

system, multicounty multitype library system, the following local collaboratives whose plans have been approved by the Children's Cabinet: family services collaboratives established under section 124D.23, children's mental health collaboratives established under sections 245.491 to 245.495, or a collaborative established by the merger of a children's mental health collaborative and a family services collaborative, other political subdivision, ~~or~~ community action agency, or a limited partnership in which a community action agency is the sole general partner.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment and applies to actions arising from incidents occurring on or after that date.

Presented to the governor May 10, 2004

Signed by the governor May 13, 2004, 12:05 p.m.

CHAPTER 194—S.F.No. 1604

An act relating to human services; requiring the commissioner of human services to provide rate notices within certain timelines under certain conditions; requiring a planned nursing facility closure to be budget neutral; requiring a recommendation to establish a new nursing facility reimbursement; amending Minnesota Statutes 2002, sections 256B.431, subdivision 10; 256B.437, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 256B.

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

Section 1. Minnesota Statutes 2002, section 256B.431, subdivision 10, is amended to read:

Subd. 10. **PROPERTY RATE ADJUSTMENTS AND CONSTRUCTION PROJECTS.** A nursing facility's request for a property-related payment rate adjustment and the related supporting documentation of project construction cost information must be submitted to the commissioner within 60 days after the construction project's completion date to be considered eligible for a property-related payment rate adjustment. The commissioner shall provide a rate notice reflecting the allowable costs within 60 days after receiving all the necessary information to compute the rate adjustment. No sooner than the effective date of the rate adjustment for the building project, a nursing facility may adjust its rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective. Construction projects with completion dates within one year of the completion date associated with the property rate adjustment request and phased projects with project completion dates within three years of the last phase of the phased project must be aggregated for purposes of the minimum thresholds in subdivisions 16

New language is indicated by underline, deletions by ~~strikeout~~.

and 17, and the maximum threshold in section 144A.071, subdivision 2. "Construction project" and "project construction costs" have the meanings given them in Minnesota Statutes, section 144A.071, subdivision 1a.

Sec. 2. Minnesota Statutes 2002, section 256B.437, subdivision 3, is amended to read:

Subd. 3. APPLICATIONS FOR PLANNED CLOSURE OF NURSING FACILITIES. (a) By August 15, 2001, the commissioner of human services shall implement and announce a program for closure or partial closure of nursing facilities. Names and identifying information provided in response to the announcement shall remain private unless approved, according to the timelines established in the plan. The announcement must specify:

(1) the criteria in subdivision 4 that will be used by the commissioner to approve or reject applications;

(2) the information that must accompany an application; and

(3) that applications may combine planned closure rate adjustments with moratorium exception funding, in which case a single application may serve both purposes.

Between August 1, 2001, and June 30, 2003, the commissioner may approve planned closures of up to 5,140 nursing facility beds, less the number of beds delicensed in facilities during the same time period without approved closure plans or that have notified the commissioner of health of their intent to close without an approved closure plan. Beginning July 1, 2004, the commissioner may negotiate a planned closure for nursing facilities providing the proposal has no cost to the state.

(b) A facility or facilities reimbursed under section 256B.431 or 256B.434 with a closure plan approved by the commissioner under subdivision 5 may assign a planned closure rate adjustment to another facility or facilities that are not closing or in the case of a partial closure, to the facility undertaking the partial closure. A facility may also elect to have a planned closure rate adjustment shared equally by the five nursing facilities with the lowest total operating payment rates in the state development region designated under section 462.385, in which the facility that is closing is located. The planned closure rate adjustment must be calculated under subdivision 6. Facilities that delicense beds without a closure plan, or whose closure plan is not approved by the commissioner, are not eligible to assign a planned closure rate adjustment under subdivision 6, unless they are delicensing five or fewer beds; or less than six percent of their total licensed bed capacity, whichever is greater, are located in a county in the top three quartiles of beds per 1,000 persons aged 65 or older, and have not delicensed beds in the prior three months. Facilities meeting these criteria are eligible to assign the amount calculated under subdivision 6 to themselves. If a facility is delicensing the greater of six or more beds, or six percent or more of its total licensed bed capacity, and does not have an approved closure plan or is not eligible for the adjustment under subdivision 6, the commissioner shall calculate the amount the facility would have been eligible to assign under subdivision 6, and shall use this amount to provide equal

New language is indicated by underline, deletions by ~~strikeout~~.

rate adjustments to the five nursing facilities with the lowest total operating payment rates in the state development region designated under section 462.385, in which the facility that delicensed beds is located.

(c) To be considered for approval, an application must include:

(1) a description of the proposed closure plan, which must include identification of the facility or facilities to receive a planned closure rate adjustment;

(2) the proposed timetable for any proposed closure, including the proposed dates for announcement to residents, commencement of closure, and completion of closure;

(3) if available, the proposed relocation plan for current residents of any facility designated for closure. If a relocation plan is not available, the application must include a statement agreeing to develop a relocation plan designed to comply with section 144A.161;

(4) a description of the relationship between the nursing facility that is proposed for closure and the nursing facility or facilities proposed to receive the planned closure rate adjustment. If these facilities are not under common ownership, copies of any contracts, purchase agreements, or other documents establishing a relationship or proposed relationship must be provided;

(5) documentation, in a format approved by the commissioner, that all the nursing facilities receiving a planned closure rate adjustment under the plan have accepted joint and several liability for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under the plan; and

(6) an explanation of how the application coordinates with planning efforts under subdivision 2. If the planning group does not support a level of nursing facility closures that the commissioner considers to be reasonable, the commissioner may approve a planned closure proposal without its support.

