

CHAPTER 256I

HOUSING SUPPORT

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256I.001 MS 2006 [Renumbered 15.001]

256I.01 CITATION.

Sections 256I.01 to 256I.09 shall be cited as the "Housing Support Act."

History: 1989 c 282 art 5 s 115; 1992 c 513 art 8 s 33; 1Sp1993 c 1 art 8 s 7; 1Sp2017 c 6 art 2 s 39; 2019 c 50 art 1 s 77

256I.02 PURPOSE.

The Housing Support Act establishes a comprehensive system of rates and payments for persons who reside in the community and who meet the eligibility criteria under section 256I.04, subdivision 1.

History: 1989 c 282 art 5 s 116; 1992 c 513 art 8 s 34; 1Sp1993 c 1 art 8 s 8; 1Sp2003 c 14 art 2 s 42; 1Sp2017 c 6 art 2 s 39

256I.03 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 256I.01 to 256I.06, the terms defined in this section have the meanings given them.

Subd. 1a. **Agency.** "Agency" has the meaning given in section 256P.01, subdivision 2.

Subd. 1b. **Assistance unit.** "Assistance unit" means an individual who is applying for or receiving benefits under this chapter.

Subd. 2. **Room and board rate.** "Room and board rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for eligible individuals. The room and board rate does not include payments for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. The rate is negotiated by the county agency according to the provisions of sections 256I.01 to 256I.06.

Subd. 3. **Housing support.** "Housing support" means assistance that provides at a minimum room and board to persons who meet the eligibility requirements of section 256I.04. To receive payment for housing support, the residence must meet the requirements under section 256I.04, subdivisions 2a to 2f.

Subd. 4. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 5. **MSA equivalent rate.** "MSA equivalent rate" means an amount equal to the total of:

(1) the combined maximum shelter and basic needs standards for MSA recipients living alone specified in section 256D.44, subdivisions 2, paragraph (a); and 3, paragraph (a); plus

(2) the maximum allotment authorized by the federal Supplemental Nutrition Assistance Program (SNAP) for a single individual which is in effect on the first day of July each year; less

(3) the personal needs allowance authorized for medical assistance recipients under section 256B.35.

The MSA equivalent rate is to be adjusted on the first day of July each year to reflect changes in any of the component rates under clauses (1) to (3).

Subd. 6. Medical assistance room and board rate. "Medical assistance room and board rate" means an amount equal to 81 percent of the federal poverty guideline for a single individual living alone in the community less the medical assistance personal needs allowance under section 256B.35. For the purposes of this section, the amount of the room and board rate that exceeds the medical assistance room and board rate is considered a remedial care cost. A remedial care cost may be used to meet a spenddown obligation under section 256B.056, subdivision 5. The medical assistance room and board rate is to be adjusted on the first day of January of each year.

Subd. 7. Countable income. "Countable income" means all income received by an applicant or recipient as described under section 256P.06, less any applicable exclusions or disregards. For a recipient of any cash benefit from the SSI program, countable income means the SSI benefit limit in effect at the time the person is a recipient of housing support, less the medical assistance personal needs allowance under section 256B.35. If the SSI limit or benefit is reduced for a person due to events other than receipt of additional income, countable income means actual income less any applicable exclusions and disregards.

Subd. 8. Supplementary services. "Supplementary services" means housing support services provided to individuals in addition to room and board including, but not limited to, oversight and up to 24-hour supervision, medication reminders, assistance with transportation, arranging for meetings and appointments, and arranging for medical and social services, and services identified in section 256I.03, subdivision 12.

Subd. 9. Direct contact. "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to recipients of housing support.

Subd. 10. Habitability inspection. "Habitability inspection" means an inspection to determine whether the housing occupied by an individual meets the habitability standards specified by the commissioner. The standards must be provided to the applicant in writing and posted on the Department of Human Services website.

Subd. 11. Long-term homelessness. "Long-term homelessness" means lacking a permanent place to live:

- (1) continuously for one year or more; or
- (2) at least four times in the past three years.

