

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

**S.F. No. 3070**

(SENATE AUTHORS: HAUSCHILD)

DATE  
03/22/2023

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Introduction and first reading  
Referred to Human Services  
See SF2934

OFFICIAL STATUS

1.1 A bill for an act  
1.2 relating to human services; modifying payment rates for certain nursing facilities;  
1.3 amending Minnesota Statutes 2022, sections 256R.25; 256R.47.

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

1.5 Section 1. Minnesota Statutes 2022, section 256R.25, is amended to read:

1.6 **256R.25 EXTERNAL FIXED COSTS PAYMENT RATE.**

1.7 (a) The payment rate for external fixed costs is the sum of the amounts in paragraphs  
1.8 (b) to (o).

1.9 (b) For a facility licensed as a nursing home, the portion related to the provider surcharge  
1.10 under section 256.9657 is equal to \$8.86 per resident day. For a facility licensed as both a  
1.11 nursing home and a boarding care home, the portion related to the provider surcharge under  
1.12 section 256.9657 is equal to \$8.86 per resident day multiplied by the result of its number  
1.13 of nursing home beds divided by its total number of licensed beds.

1.14 (c) The portion related to the licensure fee under section 144.122, paragraph (d), is the  
1.15 amount of the fee divided by the sum of the facility's resident days.

1.16 (d) The portion related to development and education of resident and family advisory  
1.17 councils under section 144A.33 is \$5 per resident day divided by 365.

1.18 (e) The portion related to scholarships is determined under section 256R.37.

1.19 (f) The portion related to planned closure rate adjustments is as determined under section  
1.20 256R.40, subdivision 5, and Minnesota Statutes 2010, section 256B.436.

2.1 (g) The portion related to consolidation rate adjustments shall be as determined under  
2.2 section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d.

2.3 (h) The portion related to single-bed room incentives is as determined under section  
2.4 256R.41.

2.5 (i) The portions related to real estate taxes, special assessments, and payments made in  
2.6 lieu of real estate taxes directly identified or allocated to the nursing facility are the allowable  
2.7 amounts divided by the sum of the facility's resident days. Allowable costs under this  
2.8 paragraph for payments made by a nonprofit nursing facility that are in lieu of real estate  
2.9 taxes shall not exceed the amount which the nursing facility would have paid to a city or  
2.10 township and county for fire, police, sanitation services, and road maintenance costs had  
2.11 real estate taxes been levied on that property for those purposes.

2.12 (j) The portion related to employer health insurance costs is the allowable costs divided  
2.13 by the sum of the facility's resident days.

2.14 (k) The portion related to the Public Employees Retirement Association is the allowable  
2.15 costs divided by the sum of the facility's resident days.

2.16 (l) The portion related to quality improvement incentive payment rate adjustments is  
2.17 the amount determined under section 256R.39.

2.18 (m) The portion related to performance-based incentive payments is the amount  
2.19 determined under section 256R.38.

2.20 (n) The portion related to special dietary needs is the amount determined under section  
2.21 256R.51.

2.22 (o) The portion related to the rate adjustments for border city facilities is the amount  
2.23 determined under section 256R.481.

2.24 (p) The portion related to the rate adjustment for critical access nursing facilities is the  
2.25 amount determined under section 256R.47.

2.26 Sec. 2. Minnesota Statutes 2022, section 256R.47, is amended to read:

2.27 **256R.47 RATE ADJUSTMENT FOR CRITICAL ACCESS NURSING**  
2.28 **FACILITIES.**

2.29 (a) The commissioner, in consultation with the commissioner of health, may designate  
2.30 certain nursing facilities as critical access nursing facilities. The designation shall be granted  
2.31 on a competitive basis, within the limits of funds appropriated for this purpose.

3.1 (b) The commissioner shall request proposals from nursing facilities every two years.  
3.2 Proposals must be submitted in the form and according to the timelines established by the  
3.3 commissioner. In selecting applicants to designate, the commissioner, in consultation with  
3.4 the commissioner of health, and with input from stakeholders, shall develop criteria designed  
3.5 to preserve access to nursing facility services in isolated areas, rebalance long-term care,  
3.6 and improve quality. To the extent practicable, the commissioner shall ensure an even  
3.7 distribution of designations across the state.

3.8 ~~(c) The commissioner shall allow the benefits in clauses (1) to (5) For nursing facilities~~  
3.9 ~~designated as critical access nursing facilities;~~ the commissioner shall allow a supplemental  
3.10 payment above a facility's operating payment rate as determined to be necessary by the  
3.11 commissioner to maintain access to nursing facilities services in isolated areas identified  
3.12 in paragraph (b). The commissioner must approve the amounts of supplemental payments  
3.13 through a memorandum of understanding. Supplemental payments to facilities under this  
3.14 section must be in the form of time-limited rate adjustments included in the external fixed  
3.15 payment rate under section 256R.25.

3.16 ~~(1) partial rebasing, with the commissioner allowing a designated facility operating~~  
3.17 ~~payment rates being the sum of up to 60 percent of the operating payment rate determined~~  
3.18 ~~in accordance with section 256R.21, subdivision 3, and at least 40 percent, with the sum of~~  
3.19 ~~the two portions being equal to 100 percent, of the operating payment rate that would have~~  
3.20 ~~been allowed had the facility not been designated. The commissioner may adjust these~~  
3.21 ~~percentages by up to 20 percent and may approve a request for less than the amount allowed;~~

3.22 ~~(2) enhanced payments for leave days. Notwithstanding section 256R.43, upon~~  
3.23 ~~designation as a critical access nursing facility, the commissioner shall limit payment for~~  
3.24 ~~leave days to 60 percent of that nursing facility's total payment rate for the involved resident,~~  
3.25 ~~and shall allow this payment only when the occupancy of the nursing facility, inclusive of~~  
3.26 ~~bed hold days, is equal to or greater than 90 percent;~~

3.27 ~~(3) two designated critical access nursing facilities, with up to 100 beds in active service,~~  
3.28 ~~may jointly apply to the commissioner of health for a waiver of Minnesota Rules, part~~  
3.29 ~~4658.0500, subpart 2, in order to jointly employ a director of nursing. The commissioner~~  
3.30 ~~of health shall consider each waiver request independently based on the criteria under~~  
3.31 ~~Minnesota Rules, part 4658.0040;~~

3.32 ~~(4) the minimum threshold under section 256B.431, subdivision 15, paragraph (c), shall~~  
3.33 ~~be 40 percent of the amount that would otherwise apply; and~~

4.1 ~~(5) the quality-based rate limits under section 256R.23, subdivisions 5 to 7, apply to~~  
4.2 ~~designated critical access nursing facilities.~~

4.3 (d) Designation of a critical access nursing facility is for a maximum period of up to  
4.4 two years, after which the ~~benefits~~ benefit allowed under paragraph (c) shall be removed.  
4.5 Designated facilities may apply for continued designation.

4.6 ~~(e) This section is suspended and no state or federal funding shall be appropriated or~~  
4.7 ~~allocated for the purposes of this section from January 1, 2016, to December 31, 2019.~~

4.8 (e) The memorandum of understanding required by paragraph (c), clause (1), must state  
4.9 that the designation of a critical access nursing facility must be removed if the facility  
4.10 undergoes a change of ownership as defined in section 144A.06, subdivision 2.