

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.

[See Note.]

Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04, subdivision 3, 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.0659, 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.0659, 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 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 under 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).

(d) Counties must not negotiate supplementary service rates with providers of group residential housing that are licensed as board and lodging with special services and that do not encourage a policy of sobriety on their premises.

[See Note.]

Subd. 1b. **Rates for uncertified boarding care homes.** Effective July 1, 1992, the maximum rate specified in subdivision 1 does not apply to a facility which was licensed by the Minnesota

Department of Health as a boarding care home before March 1, 1985, and which is not certified to receive medical assistance.

Subd. 1c. **Rate increases.** A county agency may not increase the rates negotiated for group residential housing above those in effect on June 30, 1993, except as provided in paragraphs (a) to (g).

(a) A county may increase the rates for group residential housing settings to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) A county agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total group residential housing rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. County agencies must not include nor increase group residential housing difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When a group residential housing rate is used to pay for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences have received the prior approval of the county agency's social service staff. Prior approval is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the group residential housing establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(f) Until June 30, 1994, a county agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0050 to 9549.0058.

(g) For the rate year beginning July 1, 1996, a county agency may increase the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in a residence that meets the following criteria:

- (1) it is licensed by the commissioner of health as a boarding care home;
- (2) it is not certified for the purposes of the medical assistance program;
- (3) at least 50 percent of its residents have a primary diagnosis of mental illness;
- (4) it has at least 17 beds; and

(5) it provides medication administration to residents.

The rate following an increase under this paragraph must not exceed an amount equivalent to the average 1995 medical assistance payment for nursing home resident class A under the age of 65, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0010 to 9549.0080.

Subd. 1d. Certain facilities for mental illness or chemical dependency; rates.

Notwithstanding the provisions of subdivisions 1a and 1c, a county agency may negotiate a supplementary service rate in addition to the board and lodging rate for facilities licensed and registered by the Minnesota Department of Health under section 157.17 prior to December 31, 1996, if the facility meets the following criteria:

(1) at least 75 percent of the residents have a primary diagnosis of mental illness, chemical dependency, or both, and have related special needs;

(2) the facility provides 24-hour, on-site, year-round supportive services by qualified staff capable of intervention in a crisis of persons with late-stage inebriety or mental illness who are vulnerable to abuse or neglect;

(3) the services at the facility include, but are not limited to:

(i) secure central storage of medication;

(ii) reminders and monitoring of medication for self-administration;

(iii) support for developing an individual medical and social service plan, updating the plan, and monitoring compliance with the plan; and

(iv) assistance with setting up meetings, appointments, and transportation to access medical, chemical health, and mental health service providers;

(4) each resident has a documented need for at least one of the services provided;

(5) each resident has been offered an opportunity to apply for admission to a licensed residential treatment program for mental illness, chemical dependency, or both, have refused that offer, and the offer and their refusal has been documented to writing; and

(6) the residents are not eligible for home and community-based services waivers because of their unique need for community support.

Until June 30, 2002, the supplementary service rate of qualifying facilities under this subdivision may be increased by up to 15 percent of the supplementary service rate in effect on January 1, 2001, for the facility. Qualifying facilities with no supplementary service rate may negotiate a supplementary service rate not to exceed \$300 per month.

Subd. 1e. Supplementary rate for certain facilities. Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2005, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, 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 75-bed facility, a 50-bed facility, and a 26-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.

Subd. 1f. **Supplementary service rate increases on or after July 1, 2001.** Until June 30, 2002, the supplementary service rate for recipients of assistance under section 256I.04 who reside in a residence that is licensed by the commissioner of health as a boarding care home but is not certified for purposes of the medical assistance program may be increased by up to 32 percent of the supplementary service rate in effect for that facility on January 1, 2001. The new rate shall not exceed the nonfederal share of the statewide weighted average monthly medical assistance nursing facility payment rate for case mix A in effect on January 1, 2001.

Subd. 1g. **Supplementary service rate for certain facilities.** On or after July 1, 2005, a county agency may negotiate a supplementary service rate for recipients of assistance under section 256I.04, subdivision 1, paragraph (b), who relocate from a homeless shelter licensed and registered prior to December 31, 1996, by the Minnesota Department of Health under section 157.17, to a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, not to exceed \$456.75.

Subd. 1h. **Supplementary rate for certain facilities serving chemically dependent males.** Notwithstanding subdivisions 1a and 1c, beginning July 1, 2007, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$737.87 per month, including any legislatively authorized inflationary adjustments, for a group residential housing provider that:

(1) is located in Ramsey County and has had a group residential housing contract with the county since 1982 and has been licensed as a board and lodge facility with special services since 1979; and

(2) serves recovering and chemically dependent males, providing 24-hour-a-day supervision.

Subd. 1i. **Supplementary rate for certain facilities; Hennepin County.** Notwithstanding the provisions of subdivisions 1a and 1c, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, up to the available appropriation, for a facility located in Hennepin County with a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility and that until August 1, 2007, operated as a licensed chemical dependency treatment program.

Subd. 1j. **Supplementary rate for certain facilities; Crow Wing County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2007, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a new 65-bed facility in Crow Wing County that will serve chemically dependent persons operated by a group residential housing provider that currently operates a 304-bed facility in Minneapolis and a 44-bed facility in Duluth which opened in January of 2006.