Subd. 12. Professional statement of need. "Professional statement of need" means a statement about an individual's illness, injury, or incapacity that is signed by a qualified professional. The statement must specify that the individual has an illness or incapacity which limits the individual's ability to work and provide self-support. The statement must also specify that the individual needs assistance to access or maintain housing, as evidenced by the need for two or more of the following services:

(1) tenancy supports to assist an individual with finding the individual's own home, landlord negotiation, securing furniture and household supplies, understanding and maintaining tenant responsibilities, conflict negotiation, and budgeting and financial education;

(2) supportive services to assist with basic living and social skills, household management, monitoring of overall well-being, and problem solving;

(3) employment supports to assist with maintaining or increasing employment, increasing earnings, understanding and utilizing appropriate benefits and services, improving physical or mental health, moving toward self-sufficiency, and achieving personal goals; or

(4) health supervision services to assist in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in dressing, grooming, bathing, or with walking devices.

Subd. 13. **Prospective budgeting.** "Prospective budgeting" means estimating the amount of monthly income a person will have in the payment month.

Subd. 14. **Qualified professional.** "Qualified professional" means an individual as defined in section 245G.11, subdivision 3, 4, or 5, or 256P.01, subdivision 6a; or an individual approved by the director of human services or a designee of the director.

Subd. 15. **Supportive housing.** "Supportive housing" means housing that is not time-limited and provides or coordinates services necessary for a resident to maintain housing stability.

History: 1989 c 282 art 5 s 117; 1992 c 513 art 8 s 35,36; 1Sp1993 c 1 art 8 s 9-12; 1995 c 207 art 5 s 28,29; 2009 c 79 art 2 s 11; 1Sp2011 c 9 art 1 s 16; 2014 c 291 art 8 s 15; 2014 c 312 art 28 s 12; 2015 c 71 art 1 s 15-23; art 5 s 11,12,35; 1Sp2017 c 6 art 2 s 21,39; 2018 c 182 art 2 s 21; 2019 c 60 art 4 s 28; 1Sp2019 c 9 art 1 s 42; art 5 s 76; 1Sp2020 c 2 art 5 s 50,51; 2022 c 98 art 5 s 3

256I.04 ELIGIBILITY FOR HOUSING SUPPORT PAYMENT.

Subdivision 1. **Individual eligibility requirements.** An individual is eligible for and entitled to a housing support payment to be made on the individual's behalf if the agency has approved the setting where the individual will receive housing support and the individual meets the requirements in paragraph (a), (b), or (c).

(a) The individual is aged, blind, or is over 18 years of age with a disability as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of section 256P.02, and the individual's countable income after deducting the (1) exclusions and disregards of the SSI program, (2) the medical assistance personal needs allowance under section 256B.35, and (3) an amount equal to the income actually made available to a community spouse by an elderly waiver participant under the provisions of sections 256B.0575, paragraph (a), clause (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the agency's agreement with the provider of housing support in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), clauses (1), (3), (4) to (8), and (13), and paragraph (b), if applicable, and the individual's resources are less than the standards specified by section 256P.02, and the individual's countable income as determined under section 256P.06, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the agency's agreement with the provider of housing support in which the individual resides.

(c) The individual lacks a fixed, adequate, nighttime residence upon discharge from a residential behavioral health treatment program, as determined by treatment staff from the residential behavioral health treatment program. An individual is eligible under this paragraph for up to three months, including a full or

partial month from the individual's move-in date at a setting approved for housing support following discharge from treatment, plus two full months.

Subd. 1a. County approval. (a) A county agency may not approve a housing support payment for an individual in any setting with a rate in excess of the MSA equivalent rate for more than 30 days in a calendar year unless the individual has a professional statement of need under section 256I.03, subdivision 12.

(b) If a county agency determines that an applicant is ineligible due to not meeting eligibility requirements under this section, a county agency may accept a signed personal statement from the applicant in lieu of documentation verifying ineligibility.

