

256N.26 BENEFITS AND PAYMENTS.

Subdivision 1. **Benefits.** (a) There are three benefits under Northstar Care for Children: medical assistance, basic payment, and supplemental difficulty of care payment.

(b) A child is eligible for medical assistance under subdivision 2.

(c) A child is eligible for the basic payment under subdivision 3, except for a child assigned level A under section 256N.24, subdivision 1, because the child is determined to be an at-risk child receiving guardianship assistance or adoption assistance.

(d) A child, including a foster child age 18 to 21, is eligible for an additional supplemental difficulty of care payment under subdivision 4, as determined by the assessment under section 256N.24.

(e) An eligible child entering guardianship assistance or adoption assistance under the age of six receives a basic payment and supplemental difficulty of care payment as specified in subdivision 5.

(f) A child transitioning in from a pre-Northstar Care for Children program under section 256N.28, subdivision 7, shall receive basic and difficulty of care supplemental payments according to those provisions.

Subd. 2. **Medical assistance.** Eligibility for medical assistance under this chapter must be determined according to section 256B.055.

Subd. 3. **Basic monthly rate.** From January 1, 2015, to June 30, 2016, the basic monthly rate must be according to the following schedule:

Ages 0-5	\$565 per month
Ages 6-12	\$670 per month
Ages 13 and older	\$790 per month

Subd. 4. **Difficulty of care supplemental monthly rate.** From January 1, 2015, to June 30, 2016, the supplemental difficulty of care monthly rate is determined by the following schedule:

Level A	none (special rate under subdivision 7 applies)
Level B	none (basic under subdivision 3 only)
Level C	\$100 per month
Level D	\$200 per month
Level E	\$300 per month
Level F	\$400 per month
Level G	\$500 per month
Level H	\$600 per month
Level I	\$700 per month
Level J	\$800 per month
Level K	\$900 per month
Level L	\$1,000 per month

Level M	\$1,100 per month
Level N	\$1,200 per month
Level O	\$1,300 per month
Level P	\$1,400 per month
Level Q	\$1,500 per month

A child assigned level A is not eligible for either the basic or supplemental difficulty of care payment, while a child assigned level B is not eligible for the supplemental difficulty of care payment but is eligible for the basic monthly rate under subdivision 3.

Subd. 5. Alternate rates for preschool entry and certain transitioned children. A child who entered the guardianship assistance or adoption assistance components of Northstar Care for Children while under the age of six shall receive 50 percent of the amount the child would otherwise be entitled to under subdivisions 3 and 4. The commissioner may also use the 50 percent rate for a child who was transitioned into those components through declaration of the commissioner under section 256N.28, subdivision 7.

Subd. 6. Emergency foster care rate for initial placement. (a) A child who enters foster care due to immediate custody by a police officer or court order, consistent with section 260C.175, subdivisions 1 and 2, or equivalent provision under tribal code, shall receive the emergency foster care rate for up to 30 days. The emergency foster care rate cannot be extended beyond 30 days of the child's placement.

(b) For this payment rate to be applied, at least one of three conditions must apply:

- (1) the child's initial placement must be in foster care in Minnesota;
- (2) the child's previous placement was more than two years ago; or
- (3) the child's previous placement was for fewer than 30 days and an assessment under section 256N.24 was not completed by an agency under section 256N.24.

(c) The emergency foster care rate consists of the appropriate basic monthly rate under subdivision 3 plus a difficulty of care supplemental monthly rate of level D under subdivision 4.

(d) The emergency foster care rate ends under any of three conditions:

- (1) when an assessment under section 256N.24 is completed;
- (2) when the placement ends; or
- (3) after 30 days have elapsed.

(e) The financially responsible agency, in consultation with the legally responsible agency, if different, may replace the emergency foster care rate at any time by completing an initial assessment on which a revised difficulty of care supplemental monthly rate would be based. Consistent with section 256N.24, subdivision 9, the caregiver may request a reassessment in writing for an initial assessment to replace the emergency foster care rate. This written request would initiate an initial assessment under section 256N.24, subdivision 5. If the revised difficulty of care supplemental level based on the initial assessment is higher than level D, then the revised higher rate shall apply retroactively to the beginning of the placement. If the revised level is lower, the lower rate shall apply on the date the initial assessment was completed.