Subd. 1k. **Supplementary rate for certain facilities; Stearns, Sherburne, or Benton County.** Notwithstanding the provisions of this section, beginning July 1, 2009, a county agency shall negotiate a supplementary service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments,

for a group residential housing provider located in Stearns, Sherburne, or Benton County that operates a 40-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves chemically dependent clientele, providing 24-hour-a-day supervision.

Subd. 1l. Supplementary rate for certain facilities; St. Louis County. Notwithstanding the provisions of this section, beginning July 1, 2007, a county agency shall negotiate a supplementary service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a group residential housing provider located in St. Louis County that operates a 30-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves chemically dependent clientele, providing 24-hour-a-day supervision.

Subd. 1m. Supplemental rate for certain facilities; Hennepin and Ramsey Counties.

(a) Notwithstanding the provisions of this section, beginning July 1, 2007, a county agency shall negotiate a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month or the existing monthly rate, whichever is higher, including any legislatively authorized inflationary adjustments, for a group residential housing provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, which provide community support and serve the mental health needs of individuals who have chronically lived unsheltered, providing 24-hour-per-day supervision.

(b) An individual who has lived in one of the facilities under paragraph (a), who is being transitioned to independent living as part of the program plan continues to be eligible for group residential housing and the supplemental service rate negotiated with the county under paragraph (a).

Subd. 1n. Supplemental rate; Mahnomon County. Notwithstanding the provisions of this section, for the rate period July 1, 2010, to June 30, 2011, a county agency shall negotiate a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed \$753 per month or the existing rate, including any legislative authorized inflationary adjustments, for a group residential provider located in Mahnomon County that operates a 28-bed facility providing 24-hour care to individuals who are homeless, disabled, chemically dependent, mentally ill, or chronically homeless.

Subd. 2. Monthly rates; exemptions. The maximum group residential housing 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. Notwithstanding the provisions of subdivision 1c, the rate paid to a facility reimbursed under this subdivision shall be determined under section 256B.431, or under section 256B.434 if the facility is accepted by the commissioner for participation in the alternative payment demonstration project.

Subd. 3. Limits on rates. When a group residential housing 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 group residential housing rate under this chapter.

Subd. 4. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 5. **Adult foster care rates.** The commissioner shall annually establish statewide maintenance and difficulty of care limits for adults in foster care.

Subd. 6. **Statewide rate setting system.** The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in group residential housing to be effective as soon as possible. The commissioner may adopt rules to establish this rate setting system.

Subd. 7. [Repealed, 1992 c 513 art 8 s 59]

Subd. 7a. [Repealed, 1992 c 513 art 8 s 59]

Subd. 7b. **Commissioner's duties.** The commissioner shall not provide automatic annual inflation adjustments for group residential housing rates for the fiscal year beginning on July 1, 1993, and for subsequent fiscal years. The commissioner of management and budget shall include as a budget change request annual adjustments in reimbursement rates for group residential housing in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Subd. 7c. **Demonstration project.** The commissioner is authorized to pursue the expansion of a demonstration project under federal food stamp regulation for the purpose of gaining additional federal reimbursement of food and nutritional costs currently paid by the state group residential housing program. The commissioner shall seek approval no later than October 1, 2009. Any reimbursement received is nondedicated revenue to the general fund.

Subd. 8. **State participation.** For a resident of a group residence who is eligible under section 256I.04, subdivision 1, paragraph (b), state participation in the group residential housing payment is determined according to section 256D.03, subdivision 2. For a resident of a group residence who is eligible under section 256I.04, subdivision 1, paragraph (a), state participation in the group residential housing rate is determined according to section 256D.36.

Subd. 9. [Repealed, 1Sp 1993 c 1 art 8 s 29]

Subd. 10. [Repealed, 1Sp1993 c 1 art 8 s 29]

History: 1989 c 282 art 5 s 119; 1990 c 568 art 4 s 59,60; 1991 c 292 art 4 s 71-74; art 6 s 51; 1992 c 363 art 1 s 10; 1992 c 513 art 8 s 38-47; 1Sp1993 c 1 art 8 s 22-26; 1995 c 207 art 5 s 32-34; 1996 c 312 s 1; 1996 c 451 art 2 s 52; art 3 s 8; 1997 c 203 art 3 s 13; art 4 s 60; 3Sp1997 c 3 s 20; 1998 c 407 art 3 s 21; 1999 c 245 art 3 s 40-42; 1Sp2001 c 9 art 13 s 14-16; 2002 c 379 art 1 s 113; 1Sp2002 c 1 s 13; 1Sp2003 c 14 art 2 s 44-46; 2005 c 159 art 5 s 6; 1Sp2005 c 4 art 3 s 13; 2007 c 147 art 7 s 63-68; 2009 c 79 art 2 s 12; art 6 s 16; 2009 c 101 art 2 s 109; 2009 c 175 art 3 s 5; 1Sp2010 c 1 art 18 s 2; 1Sp2011 c 9 art 1 s 17

NOTE: The amendment to subdivision 1 by Laws 2003, First Special Session chapter 14, article 2, section 44, is effective upon receipt of federal approval of waiver amendment. Laws 2003, First Special Session chapter 14, article 2, section 44, the effective date.

NOTE: The amendment to subdivision 1a by Laws 2011, First Special Session chapter 9, article 1, section 17, is effective May 1, 2012. Laws 2011, First Special Session chapter 9, article 1, section 17, the effective date.