(c) Effective July 1, 2016, to be eligible for supplementary service payments, providers must enroll in the provider enrollment system identified by the commissioner.

Subd. 1b. Optional state supplements to SSI. Housing support payments made on behalf of persons eligible under subdivision 1, paragraph (a), are optional state supplements to the SSI program.

Subd. 1c. Interim assistance. Housing support payments made on behalf of persons eligible under subdivision 1, paragraph (b), are considered interim assistance payments to applicants for the federal SSI program.

Subd. 2. Date of eligibility. An individual who has met the eligibility requirements of subdivision 1, shall have a housing support payment made on the individual's behalf from the first day of the month in which a signed application form is received by a county agency, or the first day of the month in which all eligibility factors have been met, whichever is later.

Subd. 2a. License required; staffing qualifications. (a) Except as provided in paragraph (b), an agency may not enter into an agreement with an establishment to provide housing support unless:

(1) the establishment is licensed by the Department of Health as a hotel and restaurant; a board and lodging establishment; a boarding care home before March 1, 1985; or a supervised living facility, and the service provider for residents of the facility is licensed under chapter 245A. However, an establishment licensed by the Department of Health to provide lodging need not also be licensed to provide board if meals are being supplied to residents under a contract with a food vendor who is licensed by the Department of Health;

(2) the residence is: (i) licensed by the commissioner of human services under Minnesota Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265; (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120, with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02, subdivision 4a, as a community residential setting by the commissioner of human services; or

(3) the facility is registered under chapter 144D or licensed under chapter 144G and provides three meals a day.

(b) The requirements under paragraph (a) do not apply to establishments exempt from state licensure because they are:

(1) located on Indian reservations and subject to tribal health and safety requirements; or

(2) supportive housing establishments where an individual has an approved habitability inspection and an individual lease agreement.

(c) Supportive housing establishments that serve individuals who have experienced long-term homelessness and emergency shelters must participate in the homeless management information system and a coordinated assessment system as defined by the commissioner.

(d) Effective July 1, 2016, an agency shall not have an agreement with a provider of housing support unless all staff members who have direct contact with recipients:

(1) have skills and knowledge acquired through one or more of the following:

(i) a course of study in a health- or human services-related field leading to a bachelor of arts, bachelor of science, or associate's degree;

(ii) one year of experience with the target population served;

(iii) experience as a mental health certified peer specialist according to section 256B.0615; or

(iv) meeting the requirements for unlicensed personnel under sections 144A.43 to 144A.483;

(2) hold a current driver's license appropriate to the vehicle driven if transporting recipients;

(3) complete training on vulnerable adults mandated reporting and child maltreatment mandated reporting, where applicable; and

(4) complete housing support orientation training offered by the commissioner.

Subd. 2b. **Housing support agreements.** (a) Agreements between agencies and providers of housing support must be in writing on a form developed and approved by the commissioner and must specify the name and address under which the establishment subject to the agreement does business and under which the establishment, or service provider, if different from the establishment, is licensed by the Department of Health or the Department of Human Services; the specific license or registration from the Department of Health or the Department of Human Services held by the provider and the number of beds subject to that license; the address of the location or locations at which housing support is provided under this agreement; the per diem and monthly rates that are to be paid from housing support funds for each eligible resident at each location; the number of beds at each location which are subject to the agreement; whether the license holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code; and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06 and subject to any changes to those sections.

(b) Providers are required to verify the following minimum requirements in the agreement:

(1) current license or registration, including authorization if managing or monitoring medications;

(2) all staff who have direct contact with recipients meet the staff qualifications;

(3) the provision of housing support;

(4) the provision of supplementary services, if applicable;

(5) reports of adverse events, including recipient death or serious injury;

(6) submission of residency requirements that could result in recipient eviction; and

(7) confirmation that the provider will not limit or restrict the number of hours an applicant or recipient chooses to be employed, as specified in subdivision 5.

