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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2409

02/27/2014 Authored by Isaacson, Schomacker, Fritz, Woodard and Dorholt
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to human services; modifying reimbursement rates for intermediate
1.3 care facilities for persons with developmental disabilities and home and
1.4 community-based services providers; appropriating money; amending Minnesota
1.5 Statutes 2012, section 256B.5012, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2012, section 256B.5012, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 16. ICF/DD rate increases effective July 1, 2014. (a) For the rate period
1.10 beginning July 1, 2014, the commissioner shall increase operating payments for each
1.11 facility reimbursed under this section equal to five percent of the operating payment
1.12 rates in effect on June 30, 2014.

1.13 (b) For each facility, the commissioner shall apply the rate increase based on
1.14 occupied beds, using the percentage specified in this subdivision multiplied by the total
1.15 payment rate, including the variable rate but excluding the property-related payment
1.16 rate in effect on the preceding date. The total rate increase shall include the adjustment
1.17 provided in section 256B.501, subdivision 12.

1.18 (c) Facilities that receive a rate increase under this subdivision shall use 75 percent
1.19 of the additional revenue to increase compensation-related costs for employees directly
1.20 employed by the facility on or after the effective date of the rate adjustments, except:

1.21 (1) persons employed in the central office of a corporation or entity that has an
1.22 ownership interest in the facility or exercises control over the facility; and

1.23 (2) persons paid by the facility under a management contract.

1.24 (d) Compensation-related costs include:

1.25 (1) wages and salaries;

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

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

2.6 (4) other benefits provided and workforce needs, including the recruiting and
2.7 training of employees as specified in the distribution plan required under paragraph (h).

2.8 (e) For public employees, the increase for wages and benefits for certain staff is
2.9 available and pay rates must be increased only to the extent that the increases comply with
2.10 laws governing public employees' collective bargaining. Money received by a facility for
2.11 pay increases for public employees under this subdivision may be used only for increases
2.12 implemented within one month of the effective date of the rate increase and must not be
2.13 used for increases implemented prior to that date.

2.14 (f) The commissioner shall amend state grant contracts that include direct
2.15 personnel-related grant expenditures to include the allocation for the portion of the contract
2.16 related to employee compensation. Grant contracts for compensation-related services
2.17 must be amended to pass through these adjustments within 60 days of the effective date of
2.18 the increase and must be retroactive to the effective date of the rate adjustment.

2.19 (g) The Board on Aging and its area agencies on aging shall amend their grants that
2.20 include direct personnel-related grant expenditures to include the rate adjustment for the
2.21 portion of the grant related to employee compensation. Grants for compensation-related
2.22 services must be amended to pass through these adjustments within 60 days of the effective
2.23 date of the increase and must be retroactive to the effective date of the rate adjustment.

2.24 (h) A facility that receives a rate adjustment under paragraph (a) that is subject to
2.25 paragraphs (c) and (d) shall prepare, and produce for the commissioner upon request, a
2.26 plan that specifies the amount of money the facility expects to receive that is subject to
2.27 the requirements of paragraphs (c) and (d), as well as how that money will be distributed
2.28 to increase compensation for employees.

2.29 (i) Within six months after the effective date of the rate adjustment, the facility shall
2.30 post the distribution plan required under paragraph (h) for a period of at least six weeks in
2.31 an area of the facility's operation to which all eligible employees have access and shall
2.32 provide instructions for employees who believe they have not received the wage and
2.33 other compensation-related increases specified in the distribution plan. Instructions must
2.34 include a mailing address, e-mail address, and telephone number that an employee may
2.35 use to contact the commissioner or the commissioner's representative. Facilities shall also

3.1 make assurances to the commissioner and counties with whom they have a contract that
3.2 they have complied with this subdivision.

3.3 **Sec. 2. PROVIDER RATE AND GRANT INCREASES EFFECTIVE JULY**
3.4 **1, 2014.**

3.5 (a) The commissioner of human services shall increase reimbursement rates, grants,
3.6 allocations, individual limits, and rate limits, as applicable, by five percent for the rate
3.7 period beginning July 1, 2014, for services rendered on or after those dates. County or
3.8 tribal contracts for services specified in this section must be amended to pass through
3.9 these rate increases within 60 days of the effective date.

3.10 (b) The rate changes described in this section must be provided to:

3.11 (1) home and community-based waived services for persons with developmental
3.12 disabilities or related conditions, including consumer-directed community supports, under
3.13 Minnesota Statutes, section 256B.501;

3.14 (2) waived services under community alternatives for disabled individuals,
3.15 including consumer-directed community supports, under Minnesota Statutes, section
3.16 256B.49;

3.17 (3) community alternative care waived services, including consumer-directed
3.18 community supports, under Minnesota Statutes, section 256B.49;

3.19 (4) brain injury waived services, including consumer-directed community
3.20 supports, under Minnesota Statutes, section 256B.49;

3.21 (5) home and community-based waived services for the elderly under Minnesota
3.22 Statutes, section 256B.0915;

3.23 (6) nursing services and home health services under Minnesota Statutes, section
3.24 256B.0625, subdivision 6a;

3.25 (7) personal care services and qualified professional supervision of personal care
3.26 services under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;

3.27 (8) private duty nursing services under Minnesota Statutes, section 256B.0625,
3.28 subdivision 7;

3.29 (9) day training and habilitation services for adults with developmental disabilities
3.30 or related conditions under Minnesota Statutes, sections 252.41 to 252.46, including the
3.31 additional cost of rate adjustments on day training and habilitation services, provided as a
3.32 social service, under Minnesota Statutes, section 256M.60;

