

CHAPTER 256I

NEGOTIATED RATE ACT

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256I.01 CITATION.

Sections 256I.01 to 256I.06 shall be cited as the "negotiated rate act."

History: 1989 c 282 art 5 s 115

256I.02 PURPOSE.

The negotiated rate act establishes a comprehensive system of rates and payments for persons who reside in a negotiated rate residence and who meet the eligibility criteria of the general assistance program under sections 256D.01 to 256D.21, or the Minnesota supplemental aid program under sections 256D.33 to 256D.54.

History: 1989 c 282 art 5 s 116

256I.03 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 256I.01 to 256I.06, the terms defined in this section have the meanings given them.

Subd. 2. **Negotiated rate.** "Negotiated rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for individuals eligible for general assistance under sections 256D.01 to 256D.21 or supplemental aid under sections 256D.33 to 256D.54. Negotiated rate does not include payments for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. However, the negotiated rate for recipients living in residences in section 256I.05, subdivision 2, paragraph (c), clause (2), includes all items covered by that residence's medical assistance per diem rate. The rate is negotiated by the county agency or the state according to the provisions of sections 256I.01 to 256I.06.

Subd. 3. **Negotiated rate residence.** "Negotiated rate residence" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. To receive payment for a negotiated rate, the residence must comply with applicable laws and rules establishing standards for health, safety, and licensure. Secure crisis shelters for battered women and their children are not negotiated rate residences.

Subd. 4. **Representative payee.** "Representative payee" means a person selected to receive and manage general assistance or Minnesota supplemental aid benefits provided by the county agency on behalf of a general assistance or Minnesota supplemental aid recipient.

History: 1989 c 282 art 5 s 117

256I.04 ELIGIBILITY FOR NEGOTIATED RATE PAYMENT.

Subdivision 1. **Eligibility requirements.** To be eligible for a negotiated rate payment, the individual must be eligible for general assistance under sections 256D.01 to 256D.21, or supplemental aid under sections 256D.33 to 256D.54. If the individual is in the negotiated rate residence due to illness or incapacity, the individual must be in the residence under a plan developed or approved by the county agency. Residence in other negotiated rate residences must be approved by the county agency.

Subd. 2. **Date of eligibility.** For a person living in a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, payment shall be

made from the date a signed application form is received by the county agency or the date the applicant meets all eligibility factors, whichever is later. For a person living in a negotiated rate residence who is eligible for supplemental aid under sections 256D.33 to 256D.54, payment shall be made from the first of the month in which an approved application is received by a county agency.

History: 1989 c 282 art 5 s 118

256I.05 PAYMENT RATES.

Subdivision 1. Monthly rates. Monthly payments for rates negotiated by a county agency on behalf of a recipient living in a negotiated rate residence may be paid at the rates in effect on March 1, 1985, not to exceed \$919.80 in 1989. These rates must be increased annually according to subdivision 7.

Subd. 2. Monthly rates; exemptions. (a) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (c).

(b) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.

(c) The following residences are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a residence that is not certified to participate in the medical assistance program, that was licensed as a boarding care facility by March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080;

(2) a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the actual documented cost for these residences is the individual's appropriate medical assistance case mix rate until the commissioner develops a comprehensive system of rates and payments for persons in all negotiated rate residences. The exclusion from the rate limit for residences under this clause expires July 1, 1991. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.

Subd. 3. Limits on rates. When a negotiated rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a negotiated rate under this chapter.

Subd. 4. Certain residences not eligible. The commissioner shall make no payments under this section to residences licensed after August 1, 1987, that have more

than four residents with a diagnosis of mental illness, except for residences specifically licensed to serve persons with mental illness or residences excluded from licensure under chapter 245A. The commissioner of health shall monitor newly licensed residences and shall report to the commissioner of human services residences that do not comply with this section.

Subd. 5. Adult foster care rates. The commissioner shall annually establish statewide maintenance and difficulty of care rates for adults in foster care. The commissioner shall adopt rules to implement statewide rates. In adopting rules, the commissioner shall consider existing maintenance and difficulty of care rates so that, to the extent possible, an adult for whom a maintenance or difficulty of care rate is established will not be adversely affected.

Subd. 6. Statewide rate setting system. The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in residences with negotiated rates to be effective January 1, 1992, or as soon as possible after that date. The commissioner may adopt rules to establish this rate setting system.

Subd. 7. Rate increases. The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less.

Subd. 8. State participation. For a resident of a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, state participation in the negotiated rate is determined according to section 256D.03, subdivision 2. For a resident of a negotiated rate facility who is eligible under sections 256D.33 to 256D.54, state participation in the negotiated rate is determined according to section 256D.36.

Subd. 9. Personal needs allowance. In addition to the negotiated rate paid for the room and board costs, a person residing in a negotiated rate residence shall receive an allowance for clothing and personal needs. The allowance shall not be less than that authorized for a medical assistance recipient in section 256B.35.

History: 1989 c 282 art 5 s 119

256I.06 PAYMENT METHODS.

When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.01 to 256D.21, the monthly payment may be issued as a voucher or vendor payment. When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.33 to 256D.54, payments must be made to the recipient. If a recipient is not able to manage the recipient's finances, a representative payee must be appointed.

History: 1989 c 282 art 5 s 120