(c) Agreements may be terminated with or without cause by the commissioner, the agency, or the provider with two calendar months prior notice. The commissioner may immediately terminate an agreement under subdivision 2d.

Subd. 2c. **Background study requirements.** (a) Effective July 1, 2016, a provider of housing support must initiate background studies in accordance with chapter 245C of the following individuals:

(1) controlling individuals as defined in section 245A.02;

(2) managerial officials as defined in section 245A.02; and

(3) all employees and volunteers of the establishment who have direct contact with recipients, or who have unsupervised access to recipients, their personal property, or their private data.

(b) The provider of housing support must maintain compliance with all requirements established for entities initiating background studies under chapter 245C.

(c) Effective July 1, 2017, a provider of housing support must demonstrate that all individuals required to have a background study according to paragraph (a) have a notice stating either that:

(1) the individual is not disqualified under section 245C.14; or

(2) the individual is disqualified, but the individual has been issued a set-aside of the disqualification for that setting under section 245C.22.

Subd. 2d. **Conditions of payment; commissioner's right to suspend or terminate agreement.** (a) Housing support must be provided to the satisfaction of the commissioner, as determined at the sole discretion of the commissioner's authorized representative, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations, including business registration requirements of the Office of the Secretary of State. A provider shall not receive payment for room and board or supplementary services found by the commissioner to be performed or provided in violation of federal, state, or local law, ordinance, rule, or regulation.

(b) The commissioner has the right to suspend or terminate the agreement immediately when the commissioner determines the health or welfare of the housing or service recipients is endangered, or when the commissioner has reasonable cause to believe that the provider has breached a material term of the agreement under subdivision 2b.

(c) Notwithstanding paragraph (b), if the commissioner learns of a curable material breach of the agreement by the provider, the commissioner shall provide the provider with a written notice of the breach and allow ten days to cure the breach. If the provider does not cure the breach within the time allowed, the provider shall be in default of the agreement and the commissioner may terminate the agreement immediately thereafter. If the provider has breached a material term of the agreement and cure is not possible, the commissioner may immediately terminate the agreement.

Subd. 2e. **Providers holding health or human services licenses.** (a) Except for facilities with only a board and lodging license, when housing support staff are also operating under a license issued by the Department of Health or the Department of Human Services, the minimum staff qualification requirements for the setting shall be the qualifications listed under the related licensing standards.

(b) A background study completed for the licensed service must also satisfy the background study requirements under this section, if the provider has established the background study contact person according to chapter 245C and as directed by the Department of Human Services.

Subd. 2f. **Required services.** (a) In licensed and registered settings under subdivision 2a, providers shall ensure that participants have at a minimum:

- (1) food preparation and service for three nutritional meals a day on site;
- (2) a bed, clothing storage, linen, bedding, laundering, and laundry supplies or service;
- (3) housekeeping, including cleaning and lavatory supplies or service; and
- (4) maintenance and operation of the building and grounds, including heat, water, garbage removal, electricity, telephone for the site, cooling, supplies, and parts and tools to repair and maintain equipment and facilities.

(b) In addition, when providers serve participants described in subdivision 1, paragraph (c), the providers are required to assist the participants in applying for continuing housing support payments before the end of the eligibility period.

Subd. 2g. **Crisis shelters.** Secure crisis shelters for battered women and their children designated by the Minnesota Department of Corrections are not eligible for housing support under this chapter.

Subd. 2h. **Required supplementary services.** Providers of supplementary services shall ensure that recipients have, at a minimum, assistance with services as identified in the recipient's professional statement of need under section 256I.03, subdivision 12. Providers of supplementary services shall maintain case notes with the date and description of services provided to individual recipients.

