

**256S.205 CUSTOMIZED LIVING SERVICES; DISPROPORTIONATE SHARE RATE ADJUSTMENTS.**

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

(b) "Application year" means a year in which a facility submits an application for designation as a disproportionate share facility.

(c) "Assisted living facility" or "facility" means an assisted living facility licensed under chapter 144G.

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

Subd. 2. **Rate adjustment application.** An assisted living facility may apply to the commissioner for designation as a disproportionate share facility. Applications must be submitted annually between October 1 and October 31. The applying facility must apply in a manner determined by the commissioner. The applying facility must document as a percentage the census of elderly waiver participants residing in the facility on October 1 of the application year.

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

Subd. 4. **Designation as a disproportionate share facility.** By November 15 of each application year, the commissioner must designate as a disproportionate share facility a facility that complies with the application requirements of subdivision 2 and meets the eligibility criteria of subdivision 3.

Subd. 5. **Rate adjustment; rate floor.** (a) Notwithstanding the 24-hour customized living monthly service rate limits under section 256S.202, subdivision 2, and the component service rates established under section 256S.201, subdivision 4, the commissioner must establish a rate floor equal to \$119 per resident per day for 24-hour customized living services provided in a designated disproportionate share facility for the purpose of ensuring the minimal level of staffing required to meet the health and safety needs of elderly waiver participants.

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

(c) The commissioner shall not implement the rate floor under this section if the customized living rates established under sections 256S.21 to 256S.215 will be implemented at 100 percent on January 1 of the year following an application year.

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

**History:** *1Sp2021 c 7 art 13 s 62*

**NOTE:** This section, as added by Laws 2021, First Special Session chapter 7, article 13, section 62, is effective upon federal approval and applies to services provided on or after July 1, 2022, or on or after the date upon which federal approval is obtained, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained. Laws 2021, First Special Session chapter 7, article 13, section 62, the effective date.