(f) If a child remains in foster care placement for more than 30 days, the emergency foster care rate ends after the 30th day of placement and an assessment under section 256N.26 must be completed.

Subd. 7. Special at-risk monthly payment for at-risk children in guardianship assistance and adoption assistance. A child eligible for guardianship assistance under section 256N.22 or adoption assistance under section 256N.23 who is determined to be an at-risk child shall receive a special at-risk monthly payment of \$1 per month basic, unless and until the potential disability manifests itself and the agreement is renegotiated to include reimbursement. Such an at-risk child shall receive neither a supplemental difficulty of care monthly rate under subdivision 4 nor home and vehicle modifications under subdivision 10, but must be considered for medical assistance under subdivision 2.

Subd. 8. Daily rates. (a) The commissioner shall establish prorated daily rates to the nearest cent for the monthly rates under subdivisions 3 to 7. Daily rates must be routinely used when a partial month is involved for foster care, guardianship assistance, or adoption assistance.

(b) A full month payment is permitted if a foster child is temporarily absent from the foster home if the brief absence does not exceed 14 days and the child's placement continues with the same caregiver.

Subd. 9. Revision. By April 1, 2016, for fiscal year 2017, and by each succeeding April 1 for the subsequent fiscal year, the commissioner shall review and revise the rates under subdivisions 3 to 7 based on the United States Department of Agriculture, Estimates of the Cost of Raising a Child, published by the United States Department of Agriculture, Agricultural Resources Service, Publication 1411. The revision shall be the average percentage by which costs increase for the age ranges represented in the United States Department of Agriculture, Estimates of the Cost of Raising a Child, except that in no instance must the increase be more than three percent per annum. The monthly rates must be revised to the nearest dollar and the daily rates to the nearest cent.

Subd. 10. Home and vehicle modifications. (a) Except for a child assigned level A under section 256N.24, subdivision 1, paragraph (d), clause (1), a child who is eligible for an adoption assistance agreement may have reimbursement of home and vehicle modifications necessary to accommodate the child's special needs upon which eligibility for adoption assistance was based and included as part of the negotiation of the agreement under section 256N.25, subdivision 2. Reimbursement of home and vehicle modifications must not be available for a child who is assessed at level A under subdivision 1, unless and until the potential disability manifests itself and the agreement is renegotiated to include reimbursement.

(b) Application for and reimbursement of modifications must be completed according to a process specified by the commissioner. The type and cost of each modification must be preapproved by the commissioner. The type of home and vehicle modifications must be limited to those specified by the commissioner.

(c) Reimbursement for home modifications as outlined in this subdivision is limited to once every five years per child. Reimbursement for vehicle modifications as outlined in this subdivision is limited to once every five years per family.

Subd. 11. Child income or income attributable to the child. (a) A monthly guardianship assistance or adoption assistance payment must be considered as income and resources attributable to the child. Guardianship assistance and adoption assistance are exempt from garnishment, except as permissible under the laws of the state where the child resides.

(b) When a child is placed into foster care, any income and resources attributable to the child are treated as provided in sections 252.27 and 260C.331, or 260B.331, as applicable to the child being placed.

(c) Consideration of income and resources attributable to the child must be part of the negotiation process outlined in section 256N.25, subdivision 2. In some circumstances, the receipt of other income on behalf of the child may impact the amount of the monthly payment received by the relative custodian or adoptive parent on behalf of the child through Northstar Care for Children. Supplemental Security Income (SSI), retirement survivor's disability insurance (RSDI), veteran's benefits, railroad retirement benefits, and black lung benefits are considered income and resources attributable to the child.

Subd. 12. Treatment of Supplemental Security Income. If a child placed in foster care receives benefits through Supplemental Security Income (SSI) at the time of foster care placement or subsequent to placement in foster care, the financially responsible agency may apply to be the payee for the child for the duration of the child's placement in foster care. If a child continues to be eligible for SSI after finalization of the adoption or transfer of permanent legal and physical custody and is determined to be eligible for a payment under Northstar Care for Children, a permanent caregiver may choose to receive payment from both programs simultaneously. The permanent caregiver is responsible to report the amount of the payment to the Social Security Administration and the SSI payment will be reduced as required by the Social Security Administration.