Subd. 3. **Moratorium on development of housing support beds.** (a) Agencies shall not enter into agreements for new housing support beds with total rates in excess of the MSA equivalent rate except:

(1) for establishments licensed under chapter 245D provided the facility is needed to meet the census reduction targets for persons with developmental disabilities at regional treatment centers;

(2) up to 80 beds in a single, specialized facility located in Hennepin County that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the Housing Finance Agency under section 462A.05, subdivision 20a, paragraph (b);

(3) notwithstanding the provisions of subdivision 2a, for up to 226 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey County for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, have been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or substance use disorder treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal or state housing subsidy, the housing support rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the housing support supplementary service rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility

for a housing support payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a;

(4) for an additional two beds, resulting in a total of 32 beds, for a facility located in Hennepin County providing services for men with and recovering from substance use disorder that has had a housing support contract with the county and has been licensed as a board and lodge facility with special services since 1980;

(5) for a housing support provider located in the city of St. Cloud, or a county contiguous to the city of St. Cloud, that operates a 40-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves clientele with substance use disorder, providing 24-hour-a-day supervision;

(6) for a new 65-bed facility in Crow Wing County that will serve persons with substance use disorder, operated by a housing support provider that currently operates a 304-bed facility in Minneapolis, and a 44-bed facility in Duluth;

(7) for a housing support provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, that provide community support and 24-hour-a-day supervision to serve the mental health needs of individuals who have chronically lived unsheltered; and

(8) for a facility authorized for recipients of housing support in Hennepin County with a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility and that until August 1, 2007, operated as a licensed substance use disorder treatment program.

(b) An agency may enter into a housing support agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a housing support agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from housing support payment, or as a result of the downsizing of a setting authorized for recipients of housing support. The transfer of available beds from one agency to another can only occur by the agreement of both agencies.

Subd. 4. Rental assistance. For participants in the Minnesota supportive housing demonstration program under subdivision 3, paragraph (a), clause (3), notwithstanding the provisions of section 256I.06, subdivision 8, the amount of the room and board rate must be calculated by subtracting 30 percent of the recipient's adjusted income as defined by the United States Department of Housing and Urban Development for the Section 8 program from the fair market rent established for the recipient's living unit by the federal Department of Housing and Urban Development. This payment shall be regarded as a state housing subsidy for the purposes of subdivision 3. Notwithstanding the provisions of section 256I.06, subdivision 6, the recipient's countable income will only be adjusted when a change of greater than \$100 in a month occurs or upon annual redetermination of eligibility, whichever is sooner.

Subd. 5. Employment. A provider is prohibited from limiting or restricting the number of hours an applicant or recipient is employed.

History: 1989 c 282 art 5 s 118; 1991 c 292 art 2 s 68; 1992 c 513 art 8 s 37; 1Sp1993 c 1 art 8 s 13-21; 1994 c 529 s 16,17; 1995 c 207 art 5 s 30,31; 1996 c 451 art 5 s 34-36; 1997 c 113 s 19; 1998 c 407 art 3 s 18-20; 1999 c 245 art 3 s 39; 2002 c 375 art 2 s 45; 1Sp2003 c 14 art 2 s 43; 2005 c 56 s 1; 2005 c 159

art 5 s 5; 2007 c 147 art 7 s 62; 2009 c 175 art 3 s 3,4; 2014 c 262 art 1 s 6; 2014 c 291 art 8 s 16; art 11 s 8; 2014 c 312 art 28 s 13; 2015 c 71 art 1 s 24-34; art 5 s 13,35; 2016 c 158 art 1 s 142,143; 2016 c 163 art 3 s 10; 2017 c 40 art 1 s 121; 1Sp2017 c 6 art 2 s 22-25,39; 2018 c 182 art 1 s 59; 2019 c 60 art 1 s 47; art 4 s 29; 1Sp2019 c 9 art 5 s 77-79; art 6 s 68,69; 1Sp2020 c 2 art 5 s 52; 2022 c 98 art 4 s 51

256I.05 MONTHLY RATES.

Subdivision 1. **Maximum rates.** Monthly room and board rates negotiated by a county agency for a recipient receiving housing support must not exceed the MSA equivalent rate specified under section 256I.03, subdivision 5.

Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04, subdivision 3, the agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board if the residence is licensed by or registered by the Department of Health, or licensed by the Department of Human Services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the federal Social Security Act; or funding from the medical assistance program under section 256B.0659, for personal care services for residents in the setting; or residing in a setting which receives funding under section 245.73. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0659, then the housing support rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the federal Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or substance use disorder and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the housing support fund for beds under this section to other funding programs administered by the department after consultation with the agency in which the affected beds are located. The commissioner may also make cost-neutral transfers from the housing support fund to agencies for beds permanently removed from the housing support census under a plan submitted by the agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) Agencies must not negotiate supplementary service rates with providers of housing support that are licensed as board and lodging with special services and that do not encourage a policy of sobriety on their premises and make referrals to available community services for volunteer and employment opportunities for residents.

Subd. 1b. [Repealed, 2014 c 262 art 1 s 12]

Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing support above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

(a) An agency may increase the rates for room and board to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) An agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total housing support rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) An agency must increase the room and board rates each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) An agency may increase the rates for residents in facilities meeting substantial change criteria within the prior year. Substantial change criteria exist if the establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(e) Until June 30, 1994, an agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to 9549.0058.

(f) Notwithstanding the provisions of subdivision 1, an agency may increase the monthly room and board rates by \$50 per month for residents in settings under section 256I.04, subdivision 2a, paragraph (b), clause (2). Participants in the Minnesota supportive housing demonstration program under section 256I.04, subdivision 3, paragraph (a), clause (3), may not receive the increase under this paragraph.

Subd. 1d. **Certain facilities for mental illness or substance use disorder; rates.** Notwithstanding the provisions of subdivisions 1a and 1c, a county agency may negotiate a supplementary service rate in addition to the board and lodging rate for facilities licensed and registered by the Minnesota Department of Health under section 157.17 prior to December 31, 1996, if the facility meets the following criteria:

(1) at least 75 percent of the residents have a primary diagnosis of mental illness, substance use disorder, or both, and have related special needs;

(2) the facility provides 24-hour, on-site, year-round supportive services by qualified staff capable of intervention in a crisis of persons with late-stage inebriety or mental illness who are vulnerable to abuse or neglect;

(3) the services at the facility include, but are not limited to:

(i) secure central storage of medication;

(ii) reminders and monitoring of medication for self-administration;

(iii) support for developing an individual medical and social service plan, updating the plan, and monitoring compliance with the plan; and

(iv) assistance with setting up meetings, appointments, and transportation to access medical, chemical health, and mental health service providers;

(4) each resident has a documented need for at least one of the services provided;

(5) each resident has been offered an opportunity to apply for admission to a licensed residential treatment program for mental illness, substance use disorder, or both, have refused that offer, and the offer and their refusal has been documented to writing; and

(6) the residents are not eligible for home and community-based services waivers because of their unique need for community support.

Until June 30, 2002, the supplementary service rate of qualifying facilities under this subdivision may be increased by up to 15 percent of the supplementary service rate in effect on January 1, 2001, for the facility. Qualifying facilities with no supplementary service rate may negotiate a supplementary service rate not to exceed \$300 per month.

Subd. 1e. **Supplementary rate for certain facilities.** (a) Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2005, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a housing support provider that:

(1) is located in Hennepin County and has had a housing support contract with the county since June 1996;

(2) operates in three separate locations a 75-bed facility, a 50-bed facility, and a 26-bed facility; and

(3) serves a clientele with substance use disorder, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

(b) Notwithstanding subdivisions 1a and 1c, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, of a housing support provider that:

(1) is located in St. Louis County and has had a housing support contract with the county since 2006;

(2) operates a 62-bed facility; and

(3) serves an adult male clientele with substance use disorder, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

(c) Notwithstanding subdivisions 1a and 1c, beginning July 1, 2013, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for the provider described under paragraphs (a) and (b), not to exceed an additional 115 beds.

