 percent.

(b) Effective January 1, 2025, or upon federal approval, whichever is later, consumer-directed community support budgets identified in the waiver plans under Minnesota Statutes, sections 256B.092 and 256B.49, and chapter 256S and the alternative care program under Minnesota Statutes, section 256B.0913, must be increased by 4.53 percent.

DIREC CARE SERVICE CORPS PILOT PROJECT.

Subdivision 1. Establishment. The Metropolitan Center for Independent Living must develop a pilot project establishing the Minnesota Direct Care Service Corps. The pilot project must utilize financial incentives to attract postsecondary students to work as personal care assistants or direct support professionals. The Metropolitan Center for Independent Living must establish the financial incentives and minimum work requirements to be eligible

Sec. 54. DIRECT CARE SERVICE CORPS PILOT PROJECT. Subdivision 1. Establishment. The Metropolitan Center for Independent Living must develop a pilot project establishing the Minnesota Direct Care Service Corps. The pilot project must utilize financial incentives to attract postsecondary students to work as personal care assistants or direct support professionals. The Metropolitan Center for Independent Living must establish the financial incentives and minimum work requirements to be eligible
for incentive payments. The financial incentive must increase with each semester that the
student participates in the Minnesota Direct Care Service Corps.

Subd. 2. Pilot sites. (a) Pilot sites must include one postsecondary institution in the
seven-county metropolitan area and at least one postsecondary institution outside of the
seven-county metropolitan area. If more than one postsecondary institution outside the
metropolitan area is selected, one must be located in northern Minnesota and the other must
be located in southern Minnesota.

(b) After satisfactorily completing the work requirements for a semester, the pilot site
or its fiscal agent must pay students the financial incentive developed for the pilot project.

Subd. 3. Evaluation and report. (a) The Metropolitan Center for Independent Living
must contract with a third party to evaluate the pilot project's impact on health care costs,
retention of personal care assistants, and patients' and providers' satisfaction of care. The
evaluation must include the number of participants, the hours of care provided by participants,
and the retention of participants from semester to semester.

(b) By January 15, 2025, the Metropolitan Center for Independent Living must report
the findings under paragraph (a) to the chairs and ranking minority members of the legislative
committees with jurisdiction over human services policy and finance.

Sec. 55. EMERGENCY GRANT PROGRAM FOR AUTISM SPECTRUM
DISORDER TREATMENT AGENCIES.

Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
the meanings given:

(b) "Autism spectrum disorder" has the meaning given to "autism spectrum disorder or
a related condition" in Minnesota Statutes, section 256B.0949, subdivision 2, paragraph
(d).

(c) "Autism spectrum disorder treatment services" means treatment delivered under
Minnesota Statutes, section 256B.0949.

(d) "Qualified early intensive developmental and behavioral intervention agency" or
"qualified EIDBI agency" has the meaning given in Minnesota Statutes, section 256B.0949,
subdivision 2, paragraph (c).

Subd. 2. Emergency grant program for autism spectrum disorder treatment
agencies. The commissioner of human services shall award emergency grant money to
eligible qualified EIDBI agencies to support the stability of the autism spectrum disorder
treatment provider sector.

Subd. 3. Eligible agencies. Qualified EIDBI agencies that have been delivering autism
spectrum disorder treatment services for a minimum of six months are eligible to receive
emergency grants under this section.
Subd. 4. **Allocation of grants.** The commissioner of human services must distribute the amount appropriated in each year for the purposes under this section to qualified EIDBI agencies eligible to receive emergency grants under this section in proportion to each qualified EIDBI agency's share of unique individuals who received autism spectrum disorder treatment services in the base year, not to exceed $750,000 per year. The base year for distributions in fiscal year 2024 is fiscal year 2022. The base year for fiscal year 2025 is fiscal year 2023. The commissioner must make the distributions in each fiscal year as soon as practicable, but no later than September 1 of each year.

The following section was moved up from UES2934-2, Article 1, Section 58

Sec. 56. **RATE INCREASE FOR CERTAIN HOME CARE SERVICES.**

(a) Effective January 1, 2024, or upon federal approval, whichever is later, the commissioner of human services must increase payment rates for home health aide visits by 14 percent from the rates in effect on December 31, 2023. The commissioner must apply the annual rate increases under Minnesota Statutes, section 256B.0653, subdivision 8, to the rates resulting from the application of the rate increases under this paragraph.

