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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3157

02/03/2022 Authored by Moller, Schomacker, Her, Feist and Edelson
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying the base wage index for employment
1.3 exploration services; amending Minnesota Statutes 2021 Supplement, section
1.4 256B.4914, subdivision 5.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2021 Supplement, section 256B.4914, subdivision 5, is
1.7 amended to read:

1.8 Subd. 5. Base wage index and standard component values. (a) The base wage index
1.9 is established to determine staffing costs associated with providing services to individuals
1.10 receiving home and community-based services. For purposes of developing and calculating
1.11 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
1.12 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
1.13 the most recent edition of the Occupational Handbook must be used. The base wage index
1.14 must be calculated as follows:

1.15 (1) for residential direct care staff, the sum of:

1.16 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
1.17 health aide (SOC code 39-9021); 30 percent of the median wage for nursing assistant (SOC
1.18 code 31-1014); and 20 percent of the median wage for social and human services aide (SOC
1.19 code 21-1093); and

1.20 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
1.21 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
1.22 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code

2.1 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
2.2 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

2.3 (2) for adult day services, 70 percent of the median wage for nursing assistant (SOC
2.4 code 31-1014); and 30 percent of the median wage for personal care aide (SOC code
2.5 39-9021);

2.6 (3) for day services, day support services, and prevocational services, 20 percent of the
2.7 median wage for nursing assistant (SOC code 31-1014); 20 percent of the median wage for
2.8 psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social
2.9 and human services aide (SOC code 21-1093);

2.10 (4) for residential asleep-overnight staff, the wage is the minimum wage in Minnesota
2.11 for large employers, except in a family foster care setting, the wage is 36 percent of the
2.12 minimum wage in Minnesota for large employers;

2.13 (5) for positive supports analyst staff, 100 percent of the median wage for mental health
2.14 counselors (SOC code 21-1014);

2.15 (6) for positive supports professional staff, 100 percent of the median wage for clinical
2.16 counseling and school psychologist (SOC code 19-3031);

2.17 (7) for positive supports specialist staff, 100 percent of the median wage for psychiatric
2.18 technicians (SOC code 29-2053);

2.19 (8) for supportive living services staff, 20 percent of the median wage for nursing assistant
2.20 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
2.21 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
2.22 21-1093);

2.23 (9) for housing access coordination staff, 100 percent of the median wage for community
2.24 and social services specialist (SOC code 21-1099);

2.25 (10) for in-home family support and individualized home supports with family training
2.26 staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of
2.27 the median wage for community social service specialist (SOC code 21-1099); 40 percent
2.28 of the median wage for social and human services aide (SOC code 21-1093); and ten percent
2.29 of the median wage for psychiatric technician (SOC code 29-2053);

2.30 (11) for individualized home supports with training services staff, 40 percent of the
2.31 median wage for community social service specialist (SOC code 21-1099); 50 percent of
2.32 the median wage for social and human services aide (SOC code 21-1093); and ten percent
2.33 of the median wage for psychiatric technician (SOC code 29-2053);

3.1 (12) for independent living skills staff, 40 percent of the median wage for community
3.2 social service specialist (SOC code 21-1099); 50 percent of the median wage for social and
3.3 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
3.4 technician (SOC code 29-2053);

3.5 (13) for employment support services staff, 50 percent of the median wage for
3.6 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
3.7 community and social services specialist (SOC code 21-1099);

3.8 (14) for employment exploration services staff, 50 percent of the median wage for
3.9 ~~rehabilitation counselor (SOC code 21-1015)~~ education, guidance, school, and vocational
3.10 counselors (SOC code 21-1012); and 50 percent of the median wage for community and
3.11 social services specialist (SOC code 21-1099);

3.12 (15) for employment development services staff, 50 percent of the median wage for
3.13 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
3.14 of the median wage for community and social services specialist (SOC code 21-1099);

3.15 (16) for individualized home support staff, 50 percent of the median wage for personal
3.16 and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing
3.17 assistant (SOC code 31-1014);

3.18 (17) for adult companion staff, 50 percent of the median wage for personal and home
3.19 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant
3.20 (SOC code 31-1014);

3.21 (18) for night supervision staff, 20 percent of the median wage for home health aide
3.22 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
3.23 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
3.24 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
3.25 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

3.26 (19) for respite staff, 50 percent of the median wage for personal and home care aide
3.27 (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code
3.28 31-1014);

3.29 (20) for personal support staff, 50 percent of the median wage for personal and home
3.30 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant
3.31 (SOC code 31-1014);

3.32 (21) for supervisory staff, 100 percent of the median wage for community and social
3.33 services specialist (SOC code 21-1099), with the exception of the supervisor of positive

4.1 supports professional, positive supports analyst, and positive supports specialists, which is
4.2 100 percent of the median wage for clinical counseling and school psychologist (SOC code
4.3 19-3031);

4.4 (22) for registered nurse staff, 100 percent of the median wage for registered nurses
4.5 (SOC code 29-1141); and

4.6 (23) for licensed practical nurse staff, 100 percent of the median wage for licensed
4.7 practical nurses (SOC code 29-2061).

