

CHAPTER 256I

GROUP RESIDENTIAL HOUSING

256I.04 Eligibility for group residential housing payment.

256I.05 Monthly rates.

256I.04 ELIGIBILITY FOR GROUP RESIDENTIAL HOUSING PAYMENT.

[For text of subsds 1 to 2c, see M.S.1998]

Subd. 3. **Moratorium on the development of group residential housing beds.** (a) County agencies shall not enter into agreements for new group residential housing beds with total rates in excess of the MSA equivalent rate except: (1) for group residential housing establishments meeting the requirements of subdivision 2a, clause (2) with department approval; (2) for group residential housing establishments licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, provided the facility is needed to meet the census reduction targets for persons with mental retardation or related conditions at regional treatment centers; (3) to ensure compliance with the federal Omnibus Budget Reconciliation Act alternative disposition plan requirements for inappropriately placed persons with mental retardation or related conditions or mental illness; (4) up to 80 beds in a single, specialized facility located in Hennepin county that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the housing finance agency under section 462A.05, subdivision 20a, paragraph (b); (5) notwithstanding the provisions of subdivision 2a, for up to 190 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey county for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal or state housing subsidy, the group residential housing rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the group residential housing supplementary rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a group residential housing payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a; or (6) for group residential housing beds in settings meeting the requirements of subdivision 2a, clauses (1) and (3), which are used exclusively for recipients receiving home and community-based waiver services under sections 256B.0915, 256B.092, subdivision 5, 256B.093, and 256B.49, and who resided in a nursing facility for the six months immediately prior to the month of entry into the group residential housing setting. The group residential housing rate for these beds must be set so that the monthly group residential housing payment for an individual occupying the bed when combined with the nonfederal share of services delivered under the waiver for that person does not exceed the nonfederal share of the monthly medical assistance payment made for the person to the nursing facility in which the person resided

prior to entry into the group residential housing establishment. The rate may not exceed the MSA equivalent rate plus \$426.37 for any case.

(b) A county agency may enter into a group residential housing agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a group residential housing agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from group residential housing payment; or as a result of the downsizing of a group residential housing setting. The transfer of available beds from one county to another can only occur by the agreement of both counties.

[For text of subd 4, see M.S.1998]

History: 1999 c 245 art 3 s 39

256I.05 MONTHLY RATES.

Subdivision 1. **Maximum rates.** Monthly room and board rates negotiated by a county agency for a recipient living in group residential housing must not exceed the MSA equivalent rate specified under section 256I.03, subdivision 5, with the exception that a county agency may negotiate a supplementary room and board rate that exceeds the MSA equivalent rate for recipients of waiver services under title XIX of the Social Security Act. This exception is subject to the following conditions:

(1) the setting is licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265;

(2) the setting is not the primary residence of the license holder and in which the license holder is not the primary caregiver; and

(3) the average supplementary room and board rate in a county for a calendar year may not exceed the average supplementary room and board rate for that county in effect on January 1, 2000. For calendar years beginning on or after January 1, 2002, within the limits of appropriations specifically for this purpose, the commissioner shall increase each county's supplemental room and board rate average on an annual basis by a factor consisting of the percentage change in the Consumer Price Index—All items, United States city average (CPI-U) for that calendar year compared to the preceding calendar year as forecasted by Data Resources, Inc., in the third quarter of the preceding calendar year. If a county has not negotiated supplementary room and board rates for any facilities located in the county as of January 1, 2000, or has an average supplemental room and board rate under \$100 per person as of January 1, 2000, it may submit a supplementary room and board rate request with budget information for a facility to the commissioner for approval.

The county agency may at any time negotiate a higher or lower room and board rate than the average supplementary room and board rate.

Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04, subdivision 3, in addition to the room and board rate specified in subdivision 1, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the department of health, or licensed by the department of human services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section 256B.0627, subdivision 4, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0627, subdivision 4, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate plus the supplementary room and board rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments un-

der this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

[For text of subs 1b to 1d, see M.S.1998]

Subd. 1e. **Supplementary rate for certain facilities.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 1999, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, equal to 25 percent of the amount specified in subdivision 1a, for a group residential housing provider that:

(1) is located in Hennepin county and has had a group residential housing contract with the county since June 1996;

(2) operates in three separate locations a 56-bed facility, a 40-bed facility, and a 30-bed facility; and

(3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

[For text of subs 2 to 8, see M.S.1998]

History: 1999 c 245 art 3 s 40-42