(b) Effective January 1, 2024, or upon federal approval, whichever is later, the commissioner must increase payment rates for respiratory therapy under Minnesota Rules, part 9505.0295, subpart 2, item E; and home health agency services under Minnesota Statutes, section 256B.0653, subdivision 8, and 256B.0654, subdivision 5, to the rates resulting from the application of the rate increase under this paragraph.

Sec. 57. **SPECIALIZED EQUIPMENT AND SUPPLIES LIMIT INCREASE.**

Upon federal approval, the commissioner must increase the annual limit for specialized equipment and supplies under Minnesota's federally approved home and community-based service waiver plans, alternative care, and essential community supports to $10,000.

THE FOLLOWING SECTION WAS MOVED DOWN FROM UES2934-2, ARTICLE 1, SECTION 49

Sec. 52. **SPECIALIZED EQUIPMENT AND SUPPLIES LIMIT INCREASE.**

Upon federal approval, the commissioner must increase the annual limit for specialized equipment and supplies under Minnesota's federally approved home and community-based service waiver plans, alternative care, and essential community supports to $10,000.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

THE FOLLOWING SECTION WAS MOVED DOWN FROM UES2934-2, ARTICLE 1, SECTION 49

Sec. 53. **SPECIALIZED EQUIPMENT AND SUPPLIES LIMIT INCREASE.**

Upon federal approval, the commissioner must increase the annual limit for specialized equipment and supplies under Minnesota's federally approved home and community-based service waiver plans, alternative care, and essential community supports to $10,000.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

THE FOLLOWING SECTION WAS MOVED DOWN FROM UES2934-2, ARTICLE 1, SECTION 49

Sec. 54. **SPECIALIZED EQUIPMENT AND SUPPLIES LIMIT INCREASE.**

Upon federal approval, the commissioner must increase the annual limit for specialized equipment and supplies under Minnesota's federally approved home and community-based service waiver plans, alternative care, and essential community supports to $10,000.

EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.
Sec. 49. STUDY TO EXPAND ACCESS TO SERVICES FOR PEOPLE WITH CO-OCCURRING BEHAVIORAL HEALTH CONDITIONS AND DISABILITIES.

The commissioner, in consultation with stakeholders, must evaluate options to expand services authorized under Minnesota's federally approved home and community-based waivers, including positive support, crisis respite, respite, and specialist services. The commissioner may approve grant applications on a rolling basis. To be considered, the commissioner must establish a temporary grant for one-time award of up to $20,000 per eligible setting. The evaluation may include options to authorize services under Minnesota's medical assistance state plan and strategies to decrease the number of people who remain in hospitals, jails, and other acute or crisis settings when they no longer meet medical or other necessity criteria.

Sec. 58. STUDY TO EXPAND ACCESS TO SERVICES FOR PEOPLE WITH CO-OCCURRING BEHAVIORAL HEALTH CONDITIONS AND DISABILITIES.

The commissioner, in consultation with stakeholders, must evaluate options to expand services authorized under Minnesota's federally approved home and community-based waivers, including positive support, crisis respite, respite, and specialist services. The commissioner may approve grant applications on a rolling basis. To be considered, the commissioner must establish a temporary grant for one-time award of up to $20,000 per eligible setting. The evaluation may include options to authorize services under Minnesota's medical assistance state plan and strategies to decrease the number of people who remain in hospitals, jails, and other acute or crisis settings when they no longer meet medical or other necessity criteria.

Sec. 59. TEMPORARY GRANT FOR SMALL CUSTOMIZED LIVING PROVIDERS.

(a) The commissioner must establish a temporary grant for

(1) customized living providers that serve six or fewer people in a single-family home and that are transitioning to a community residential services license or integrated community supports licensure, and

(2) community residential service providers and integrated community supports providers who transitioned from providing customized living or 24-hour customized living on or after June 30, 2024.