3.33 (10) alternative care services under Minnesota Statutes, section 256B.0913;

3.34 (11) living skills training programs for persons with intractable epilepsy who need
3.35 assistance in the transition to independent living under Laws 1988, chapter 689;

4.1 (12) semi-independent living services (SILS) under Minnesota Statutes, section
4.2 252.275, including SILS funding under county social services grants formerly funded
4.3 under Minnesota Statutes, chapter 256M;

4.4 (13) consumer support grants under Minnesota Statutes, section 256.476;

4.5 (14) family support grants under Minnesota Statutes, section 252.32;

4.6 (15) housing access grants under Minnesota Statutes, section 256B.0658;

4.7 (16) self-advocacy grants under Laws 2009, chapter 101; and

4.8 (17) technology grants under Laws 2009, chapter 79.

4.9 (c) For individual service rates determined under Minnesota Statutes, section
4.10 256B.4914, the commissioner shall adjust the calculations in subdivisions 6, 7, 8, and
4.11 9, after any adjustments under Minnesota Statutes, section 256B.4914, subdivision 16,
4.12 to reflect a five percent increase.

4.13 (d) The commissioner shall increase the banding values for all service recipients as
4.14 defined in Minnesota Statutes, section 256B.4913, subdivision 4a, paragraph (b), by five
4.15 percent, effective July 1, 2014.

4.16 (e) A managed care plan receiving state payments for the services in this section
4.17 must include these increases in their payments to providers. To implement the rate increase
4.18 in this section, capitation rates paid by the commissioner to managed care organizations
4.19 under Minnesota Statutes, section 256B.69, shall reflect a five percent increase for the
4.20 services specified in this section for the period beginning July 1, 2014.

4.21 (f) Counties shall increase the budget for each recipient of consumer-directed
4.22 community supports by the amounts in paragraph (a) on the effective dates in paragraph (a).

4.23 (g) Providers that receive a rate increase under this section shall use 75 percent of
4.24 the additional revenue to increase compensation-related costs for employees directly
4.25 employed by the program on or after the effective date of the rate adjustments, except:

4.26 (1) persons employed in the central office of a corporation or entity that has an
4.27 ownership interest in the provider or exercises control over the provider; and

4.28 (2) persons paid by the provider under a management contract.

4.29 (h) Compensation-related costs include:

4.30 (1) wages and salaries;

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

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

5.1 (4) other benefits provided and workforce needs, including the recruiting and
5.2 training of employees as specified in the distribution plan required under paragraph (l).

5.3 (i) For public employees, the increase for wages and benefits for certain staff is
5.4 available and pay rates must be increased only to the extent that the increases comply with
5.5 laws governing public employees' collective bargaining. Money received by a provider
5.6 for pay increases for public employees under this section may be used only for increases
5.7 implemented within one month of the effective date of the rate increase and must not be
5.8 used for increases implemented prior to that date.

5.9 (j) The commissioner shall amend state grant contracts that include direct
5.10 personnel-related grant expenditures to include the allocation for the portion of the contract
5.11 related to employee compensation. Grant contracts for compensation-related services
5.12 must be amended to pass through these adjustments within 60 days of the effective date of
5.13 the increase and must be retroactive to the effective date of the rate adjustment.

5.14 (k) The Board on Aging and its area agencies on aging shall amend their grants that
5.15 include direct personnel-related grant expenditures to include the rate adjustment for the
5.16 portion of the grant related to employee compensation. Grants for compensation-related
5.17 services must be amended to pass through these adjustments within 60 days of the effective
5.18 date of the increase and must be retroactive to the effective date of the rate adjustment.

5.19 (l) A provider that receives a rate adjustment under paragraph (a) that is subject to
5.20 paragraphs (g) and (h) shall prepare, and produce for the commissioner upon request, a
5.21 plan that specifies the amount of money the provider expects to receive that is subject to
5.22 the requirements of paragraphs (g) and (h), as well as how that money will be distributed
5.23 to increase compensation for employees.

5.24 (m) Within six months after the effective date of each rate adjustment, the provider
5.25 shall post the distribution plan required under paragraph (l) for a period of at least six
5.26 weeks in an area of the provider's operation to which all eligible employees have access
5.27 and shall provide instructions for employees who believe they have not received the wage
5.28 and other compensation-related increases specified in the distribution plan. Instructions
5.29 must include a mailing address, e-mail address, and telephone number that the employee
5.30 may use to contact the commissioner or the commissioner's representative. Providers shall
5.31 also make assurances to the commissioner and counties with whom they have a contract
5.32 that they have complied with this section.

5.33 (n) For providers with rates established under Minnesota Statutes, section 256B.4914,
5.34 and with a banding value established under Minnesota Statutes, section 256B.4913,
5.35 subdivision 4a, paragraph (b), that is greater than the rate established under Minnesota
5.36 Statutes, section 256B.4914, the requirements of paragraphs (g) and (h) of this section

6.1 shall only apply to the portion of the rate increase that exceeds the difference between
6.2 the rate established under Minnesota Statutes, section 256B.4914, and the banding value
6.3 established under Minnesota Statutes, section 256B.4913, subdivision 4a, paragraph (b).

6.4 Sec. 3. **APPROPRIATION.**

6.5 \$..... is appropriated from the general fund to the commissioner of human services
6.6 for the fiscal year beginning July 1, 2014, for the purposes of sections 1 and 2.