

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 3826

(SENATE AUTHORS: ABELER and Hoffman)

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OFFICIAL STATUS
Introduction and first reading
Referred to Human Services Reform Finance and Policy

1.1 A bill for an act
1.2 relating to human services; establishing a 24-hour customized living service rate
1.3 floor for certain facilities; amending Minnesota Statutes 2019 Supplement, sections
1.4 256B.4914, subdivision 6; 256S.203; proposing coding for new law in Minnesota
1.5 Statutes, chapter 256S.

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

1.7 Section 1. Minnesota Statutes 2019 Supplement, section 256B.4914, subdivision 6, is
1.8 amended to read:

1.9 Subd. 6. **Payments for residential support services.** (a) For purposes of this subdivision,
1.10 residential support services includes 24-hour customized living services, community
1.11 residential services, customized living services, family residential services, foster care
1.12 services, integrated community supports, and supportive living services daily.

1.13 (b) Payments for community residential services, corporate foster care services, corporate
1.14 supportive living services daily, family residential services, and family foster care services
1.15 must be calculated as follows:

1.16 (1) determine the number of shared staffing and individual direct staff hours to meet a
1.17 recipient's needs provided on site or through monitoring technology;

1.18 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
1.19 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
1.20 5;

1.21 (3) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the
1.22 result of clause (2) by the product of one plus the competitive workforce factor in subdivision
1.23 5, paragraph (b), clause (1);

2.1 (4) for a recipient requiring customization for deaf and hard-of-hearing language
2.2 accessibility under subdivision 12, add the customization rate provided in subdivision 12
2.3 to the result of clause (3);

2.4 (5) multiply the number of shared and individual direct staff hours provided on site or
2.5 through monitoring technology and nursing hours by the appropriate staff wages;

2.6 (6) multiply the number of shared and individual direct staff hours provided on site or
2.7 through monitoring technology and nursing hours by the product of the supervision span
2.8 of control ratio in subdivision 5, paragraph (b), clause (2), and the appropriate supervision
2.9 wage in subdivision 5, paragraph (a), clause (21);

2.10 (7) combine the results of clauses (5) and (6), excluding any shared and individual direct
2.11 staff hours provided through monitoring technology, and multiply the result by one plus
2.12 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b),
2.13 clause (3). This is defined as the direct staffing cost;

2.14 (8) for employee-related expenses, multiply the direct staffing cost, excluding any shared
2.15 and individual direct staff hours provided through monitoring technology, by one plus the
2.16 employee-related cost ratio in subdivision 5, paragraph (b), clause (4);

2.17 (9) for client programming and supports, the commissioner ~~shall~~ must add \$2,179; and

2.18 (10) for transportation, if provided, the commissioner ~~shall~~ must add \$1,680, or \$3,000
2.19 if customized for adapted transport, based on the resident with the highest assessed need.

2.20 (c) The total rate must be calculated using the following steps:

2.21 (1) subtotal paragraph (b), clauses (8) to (10), and the direct staffing cost of any shared
2.22 and individual direct staff hours provided through monitoring technology that was excluded
2.23 in clause (8);

2.24 (2) sum the standard general and administrative rate, the program-related expense ratio,
2.25 and the absence and utilization ratio;

2.26 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
2.27 payment amount; and

2.28 (4) adjust the result of clause (3) by a factor to be determined by the commissioner to
2.29 adjust for regional differences in the cost of providing services.

2.30 (d) The payment methodology for customized living, 24-hour customized living, and
2.31 residential care services must be the customized living tool. Revisions to the customized

3.1 living tool must be made to reflect the services and activities unique to disability-related
3.2 recipient needs and the rate adjustments described in section 256S.205.

3.3 (e) Payments for integrated community support services must be calculated as follows:

3.4 (1) the base shared staffing ~~shall~~ must be eight hours divided by the number of people
3.5 receiving support in the integrated community support setting;

3.6 (2) the individual staffing hours ~~shall~~ must be the average number of direct support hours
3.7 provided directly to the service recipient;

3.8 (3) the personnel hourly wage rate must be based on the most recent Bureau of Labor
3.9 Statistics Minnesota-specific rates or rates derived by the commissioner as provided in
3.10 subdivision 5;

3.11 (4) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the
3.12 result of clause (3) by the product of one plus the competitive workforce factor in subdivision
3.13 5, paragraph (b), clause (1);

3.14 (5) for a recipient requiring customization for deaf and hard-of-hearing language
3.15 accessibility under subdivision 12, add the customization rate provided in subdivision 12
3.16 to the result of clause (4);

3.17 (6) multiply the number of shared and individual direct staff hours in clauses (1) and
3.18 (2) by the appropriate staff wages;

3.19 (7) multiply the number of shared and individual direct staff hours in clauses (1) and
3.20 (2) by the product of the supervisory span of control ratio in subdivision 5, paragraph (b),
3.21 clause (2), and the appropriate supervisory wage in subdivision 5, paragraph (a), clause
3.22 (21);

3.23 (8) combine the results of clauses (6) and (7) and multiply the result by one plus the
3.24 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b), clause
3.25 (3). This is defined as the direct staffing cost;

3.26 (9) for employee-related expenses, multiply the direct staffing cost by one plus the
3.27 employee-related cost ratio in subdivision 5, paragraph (b), clause (4); and

3.28 (10) for client programming and supports, the commissioner ~~shall~~ must add \$2,260.21
3.29 divided by 365.

