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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3391

02/12/2024 Authored by Edelson, Curran, Baker, Nadeau and Zeleznikar The bill was read for the first time and referred to the Committee on Human Services Finance

1.1 A bill for an act
1.2 relating to human services; providing funding to nursing facilities for
1.3 compensation-related costs.

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

1.5 Section 1. NURSING FACILITY FUNDING FOR COMPENSATION-RELATED
1.6 COSTS.

1.7 Subdivision 1. Temporary rate increase. Effective July 1, 2024, through December
1.8 31, 2026, the total payment rate for all facilities reimbursed under Minnesota Statutes,
1.9 chapter 256R, must be increased by \$52 per resident day.

1.10 Subd. 2. Attestation; employees directly employed by the facility. To be eligible to
1.11 receive a payment under this section, a nursing facility must attest to the commissioner of
1.12 human services that the additional revenue will be used exclusively to increase
1.13 compensation-related costs for employees directly employed by the facility on or after July
1.14 1, 2024, excluding:

- 1.15 (1) owners of the building and operation;
1.16 (2) persons employed in the central office of an entity that has any ownership interest
1.17 in the nursing facility or exercises control over the nursing facility;
1.18 (3) persons paid by the nursing facility under a management contract; and
1.19 (4) persons providing separately billable services.

1.20 Subd. 3. Contracted employees. Contracted housekeeping, dietary, and laundry
1.21 employees providing services on site at the nursing facility are eligible for

2.1 compensation-related cost increases under this section, provided the agency that employs
2.2 the employees submits to the nursing facility proof of the costs of the increases provided
2.3 to those employees.

2.4 Subd. 4. **Compensation-related costs.** For purposes of this section, compensation-related
2.5 costs include:

2.6 (1) permanent new increases to wages and salaries implemented on or after July 1, 2024,
2.7 and before September 1, 2024, for nursing facility employees;

2.8 (2) permanent new increases to wages and salaries implemented on or after July 1, 2024,
2.9 and before September 1, 2024, for employees in the organization's shared services
2.10 departments of hospital-attached nursing facilities for the nursing-facility-allocated share
2.11 of wages; and

2.12 (3) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
2.13 taxes, PERA, workers' compensation, and pension and employee retirement accounts directly
2.14 associated with the wage and salary increases in clauses (1) and (2) incurred no later than
2.15 December 31, 2026, and paid for no later than June 30, 2027.

2.16 Subd. 5. **Distribution plan.** A facility that receives a rate increase under this section
2.17 must complete a distribution plan in the form and manner determined by the commissioner.
2.18 This plan must specify the total amount of money the facility is estimated to receive from
2.19 this rate increase and how that money will be distributed to increase the allowable
2.20 compensation-related costs described in subdivision 4 for employees described in
2.21 subdivisions 2 and 3. This estimate must be calculated by: (1) multiplying \$52 and the sum
2.22 of the medical assistance and private pay resident days as defined in Minnesota Statutes,
2.23 section 256R.02, subdivision 45, for the period beginning October 1, 2022, through
2.24 September 30, 2023; (2) dividing the sum of clause (1) by 365; and (3) multiplying the
2.25 result of clause (2) by 915. A facility must submit its distribution plan to the commissioner
2.26 by October 1, 2024. The commissioner may review the distribution plan to ensure that the
2.27 payment rate adjustment per resident day is used in accordance with this section. The
2.28 commissioner may allow for a distribution plan amendment under exceptional circumstances
2.29 to be determined at the sole discretion of the commissioner.

2.30 Subd. 6. **Distribution plan summary.** By September 1, 2024, a facility must post the
2.31 distribution plan summary and leave it posted for a period of at least six months in an area
2.32 of the facility to which all employees have access. The posted distribution plan summary
2.33 must be in the form and manner determined by the commissioner. The distribution plan
2.34 summary must include instructions regarding how to contact the commissioner or the

3.1 commissioner's representative if an employee believes the employee is covered by subdivision
3.2 2 or 3 and has not received the compensation-related increases described in subdivision 4.
3.3 The instruction to employees must include the email address and telephone number that
3.4 may be used by the employee to contact the commissioner's representative. The posted
3.5 distribution plan summary must demonstrate how the increase in subdivision 1 received by
3.6 the nursing facility from July 1, 2024, through December 31, 2026, will be used in full to
3.7 pay the compensation-related costs in subdivision 4 for employees described in subdivisions
3.8 2 and 3.

3.9 Subd. 7. **Overpayments and recoveries.** If the nursing facility expends less on new
3.10 compensation-related costs than the amount made available by the rate increase in this
3.11 section for that purpose, the amount of this rate adjustment must be reduced to equal the
3.12 amount expended by the facility for purposes authorized under this section. If the facility
3.13 fails to post the distribution plan summary as required, fails to submit its distribution plan
3.14 to the commissioner by the due date, or uses these funds for unauthorized purposes, these
3.15 rate increases must be treated as an overpayment and subsequently recovered.

3.16 Subd. 8. **Treatment as an applicable credit prohibited.** The commissioner must not
3.17 treat payments received under this section as an applicable credit for purposes of setting
3.18 total payment rates under Minnesota Statutes, chapter 256R.

3.19 **EFFECTIVE DATE.** This section is effective July 1, 2024, or upon federal approval,
3.20 whichever is later. The commissioner of human services shall notify the revisor of statutes
3.21 when approval is obtained.