Subd. 1f. **Supplementary service rate increases on or after July 1, 2001.** Until June 30, 2002, the supplementary service rate for recipients of assistance under section 256I.04 who reside in a residence that is licensed by the commissioner of health as a boarding care home but is not certified for purposes of the medical assistance program may be increased by up to 32 percent of the supplementary service rate in effect for that facility on January 1, 2001. The new rate shall not exceed the nonfederal share of the statewide weighted average monthly medical assistance nursing facility payment rate for case mix A in effect on January 1, 2001.

Subd. 1g. **Supplementary service rate for certain facilities.** An agency may negotiate a supplementary service rate for recipients of assistance under section 256I.04, subdivision 1, paragraph (a) or (b), who have

experienced long-term homelessness and who live in a supportive housing establishment under section 256I.04, subdivision 2a, paragraph (b), clause (2).

Subd. 1h. **Supplementary rate for certain facilities serving males with substance use disorder.** Notwithstanding subdivisions 1a and 1c, beginning July 1, 2007, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$737.87 per month, including any legislatively authorized inflationary adjustments, for a housing support provider that:

(1) is located in Ramsey County and has had a housing support contract with the county since 1982 and has been licensed as a board and lodge facility with special services since 1979; and

(2) serves males with and recovering from substance use disorder, providing 24-hour-a-day supervision.

Subd. 1i. **Supplementary rate for certain facilities; Hennepin County.** Notwithstanding the provisions of subdivisions 1a and 1c, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, up to the available appropriation, for a facility located in Hennepin County with a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility and that until August 1, 2007, operated as a licensed substance use disorder treatment program.

Subd. 1j. **Supplementary rate for certain facilities; Crow Wing County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2007, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a new 65-bed facility in Crow Wing County that will serve persons with substance use disorder operated by a housing support provider that currently operates a 304-bed facility in Minneapolis and a 44-bed facility in Duluth which opened in January of 2006.

Subd. 1k. **Supplementary rate for certain facilities; Stearns, Sherburne, or Benton County.** Notwithstanding the provisions of this section, beginning July 1, 2009, a county agency shall negotiate a supplementary service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a housing support provider located in Stearns, Sherburne, or Benton County that operates a 40-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves clientele with substance use disorder, providing 24-hour-a-day supervision.

Subd. 1l. **Supplementary rate for certain facilities; St. Louis County.** Notwithstanding the provisions of this section, beginning July 1, 2007, a county agency shall negotiate a supplementary service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a housing support provider located in St. Louis County that operates a 30-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves clientele with substance use disorder, providing 24-hour-a-day supervision.

Subd. 1m. **Supplemental rate for certain facilities; Hennepin and Ramsey Counties.** Notwithstanding the provisions of this section, beginning July 1, 2007, a county agency shall negotiate a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed the maximum rate in subdivision 1a or the existing monthly rate, whichever is higher, including any legislatively authorized inflationary adjustments, for a housing support provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, which provide community support and serve the mental health needs of individuals who have chronically lived unsheltered, providing 24-hour-per-day supervision.

Subd. 1n. **Supplemental rate; Mahnomen County.** Notwithstanding the provisions of this section, for the rate period July 1, 2010, to June 30, 2011, a county agency shall negotiate a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed \$753 per month or the existing rate, including any legislative authorized inflationary adjustments, for a housing support provider located in Mahnomen County that operates a 28-bed facility providing 24-hour care to individuals who are homeless, disabled, mentally ill, chronically homeless, or have substance use disorder.

Subd. 1o. [Repealed, 2014 c 275 art 1 s 139]

Subd. 1p. **Supplementary rate; St. Louis County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2017, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a housing support provider that:

(1) is located in St. Louis County and has had a housing support contract with the county since July 2016;

(2) operates a 35-bed facility;

(3) serves women who have substance use disorder, mental illness, or both;

(4) provides 24-hour per day supervision;

(5) provides on-site support with skilled professionals, including a licensed practical nurse, registered nurses, peer specialists, and resident counselors; and

(6) provides independent living skills training and assistance with family reunification.

