

256S.21 RATE SETTING; APPLICATION; EVALUATION.

Subdivision 1. **Application of rate setting.** The rate methodologies in sections 256S.2101 to 256S.215 apply to:

- (1) elderly waiver, elderly waiver customized living, and elderly waiver foster care under this chapter;
- (2) alternative care under section 256B.0913;
- (3) essential community supports under section 256B.0922; and
- (4) community access for disability inclusion customized living and brain injury customized living under section 256B.49.

[See Note.]

Subd. 2. **Evaluation of rate setting.** (a) Beginning January 1, 2024, and every two years thereafter, the commissioner, in consultation with stakeholders, shall use all available data and resources to evaluate the following rate setting elements:

- (1) the base wage index;
- (2) the factors and supervision wage components; and
- (3) the formulas to calculate adjusted base wages and rates.

(b) Beginning January 15, 2026, 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 finance and policy with a full report on the information and data gathered under paragraph (a).

[See Note.]

Subd. 3. **Cost reporting.** (a) As determined by the commissioner, in consultation with stakeholders, a provider enrolled to provide services with rates determined under this chapter must submit requested cost data to the commissioner to support evaluation of the rate methodologies in this chapter. Requested cost data may include but are 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 the required cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner must provide each provider a 90-day notice prior to the provider's submission due date. The commissioner may review report submissions for inaccurate, inconclusive, incomplete, or otherwise deficient data and may remove the report from submitted status for further verification. If by 30 days after the required submission date a provider fails to submit required reporting data, the commissioner must provide notice to the provider. If by 60 days after the required submission date a provider has not provided the required data, the commissioner must provide a second notice. The commissioner must temporarily suspend payments to a provider if the commissioner has not received the required cost data 90 days after the required submission date or 90 days after the commissioner requests updated data. The commissioner must make withheld payments when the required cost data is received and reviewed for compliance by the commissioner.

(c) The commissioner shall coordinate the cost reporting activities required under this section with the cost reporting activities directed under section 256B.4914, subdivision 10a.

(d) The commissioner shall analyze cost documentation in paragraph (a) and, in consultation with stakeholders, may submit recommendations on rate methodologies in this chapter, including ways to monitor and enforce the spending requirements directed in section 256S.211, subdivision 4, through the reports directed by subdivision 2.

Subd. 4. Documentation of staffing; auditing and rate review for residential support services. (a) For purposes of this subdivision, residential support services include 24-hour customized living services, customized living services, family adult foster care, and corporate adult foster care.

(b) Effective January 1, 2029, a provider enrolled to provide residential support services under this subdivision must maintain documentation of direct staffing hours provided to each person receiving services, including but not limited to documentation identifying:

(1) the name, role, and unique identifier for each staff person who provided services to match records to payroll, time and attendance systems, and any other source documentation;

(2) the date services were provided;

(3) the total number of hours of direct support provided;

(4) awake overnight staffing hours provided, if applicable;

(5) asleep overnight staffing hours provided, if applicable; and

(6) any other staffing information required by the commissioner.

(c) A provider must maintain documentation in a manner and format determined by the commissioner for at least six years. If a provider changes payroll vendors, merges operations, or changes staffing identifiers, the provider must maintain a documented link between prior and current staffing identifiers sufficient to allow tracking of hours worked, turnover, and role classification for each staff person.

(d) A provider must submit the documentation required under paragraph (b) to the commissioner annually, in a manner and format determined by the commissioner. The commissioner must establish multiple submission windows throughout the calendar year and may assign providers to a submission window for

administrative efficiency and system capacity. Documentation must reflect staffing provided during the prior calendar year and must be submitted no later than the final business day of the provider's assigned submission window. The commissioner may conduct random or targeted validations and audits of submitted data and may require supplemental documentation as necessary to verify accuracy and compliance.

(e) The commissioner must conduct periodic analysis of documentation submitted under this subdivision and may validate staffing data through random audits or other verification methods.

(f) Based on the analysis under paragraph (e), the commissioner may provide recommendations to lead agencies regarding modifications to the rate of the person receiving services, including increases or decreases necessary to align the rate with staffing provided to the person as demonstrated by the submitted historical staffing documentation. Recommendations must be based on the requirements of this section and applicable federal and state requirements governing rate setting.

(g) If a provider fails to submit documentation requested within the submission window under paragraph (d), the commissioner must issue a written notice of noncompliance. If documentation is not received within 60 days following the notice of noncompliance, the commissioner may temporarily suspend payments to the provider until the required documentation is submitted. The commissioner must make withheld payments to the provider once the required documentation is received. If the noncompliance persists, the commissioner may adjust future rate payments, require the provider to submit a corrective action plan, or pursue other enforcement actions as authorized by law.

(h) The commissioner must publish annual aggregate reports summarizing audit findings and trends related to staffing provided under this section.

Subd. 5. Administrative fees charged by providers or vendors. The commissioner must limit administrative fees charged by enrolled providers or vendors approved by lead agencies to no more than six percent of the total cost of the service or purchased goods. This limit applies to the following services but allows for the addition of other services determined by the commissioner:

- (1) chore services billed daily;
- (2) transitional services; and
- (3) transportation.

History: 2019 c 54 art 1 s 25; 1Sp2021 c 7 art 13 s 63; 2023 c 61 art 2 s 16; 2026 c 88 art 1 s 154; 2026 c 95 art 4 s 35; 2026 c 121 art 9 s 49,50

NOTE: The amendment to subdivision 1 by Laws 2023, chapter 61, article 2, section 16, is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when approval is obtained. Laws 2023, chapter 61, article 2, section 16, the effective date.

NOTE: Subdivision 2, as added by Laws 2023, chapter 61, article 2, section 16, is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when approval is obtained. Laws 2023, chapter 61, article 2, section 16, the effective date.