(d) The application must address the criteria listed in subdivision 4.

Sec. 3. [256B.440] RECOMMENDATION TO ESTABLISH NEW NURSING FACILITY REIMBURSEMENT SYSTEM.

Subdivision 1. IN GENERAL. The commissioner shall present to the legislature, by January 15, 2005, a recommendation to establish a new nursing facility reimbursement system that provides facility-specific, prospective payment rates for nursing facilities participating in the medical assistance program. The rates shall be determined using a statistical and cost report filed by each nursing facility. The total payment rate shall be composed of four rate components: direct-care services, support services, external fixed, and property-related costs. The payment rate shall be derived from statistical measures of actual costs incurred in the operation of nursing facilities. From this cost basis, the components of the total payment rate shall be adjusted for quality of services provided, actual costs of operation of each facility, geographic variation in labor costs, rental value, and resident acuity.

Subd. 2. RECOMMENDATION FOR ESTABLISHMENT BEGINNING OCTOBER 1, 2006. The recommendation in subdivision 1 shall provide for the

New language is indicated by underline, deletions by ~~strikeout~~.

establishment of all or part of a nursing facility's rates under the new nursing facility reimbursement system beginning on October 1, 2006. Rates shall be rebased annually. Effective January 1, 2005, each cost reporting year shall begin on January 1 and end on the following December 31. A cost report shall be filed by each nursing facility by March 31. Notice of rates shall be distributed by August 1 and the rates shall go into effect on October 1 for one year.

Subd. 3. REPORTING OF BASELINE STATISTICAL AND COST INFORMATION. (a) Nursing facilities shall file a baseline statistical and cost report on or before August 31, 2004, for the reporting period ending either September 30, 2003, or December 31, 2003. After July 1, 2004, the report required under Minnesota Rules, part 9549.0041, subpart 1, shall no longer be required. For the period between January 1, 2004, and December 31, 2004, the commissioner may collect statistical and cost information from facilities in no greater detail than items collected from facilities under section 256B.431 or section 256B.434, whichever is applicable, for the year ending September 30, 2003.

(b) All nursing facilities shall provide information to the commissioner in the form and manner specified by the commissioner. The commissioner shall consult with stakeholders in developing the baseline statistical and cost report that will be used to collect all data necessary to develop and model the new nursing facility reimbursement system.

(c) Nursing facilities shall report as costs of the nursing facility only costs directly related to the operation of the nursing facility. The facility shall not include costs that are separately reimbursed by residents, medical assistance, or other payors. The commissioner may grant to facilities one extension of up to ten days for the filing of this report, if the extension is requested by August 1. The commissioner may require facilities to submit separately, in the form and manner specified by the commissioner, documentation of statistical and cost information included in the report, in order to ensure accuracy in modeling payment rates and to perform audit and appeal review functions under this section. Facilities shall retain all records necessary to document statistical and cost information provided in the report for a period of no less than seven years.

(d) The commissioner may reject a report filed by a nursing facility under this section if the commissioner determines that the report has been filed in a form that is incomplete or inaccurate and the information is insufficient to model accurate payment rates. If a report is rejected or is not submitted in a timely manner, the commissioner shall reduce payments to a nursing facility to 85 percent of amounts due until the information is completely and accurately filed. The reinstatement of withheld payments shall be retroactive for no more than 90 days. A nursing facility whose report is rejected shall be given notice of the rejection, the reasons for the rejection, and an opportunity to correct the report prior to any payment reduction. A nursing facility that does not submit a report shall be given a prior written notice of the payment reduction.

(e) The commissioner shall use the baseline statistical and cost report data to model and simulate the new nursing facility reimbursement system. Modeling shall be

New language is indicated by underline, deletions by strikeout.

done using both budget neutrality and additional funding assumptions.

(f) The data set in which statistical and cost reports are compiled shall, upon request, be released by the commissioner, once it has been used for statistical analyses for purposes of modeling rate setting.

(g) The commissioner shall determine, in consultation with stakeholders and experts, methods that shall be used to integrate quality measures into the new nursing facility reimbursement system. For the modeling and simulations of the baseline data, the quality measures shall include, at a minimum:

- (1) direct care hours per standardized resident day;
- (2) staff turnover;
- (3) staff retention;
- (4) use of pool staff;
- (5) proportion of beds in single bed rooms;
- (6) quality indicators from the minimum data set; and
- (7) survey deficiencies.

If data analysis of the modeling and simulations indicates that revisions, deletions, or additional indicators are needed, those modifications shall be made prior to the initial rate year. The quality measures used to determine a component of the payment rates shall be established for a rate year using data submitted in the statistical and cost report from the associated reporting year, and using data from other sources related to the reporting year.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor May 10, 2004

Signed by the governor May 13, 2004, 12:01 p.m.

CHAPTER 195—H.F.No. 2691

An act relating to human services; council on disability; permitting the council to meet by telephone or electronic means if certain conditions are met; amending Minnesota Statutes 2002, section 256.482, by adding a subdivision.

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

Section 1. Minnesota Statutes 2002, section 256.482, is amended by adding a subdivision to read:

Subd. 5b. MEETINGS. (a) Notwithstanding section 13D.01, the Minnesota State Council on Disability may conduct a meeting of its members by telephone or other

New language is indicated by underline, deletions by ~~strikeout~~.