3.30 (f) The total rate must be calculated as follows:

3.31 (1) add the results of paragraph (e), clauses (9) and (10);

4.1 (2) add the standard general and administrative rate, the program-related expense ratio,
4.2 and the absence and utilization factor ratio;

4.3 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
4.4 payment amount; and

4.5 (4) adjust the result of clause (3) by a factor to be determined by the commissioner to
4.6 adjust for regional differences in the cost of providing services.

4.7 (g) The payment methodology for customized living and 24-hour customized living
4.8 services must be the customized living tool. The commissioner ~~shall~~ must revise the
4.9 customized living tool to reflect the services and activities unique to disability-related
4.10 recipient needs and adjust for regional differences in the cost of providing services. The
4.11 commissioner must revise the customized living tool to incorporate the rate adjustment
4.12 described in section 256S.205.

4.13 (h) The number of days authorized for all individuals enrolling in residential services
4.14 must include every day that services start and end.

4.15 Sec. 2. Minnesota Statutes 2019 Supplement, section 256S.203, is amended to read:

4.16 **256S.203 CUSTOMIZED LIVING SERVICES; MANAGED CARE RATES.**

4.17 Subdivision 1. **Capitation payments.** The commissioner ~~shall~~ must adjust the elderly
4.18 waiver capitation payment rates for managed care organizations paid to reflect the monthly
4.19 service rate limits for customized living services and 24-hour customized living services
4.20 established under section 256S.202 and the rate adjustments for disproportionate share
4.21 facilities under section 256S.205.

4.22 Subd. 2. **Reimbursement rates.** Medical assistance rates paid to customized living
4.23 providers by managed care organizations under this chapter ~~shall~~ must not exceed the
4.24 monthly service rate limits and component rates as determined by the commissioner under
4.25 sections 256S.15 and 256S.20 to 256S.202, plus any rate adjustment under section 256S.205.

4.26 Sec. 3. **[256S.205] CUSTOMIZED LIVING SERVICES; DISPROPORTIONATE**
4.27 **SHARE RATE ADJUSTMENTS.**

4.28 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
4.29 subdivision have the meanings given.

5.1 (b) "Assisted living facility" or "facility" means either a housing with services
5.2 establishment registered under chapter 144D and operating under title protection under
5.3 sections 144G.01 to 144G.07 or an assisted living facility licensed under chapter 144G.

5.4 (c) "Disproportionate share facility" means an assisted living facility designated by the
5.5 commissioner under subdivision 4.

5.6 Subd. 2. **Rate adjustment application.** An assisted living facility may apply to the
5.7 commissioner for designation as a disproportionate share facility. Applications must be
5.8 submitted annually between June 1 and June 15. The applying facility must apply in a
5.9 manner determined by the commissioner. The applying facility must document as a
5.10 percentage the census of elderly waiver participants residing in the facility on May 1 of the
5.11 year of application.

5.12 Subd. 3. **Rate adjustment eligibility criteria.** (a) Only facilities with a census of at
5.13 least 80 percent elderly waiver participants on May 1 of the application year are eligible
5.14 for designation as a disproportionate share facility.

5.15 (b) Only the following facilities are eligible for designation as a disproportionate share
5.16 facility:

5.17 (1) facilities located in Brooklyn Center, Hennepin County, with 158 living units and
5.18 originally registered on March 14, 2018;

5.19 (2) facilities in West St. Paul, Dakota County, with 164 living units and originally
5.20 registered on August 29, 2016; or

5.21 (3) facilities in St. Cloud, Sherburne County, with 137 living units and originally
5.22 registered on December 21, 2017.

5.23 Subd. 4. **Designation as a disproportionate share facility.** By June 30 of each year,
5.24 the commissioner must designate as a disproportionate share facility a facility that complies
5.25 with the application requirements of subdivision 2 and meets the eligibility criteria of
5.26 subdivision 3.

5.27 Subd. 5. **Rate adjustment; rate floor.** (a) Notwithstanding the 24-hour customized
5.28 living monthly service rate limits under section 256S.202, subdivision 2, and the component
5.29 service rates established under section 256S.201, subdivision 4, the commissioner must
5.30 establish a rate floor equal to \$115 for 24-hour customized living services provided in a
5.31 designated disproportionate share facility.

5.32 (b) The commissioner must adjust the rate floor at least annually in the manner described
5.33 under section 256S.18, subdivisions 5 and 6.

6.1 Subd. 6. **Budget cap disregard.** The value of the rate adjustment under this section
6.2 must not be included in an elderly waiver client's monthly case mix budget cap.

6.3 **EFFECTIVE DATE.** This section is effective July 1, 2020, or upon federal approval,
6.4 whichever is later, and applies to services provided on or after July 1, 2020, or on or after
6.5 the date upon which federal approval is obtained, whichever is later. The commissioner of
6.6 human services must inform the revisor of statutes when federal approval is obtained.