Subd. 13. Treatment of retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, and black lung benefits. (a) If a child placed in foster care receives retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits at the time of foster care placement or subsequent to placement in foster care, the financially responsible agency may apply to be the payee for the child for the duration of the child's placement in foster care. If it is anticipated that a child will be eligible to receive retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits after finalization of the adoption or assignment of permanent legal and physical custody, the permanent caregiver shall apply to be the payee of those benefits on the child's behalf. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.

(b) If a child becomes eligible for retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits, after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to redetermine the payment under Northstar Care for Children. The monthly amount of the other benefits must be considered an offset to the amount of the payment the child is determined eligible for under Northstar Care for Children.

(c) If a child ceases to be eligible for retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits after the initial amount of the payment under Northstar Care for Children is finalized, the permanent caregiver shall contact the commissioner to redetermine the payment under Northstar Care for Children. The monthly amount of the payment under Northstar Care for Children must be the amount the child was determined to be eligible for prior to consideration of any offset.

(d) If the monthly payment received on behalf of the child under retirement survivor's disability insurance, veteran's benefits, railroad retirement benefits, or black lung benefits changes after the adoption assistance or guardianship assistance agreement is finalized, the permanent

caregiver shall notify the commissioner as to the new monthly payment amount, regardless of the amount of the change in payment. If the monthly payment changes by \$75 or more, even if the change occurs incrementally over the duration of the term of the adoption assistance or guardianship assistance agreement, the monthly payment under Northstar Care for Children must be adjusted without further consent to reflect the amount of the increase or decrease in the offset amount. Any subsequent change to the payment must be reported and handled in the same manner. A change of monthly payments of less than \$75 is not a permissible reason to renegotiate the adoption assistance or guardianship assistance agreement under section 256N.25, subdivision 3. The commissioner shall review and revise the limit at which the adoption assistance or guardianship assistance agreement must be renegotiated in accordance with subdivision 9.

Subd. 14. Treatment of child support and Minnesota family investment program. (a) If a child placed in foster care receives child support, the child support payment may be redirected to the financially responsible agency for the duration of the child's placement in foster care. In cases where the child qualifies for Northstar Care for Children by meeting the adoption assistance eligibility criteria or the guardianship assistance eligibility criteria, any court-ordered child support must not be considered income attributable to the child and must have no impact on the monthly payment.

(b) Consistent with section 256J.24, a child eligible for Northstar Care for Children whose caregiver receives a payment on the child's behalf is excluded from a Minnesota family investment program assistance unit.

Subd. 15. Payments. (a) Payments to caregivers under Northstar Care for Children must be made monthly. Consistent with section 256N.24, subdivision 12, the financially responsible agency must send the caregiver the required written notice within 15 days of a completed assessment or reassessment.

(b) Unless paragraph (c) or (d) applies, the financially responsible agency shall pay foster parents directly for eligible children in foster care.

(c) When the legally responsible agency is different than the financially responsible agency, the legally responsible agency may make the payments to the caregiver, provided payments are made on a timely basis. The financially responsible agency must pay the legally responsible agency on a timely basis. Caregivers must have access to the financially and legally responsible agencies' records of the transaction, consistent with the retention schedule for the payments.

(d) For eligible children in foster care, the financially responsible agency may pay the foster parent's payment for a licensed child-placing agency instead of paying the foster parents directly. The licensed child-placing agency must timely pay the foster parents and maintain records of the transaction. Caregivers must have access to the financially responsible agency's records of the transaction and the child-placing agency's records of the transaction, consistent with the retention schedule for the payments.

Subd. 16. Effect of benefit on other aid. Payments received under this section must not be considered as income for child care assistance under chapter 119B or any other financial benefit. Consistent with section 256J.24, a child receiving a maintenance payment under Northstar Care for Children is excluded from any Minnesota family investment program assistance unit.