(b) Allowable uses of grant money include physical plant updates required for community residential services or integrated community supports licensure; technical assistance to adapt business models and meet policy and regulatory guidance; and other uses approved by the commissioner. Allowable uses of grant money also include reimbursement for eligible costs incurred by a community residential service provider or integrated community supports provider directly related to the provider's transition from providing customized living or 24-hour customized living. License holders of eligible settings must apply for grant money using an application process determined by the commissioner. Grant money approved by the commissioner is a one-time award of up to $20,000 per eligible setting. To be considered for grant money, eligible license holders must submit a grant application by June 30, 2024. The commissioner may approve grant applications on a rolling basis.

Sec. 60. DIRECTION TO COMMISSIONER; SUPPORTED-DECISION-MAKING REIMBURSEMENT STUDY.

By December 15, 2024, the commissioner shall issue a report to the governor and the chairs and ranking minority members of the legislative committees with jurisdiction over human services detailing how medical assistance service providers could be reimbursed for providing supported-decision-making services. The report must detail recommendations for all medical assistance programs, including all home and community-based programs.
to provide for reimbursement for supported-decision-making services. The report must
develop detailed provider requirements for reimbursement, including the criteria necessary
to provide high-quality services. In developing provider requirements, the commissioner
shall consult with all relevant stakeholders, including organizations currently providing
supported-decision-making services. The report must also include strategies to promote
 equitable access to supported-decision-making services to individuals who are Black,
Indigenous, or People of Color; people from culturally specific communities; people from
rural communities; and other people who may experience barriers to accessing medical
assistance home and community-based services.

Sec. 61. DIRECTION TO COMMISSIONER; APPLICATION OF INTERMEDIATE
CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES
RATE INCREASES.

The commissioner of human services shall apply the rate increases under Minnesota
Statutes, section 256B.5012, subdivisions 19 and 20, as follows:
(1) apply Minnesota Statutes, section 256B.5012, subdivision 19; and
(2) apply any required rate increase as required under Minnesota Statutes, section
256B.5012, subdivision 20, to the results of clause (1).

Sec. 62. DIRECTION TO COMMISSIONER; SHARED SERVICES.
(a) By December 1, 2023, the commissioner of human services shall seek any necessary
changes to home and community-based services waiver plans regarding sharing services in
order to:
(1) permit shared services for additional services, including chore, homemaker, and
night supervision;
(2) permit existing shared services at higher ratios, including individualized home
supports without training, individualized home supports with training, and individualized
home supports with family training at a ratio of one staff person to three recipients;
(3) ensure that individuals who are seeking to share services permitted under the waiver
plans in an own-home setting are not required to live in a licensed setting in order to share
services so long as all other requirements are met; and
(4) issue guidance for shared services, including:
(i) informed choice for all individuals sharing the services;
(ii) guidance for when multiple shared services by different providers occur in one home
and how lead agencies and individuals shall determine that shared service is appropriate to
meet the needs, health, and safety of each individual for whom the lead agency provides
case management or care coordination; and
(iii) guidance clarifying that an individual's decision to share services does not reduce any determination of the individual's overall or assessed needs for services;
(b) The commissioner shall develop or provide guidance outlining:
(1) instructions for shared services support planning;
(2) person-centered approaches and informed choice in shared services support planning; and
(3) required contents of shared services agreements.
(c) The commissioner shall seek and utilize stakeholder input for any proposed changes to waiver plans and any shared services guidance.

Sec. 63. DIRECTION TO COMMISSIONER; DISABILITY WAIVER SHARED SERVICES RATES.
The commissioner of human services shall establish a rate system for shared homemaker services and shared chore services provided under Minnesota Statutes, sections 256B.092 and 256B.49. For two persons sharing services, the rate paid to a provider must not exceed 1-1/2 times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider must not exceed two times the rate paid for serving a single individual. These rates apply only when all of the criteria for the shared service have been met.

Sec. 64. DIRECTION TO COMMISSIONER; LIFE-SHARING SERVICES.
Subdivision 1. Recommendations required. The commissioner of human services shall develop recommendations for establishing life sharing as a covered medical assistance waiver service.

Subd. 2. Definition. For the purposes of this section, "life sharing" means a relationship-based living arrangement between an adult with a disability and an individual or family in which they share their lives and experiences while the adult with a disability receives support from the individual or family using person-centered practices.