4.8 (b) Component values for corporate foster care services, corporate supportive living
4.9 services daily, community residential services, and integrated community support services
4.10 are:

4.11 (1) competitive workforce factor: 4.7 percent;

4.12 (2) supervisory span of control ratio: 11 percent;

4.13 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

4.14 (4) employee-related cost ratio: 23.6 percent;

4.15 (5) general administrative support ratio: 13.25 percent;

4.16 (6) program-related expense ratio: 1.3 percent; and

4.17 (7) absence and utilization factor ratio: 3.9 percent.

4.18 (c) Component values for family foster care are:

4.19 (1) competitive workforce factor: 4.7 percent;

4.20 (2) supervisory span of control ratio: 11 percent;

4.21 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

4.22 (4) employee-related cost ratio: 23.6 percent;

4.23 (5) general administrative support ratio: 3.3 percent;

4.24 (6) program-related expense ratio: 1.3 percent; and

4.25 (7) absence factor: 1.7 percent.

4.26 (d) Component values for day training and habilitation, day support services, and
4.27 prevocational services are:

4.28 (1) competitive workforce factor: 4.7 percent;

4.29 (2) supervisory span of control ratio: 11 percent;

- 5.1 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 5.2 (4) employee-related cost ratio: 23.6 percent;
- 5.3 (5) program plan support ratio: 5.6 percent;
- 5.4 (6) client programming and support ratio: ten percent;
- 5.5 (7) general administrative support ratio: 13.25 percent;
- 5.6 (8) program-related expense ratio: 1.8 percent; and
- 5.7 (9) absence and utilization factor ratio: 9.4 percent.
- 5.8 (e) Component values for adult day services are:
- 5.9 (1) competitive workforce factor: 4.7 percent;
- 5.10 (2) supervisory span of control ratio: 11 percent;
- 5.11 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 5.12 (4) employee-related cost ratio: 23.6 percent;
- 5.13 (5) program plan support ratio: 5.6 percent;
- 5.14 (6) client programming and support ratio: 7.4 percent;
- 5.15 (7) general administrative support ratio: 13.25 percent;
- 5.16 (8) program-related expense ratio: 1.8 percent; and
- 5.17 (9) absence and utilization factor ratio: 9.4 percent.
- 5.18 (f) Component values for unit-based services with programming are:
- 5.19 (1) competitive workforce factor: 4.7 percent;
- 5.20 (2) supervisory span of control ratio: 11 percent;
- 5.21 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 5.22 (4) employee-related cost ratio: 23.6 percent;
- 5.23 (5) program plan supports ratio: 15.5 percent;
- 5.24 (6) client programming and supports ratio: 4.7 percent;
- 5.25 (7) general administrative support ratio: 13.25 percent;
- 5.26 (8) program-related expense ratio: 6.1 percent; and
- 5.27 (9) absence and utilization factor ratio: 3.9 percent.

- 6.1 (g) Component values for unit-based services without programming except respite are:
- 6.2 (1) competitive workforce factor: 4.7 percent;
- 6.3 (2) supervisory span of control ratio: 11 percent;
- 6.4 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 6.5 (4) employee-related cost ratio: 23.6 percent;
- 6.6 (5) program plan support ratio: 7.0 percent;
- 6.7 (6) client programming and support ratio: 2.3 percent;
- 6.8 (7) general administrative support ratio: 13.25 percent;
- 6.9 (8) program-related expense ratio: 2.9 percent; and
- 6.10 (9) absence and utilization factor ratio: 3.9 percent.
- 6.11 (h) Component values for unit-based services without programming for respite are:
- 6.12 (1) competitive workforce factor: 4.7 percent;
- 6.13 (2) supervisory span of control ratio: 11 percent;
- 6.14 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 6.15 (4) employee-related cost ratio: 23.6 percent;
- 6.16 (5) general administrative support ratio: 13.25 percent;
- 6.17 (6) program-related expense ratio: 2.9 percent; and
- 6.18 (7) absence and utilization factor ratio: 3.9 percent.
- 6.19 (i) The commissioner shall update the base wage index in paragraph (a), publish these
- 6.20 updated values, and load them into the rate management system as follows:
- 6.21 (1) on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics
- 6.22 available as of December 31, 2019;
- 6.23 (2) on November 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics
- 6.24 available as of December 31, 2021; and
- 6.25 (3) on July 1, 2026, and every two years thereafter, based on wage data by SOC from
- 6.26 the Bureau of Labor Statistics available 30 months and one day prior to the scheduled update.
- 6.27 (j) Beginning February 1, 2021, and every two years thereafter, the commissioner shall
- 6.28 report to the chairs and ranking minority members of the legislative committees and divisions
- 6.29 with jurisdiction over health and human services policy and finance an analysis of the