Subd. 17. Home and community-based services waiver for persons with disabilities. A child in foster care may qualify for home and community-based waived services, consistent with section 256B.092 for developmental disabilities, or section 256B.49 for community alternative

care, community alternatives for disabled individuals, or traumatic brain injury waivers. A waiver service must not be substituted for the foster care program. When the child is simultaneously eligible for waived services and for benefits under Northstar Care for Children, the financially responsible agency must assess and provide basic and supplemental difficulty of care rates as determined by the assessment according to section 256N.24. If it is determined that additional services are needed to meet the child's needs in the home that are not or cannot be met by the foster care program, the need would be referred to the local waived service program.

Subd. 18. **Overpayments.** The commissioner has the authority to collect any amount of foster care payment, adoption assistance, or guardianship assistance paid to a caregiver in excess of the payment due. Payments covered by this subdivision include basic maintenance needs payments, supplemental difficulty of care payments, and reimbursement of home and vehicle modifications under subdivision 10. Prior to any collection, the commissioner or the commissioner's designee shall notify the caregiver in writing, including:

- (1) the amount of the overpayment and an explanation of the cause of overpayment;
- (2) clarification of the corrected amount;
- (3) a statement of the legal authority for the decision;
- (4) information about how the caregiver can correct the overpayment;
- (5) if repayment is required, when the payment is due and a person to contact to review a repayment plan;
- (6) a statement that the caregiver has a right to a fair hearing review by the department; and
- (7) the procedure for seeking a fair hearing review by the department.

Subd. 19. **Payee.** For adoption assistance and guardianship assistance cases, the payment must only be made to the adoptive parent or relative custodian specified on the agreement. If there is more than one adoptive parent or relative custodian, both parties will be listed as the payee unless otherwise specified in writing according to policies outlined by the commissioner. In the event of divorce or separation of the caregivers, a change of payee must be made in writing according to policies outlined by the commissioner. If both caregivers are in agreement as to the change, it may be made according to a process outlined by the commissioner. If there is not agreement as to the change, a court order indicating the party who is to receive the payment is needed before a change can be processed. If the change of payee is disputed, the commissioner may withhold the payment until agreement is reached. A noncustodial caregiver may request notice in writing of review, modification, or termination of the adoption assistance or guardianship assistance agreement. In the event of the death of a payee, a change of payee consistent with sections 256N.22 and 256N.23 may be made in writing according to policies outlined by the commissioner.

Subd. 20. **Notification of change.** (a) A caregiver who has an adoption assistance agreement or guardianship assistance agreement in place shall keep the agency administering the program informed of changes in status or circumstances which would make the child ineligible for the payments or eligible for payments in a different amount.

(b) For the duration of the agreement, the caregiver agrees to notify the agency administering the program in writing within 30 days of any of the following:

- (1) a change in the child's or caregiver's legal name;
- (2) a change in the family's address;

- (3) a change in the child's legal custody status;
- (4) the child's completion of high school, if this occurs after the child attains age 18;
- (5) the end of the caregiver's legal responsibility to support the child based on termination of parental rights of the caregiver, transfer of guardianship to another person, or transfer of permanent legal and physical custody to another person;
- (6) the end of the caregiver's financial support of the child;
- (7) the death of the child;
- (8) the death of the caregiver;
- (9) the child enlists in the military;
- (10) the child gets married;
- (11) the child becomes an emancipated minor through legal action;
- (12) the caregiver separates or divorces; and
- (13) the child is residing outside the caregiver's home for a period of more than 30 consecutive days.

Subd. 21. **Correct and true information.** The caregiver must be investigated for fraud if the caregiver reports information the caregiver knows is untrue, the caregiver fails to notify the commissioner of changes that may affect eligibility, or the agency administering the program receives relevant information that the caregiver did not report.

Subd. 22. **Termination notice for caregiver.** The agency that issues the maintenance payment shall provide the child's caregiver with written notice of termination of payment. Termination notices must be sent at least 15 days before the final payment or, in the case of an unplanned termination, the notice is sent within three days of the end of the payment. The written notice must minimally include the following:

- (1) the date payment will end;
- (2) the reason payments will end and the event that is the basis to terminate payment;
- (3) a statement that the provider has a right to a fair hearing review by the department consistent with section 256.045, subdivision 3;
- (4) the procedure to request a fair hearing; and
- (5) the name, telephone number, and e-mail address of a contact person at the agency.

History: 2013 c 108 art 17 s 13