Subd. 3. Stakeholder engagement and consultation. (a) The commissioner must proactively solicit participation in the development of the life-sharing medical assistance service through a robust stakeholder engagement process that results in the inclusion of a racially, culturally, and geographically diverse group of interested stakeholders from each of the following groups:
(1) providers currently providing or interested in providing life-sharing services;
(2) people with disabilities accessing or interested in accessing life-sharing services;
(3) disability advocacy organizations; and
(d) lead agencies.
(b) The commissioner must proactively seek input into and assistance with the development of recommendations for establishing the life-sharing service from interested stakeholders;
(c) The first meeting must occur before July 31, 2023. The commissioner must meet with stakeholders at least monthly through December 31, 2023. All meetings must be accessible;

Subd. 4. Required topics to be discussed during development of the recommendations. The commissioner and the interested stakeholders must discuss the following topics:
(1) the distinction between life sharing, adult family foster care, family residential services, and community residential services;
(2) successful life-sharing models used in other states;
(3) services and supports that could be included in a life-sharing service;
(4) potential barriers to providing or accessing life-sharing services;
(5) solutions to remove identified barriers to providing or accessing life-sharing services;
(6) requirements of a life-sharing agency;
(7) medical assistance payment methodologies for life-sharing providers and life-sharing agencies;
(8) expanding awareness of the life-sharing model; and
(9) draft language for legislation necessary to further define and implement life-sharing services;

Subd. 5. Report to the legislature. By December 31, 2024, the commissioner must provide to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over direct care services any draft legislation necessary to implement the rates and requirements for life-sharing services;

Sec. 65. DIRECTION TO COMMISSIONER; FOSTER CARE MORATORIUM EXCEPTION APPLICATIONS.
(a) The commissioner must expedite the processing and review of all new and pending applications for an initial foster care or community residential setting license under Minnesota Statutes, section 245A.03, subdivision 7, paragraph (a), clauses (5) and (6);
(b) The commissioner must include on the application materials for an initial foster care or community residential setting license under Minnesota Statutes, section 245A.03, subdivision 7, paragraph (a), clauses (5) and (6), an opportunity for applicants to signify
that they are seeking an initial foster care or community residential setting license in order
to transition an existing operational customized living setting to a foster care or community
residential setting. "Operational" has the meaning given in section 256B.49, subdivision
26; paragraph (c).

(c) For any pending applications for a license under Minnesota Statutes, section 245A.03,
subdivision 7; paragraph (a), clause (5), the commissioner must determine if the applicant
is eligible for an exception under Minnesota Statutes, section 245A.03, subdivision 7;
paragraph (a), clause (6), and if so, act upon the application under clause (6) rather than
clause (5);

(d) The commissioner must increase to four the licensed capacity of any setting for
which the commissioner issued a license under Minnesota Statutes, section 245A.03,
subdivision 7; paragraph (a), clause (5), before the final enactment of this act.

(e) This section expires December 31, 2023.

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

Sec. 66. AWARENESS-BUILDING CAMPAIGN FOR THE RECRUITMENT OF
DIRECT CARE PROFESSIONALS.

Subdivision 1. Grant program established. The commissioner of employment and
economic development shall develop and implement paid advertising as part of a
comprehensive awareness-building campaign aimed at recruiting direct care professionals
to provide long-term care services.

Subd. 2. Definition. For purposes of this section, "direct care professionals" means
long-term care services employees who provide direct support or care to people using aging,
disability, or behavioral health services.

Subd. 3. Request for proposals; allowable uses of grant money. (a) The commissioner
shall publish a request for proposals to select an outside vendor or vendors to conduct the
awareness-building campaign for the recruitment of direct care professionals.

(b) Grant money received under this section may be used:

(1) for the development of recruitment materials for the direct care workforce to be
featured on:

(i) television;

(ii) streaming services;

(iii) radio;

(iv) social media;

(v) billboards; and

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(vi) other print materials;

(2) for the development of materials and strategies to highlight and promote the positive aspects of the direct care workforce;

(3) for the purchase of media time or space to feature recruitment materials for the direct care workforce; and

(iv) for administrative costs necessary to implement this grant program.

c) The Department of Employment and Economic Development may collaborate with relevant state agencies for the purposes of the development and implementation of this campaign and is authorized to transfer administrative money to such agencies to cover any associated administrative costs.