7.1 competitive workforce factor. The report must include recommendations to update the
7.2 competitive workforce factor using:

7.3 (1) the most recently available wage data by SOC code for the weighted average wage
7.4 for direct care staff for residential services and direct care staff for day services;

7.5 (2) the most recently available wage data by SOC code of the weighted average wage
7.6 of comparable occupations; and

7.7 (3) workforce data as required under subdivision 10a, paragraph (g).

7.8 The commissioner shall not recommend an increase or decrease of the competitive workforce
7.9 factor from the current value by more than two percentage points. If, after a biennial analysis
7.10 for the next report, the competitive workforce factor is less than or equal to zero, the
7.11 commissioner shall recommend a competitive workforce factor of zero.

7.12 (k) The commissioner shall update the framework components in paragraph (d), clause
7.13 (6); paragraph (e), clause (6); paragraph (f), clause (6); and paragraph (g), clause (6);
7.14 subdivision 6, paragraphs (b), clauses (9) and (10), and (e), clause (10); and subdivision 7,
7.15 clauses (11), (17), and (18), for changes in the Consumer Price Index. The commissioner
7.16 shall adjust these values higher or lower, publish these updated values, and load them into
7.17 the rate management system as follows:

7.18 (1) on January 1, 2022, by the percentage change in the CPI-U from the date of the
7.19 previous update to the data available on December 31, 2019;

7.20 (2) on November 1, 2024, by the percentage change in the CPI-U from the date of the
7.21 previous update to the data available as of December 31, 2021; and

7.22 (3) on July 1, 2026, and every two years thereafter, by the percentage change in the
7.23 CPI-U from the date of the previous update to the data available 30 months and one day
7.24 prior to the scheduled update.

7.25 (l) Upon the implementation of the updates under paragraphs (i) and (k), rate adjustments
7.26 authorized under section 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section
7.27 60; and Laws 2014, chapter 312, article 27, section 75, shall be removed from service rates
7.28 calculated under this section.

7.29 (m) Any rate adjustments applied to the service rates calculated under this section outside
7.30 of the cost components and rate methodology specified in this section shall be removed
7.31 from rate calculations upon implementation of the updates under paragraphs (i) and (k).

8.1 (n) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer
8.2 Price Index items are unavailable in the future, the commissioner shall recommend to the
8.3 legislature codes or items to update and replace missing component values.

8.4 (o) At least 80 percent of the marginal increase in revenue from the rate adjustment
8.5 applied to the service rates calculated under this section in paragraphs (i) and (k) beginning
8.6 on January 1, 2022, for services rendered between January 1, 2022, and March 31, 2024,
8.7 must be used to increase compensation-related costs for employees directly employed by
8.8 the program on or after January 1, 2022. For the purposes of this paragraph,
8.9 compensation-related costs include:

8.10 (1) wages and salaries;

8.11 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
8.12 taxes, workers' compensation, and mileage reimbursement;

8.13 (3) the employer's paid share of health and dental insurance, life insurance, disability
8.14 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
8.15 employee retirement accounts; and

8.16 (4) benefits that address direct support professional workforce needs above and beyond
8.17 what employees were offered prior to January 1, 2022, including retention and recruitment
8.18 bonuses and tuition reimbursement.

8.19 Compensation-related costs for persons employed in the central office of a corporation or
8.20 entity that has an ownership interest in the provider or exercises control over the provider,
8.21 or for persons paid by the provider under a management contract, do not count toward the
8.22 80 percent requirement under this paragraph. A provider agency or individual provider that
8.23 receives a rate subject to the requirements of this paragraph shall prepare, and upon request
8.24 submit to the commissioner, a distribution plan that specifies the amount of money the
8.25 provider expects to receive that is subject to the requirements of this paragraph, including
8.26 how that money was or will be distributed to increase compensation-related costs for
8.27 employees. Within 60 days of final implementation of a rate adjustment subject to the
8.28 requirements of this paragraph, the provider must post the distribution plan and leave it
8.29 posted for a period of at least six months in an area of the provider's operation to which all
8.30 direct support professionals have access.

8.31 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
8.32 whichever is later. The commissioner of human services shall inform the revisor of statutes
8.33 when federal approval is obtained.