Sec. 53. INTERAGENCY EMPLOYMENT SUPPORTS ALIGNMENT STUDY.

The commissioners of human services, employment and economic development, and education must conduct an interagency alignment study on employment supports for people with disabilities. The study must evaluate:

(1) service rates;

(2) provider enrollment and monitoring standards; and

(3) eligibility processes and people's lived experience transitioning between employment programs;

Sec. 54. MONITORING EMPLOYMENT OUTCOMES.

By January 15, 2025, the Departments of Human Services, Employment and Economic Development, and Education must provide the chairs and ranking minority members of the legislative committees with jurisdiction over health, human services, and labor with a plan for tracking employment outcomes for people with disabilities served by programs administered by the agencies. This plan must include any needed changes to state law to track supports received and outcomes across programs.

Sec. 55. PHASE-OUT OF THE USE OF SUBMINIMUM WAGE FOR MEDICAL ASSISTANCE DISABILITY SERVICES.

The commissioner of human services must seek all necessary amendments to Minnesota's federally approved disability waiver plans to require that people receiving prevocational or employment support services are compensated at or above the state minimum wage or at or above the prevailing local minimum wage no later than August 1, 2028.
Sec. 56. **RATE INCREASE FOR CERTAIN DISABILITY WAIVER SERVICES.**

The commissioner of human services shall increase payment rates for chore services, homemaker services, and home-delivered meals provided under Minnesota Statutes, sections 256B.092 and 256B.49, by 15.8 percent from the rates in effect on December 31, 2023.

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 57. **RATE INCREASE FOR EARLY INTENSIVE DEVELOPMENTAL AND BEHAVIORAL INTERVENTION BENEFIT SERVICES.**

The commissioner of human services shall increase payment rates for early intensive developmental and behavioral intervention services under Minnesota Statutes, section 256B.0949, by 15.8 percent from the rates in effect on December 31, 2023.

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 59. **RATE INCREASE FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES DAY TRAINING AND HABILITATION SERVICES.**

The commissioner of human services shall increase payment rates for day training and habilitation services under Minnesota Statutes, section 252.46, by 15.8 percent from the rates in effect on December 31, 2023.

**EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 60. **STUDY ON PRESumptIVE ELIGIBILITY FOR LONG-TERM SERVICES AND SUPPORTS.**

(a) The commissioner of human services must study presumptive functional eligibility for people with disabilities and older adults in the following programs:

1. medical assistance, alternative care, and essential community supports; and
2. home and community-based services;

(b) The commissioner must evaluate the following in the study of presumptive eligibility within the programs listed in paragraph (a):

1. current eligibility processes;
(2) barriers to timely eligibility determinations; and
(3) strategies to enhance access to home and community-based services in the least restrictive setting;
(e) By January 1, 2025, the commissioner must report recommendations and draft legislation to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance and policy.
Sec. 61. SYSTEMIC REVIEW OF ACUTE CARE HOSPITALIZATIONS STUDY.
(a) The commissioner of human services must conduct a systemic review of acute care hospitalizations for older adults on medical assistance and people on medical assistance with disabilities and behavioral health conditions. The review must include:
(1) an analysis of reimbursement rates to support people with complex support needs;
(2) a survey of other states’ policies, models, and service options to reduce and respond to acute care hospitalizations;
(3) systemic critical incident reviews of people who are hospitalized in acute care hospitals for longer than 90 days in order to determine systemic, regulatory, staff training, or other reoccurring barriers keeping individuals from returning to the community or lower levels of care; and
(4) a comparison of different methods to increase and enhance statewide provider capacity to support people with complex needs.
(b) The commissioner must submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance by January 15, 2025. The report must include proposed legislation necessary to enact the report’s recommendations;
Sec. 62. REPEALER.
Minnesota Statutes 2022, section 256B.4914, subdivision 9a, is repealed.
EFFECTIVE DATE. This section is effective January 1, 2024, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.