Subd. 1q. **Supplemental rate; Olmsted County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2017, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$750 per month, including any legislatively authorized inflationary adjustments, for a housing support provider located in Olmsted County that operates long-term residential facilities with a total of 104 beds that serve men and women with substance use disorder and provide 24-hour-a-day supervision and other support services.

Subd. 1r. **Supplemental rate; Anoka County.** Notwithstanding the provisions in this section, a county agency shall negotiate a supplemental rate for 42 beds in addition to the rate specified in subdivision 1, not to exceed the maximum rate allowed under subdivision 1a, including any legislatively authorized inflationary adjustments, for a housing support provider that is located in Anoka County and provides emergency housing on the former Anoka Regional Treatment Center campus.

Subd. 2. **Monthly rates; exemptions.** This subdivision applies to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0670. Notwithstanding the provisions of subdivision 1c, the rate paid to a facility reimbursed under this subdivision shall be determined under chapter 256R, if the facility is accepted by the commissioner for participation in the alternative payment demonstration project. The rate paid to this facility shall also include adjustments to the room and board rate according to subdivision 1, and any adjustments applicable to supplemental service rates statewide.

Subd. 2a. **Absent days.** (a) When a person receiving housing support is temporarily absent and the absence is reported in advance to the agency's social service staff, the agency must continue to pay on behalf

of the person the applicable rate for housing support. Advance reporting is not required for absences due to crisis, illness, or injury. The limit on payments for absence days under this paragraph is 18 calendar days per incident, not to exceed 60 days in a calendar year.

(b) An agency must continue to pay an additional 74 days per incident, not to exceed a total of 92 days in a calendar year, for a person who is temporarily absent due to admission at a residential behavioral health facility, inpatient hospital, or nursing facility.

(c) If a person is temporarily absent due to admission at a residential behavioral health facility, inpatient hospital, or nursing facility for a period of time exceeding the limits described in paragraph (b), the agency may request in a format prescribed by the commissioner an absence day limit exception to continue housing support payments until the person is discharged.

Subd. 3. MS 2018 [Repealed, 1Sp2019 c 9 art 5 s 94]

Subd. 4. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 5. [Repealed, 2014 c 262 art 1 s 12]

Subd. 6. **Statewide rate setting system.** The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who receive housing support to be effective as soon as possible. The commissioner may adopt rules to establish this rate setting system.

Subd. 7. [Repealed, 1992 c 513 art 8 s 59]

Subd. 7a. [Repealed, 1992 c 513 art 8 s 59]

Subd. 7b. **Commissioner's duties.** The commissioner shall not provide automatic annual inflation adjustments for housing support rates for the fiscal year beginning on July 1, 1993, and for subsequent fiscal years. The commissioner of management and budget shall include as a budget change request annual adjustments in reimbursement rates for housing support in each biennial detailed expenditure budget submitted to the legislature under section 16A.11.

Subd. 7c. **Demonstration project.** The commissioner is authorized to pursue the expansion of a demonstration project under federal Supplemental Nutrition Assistance Program (SNAP) regulation for the purpose of gaining additional federal reimbursement of food and nutritional costs currently paid by the state housing support program. The commissioner shall seek approval no later than October 1, 2009. Any reimbursement received is nondedicated revenue to the general fund.

Subd. 8. **State participation.** For a person who is eligible under section 256I.04, subdivision 1, paragraph (b), state participation in the housing support payment is determined according to section 256D.03, subdivision 2. For a person who is eligible under section 256I.04, subdivision 1, paragraph (a), state participation in the housing support rate is determined according to section 256D.36.

Subd. 9. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 10. [Repealed, 1Sp1993 c 1 art 8 s 29]

Subd. 11. **Transfer of emergency shelter funds.** (a) The commissioner shall make a cost-neutral transfer of funding from the housing support fund to the agency for emergency shelter beds removed from the housing support census under a biennial plan submitted by the agency and approved by the commissioner. The plan must describe: (1) anticipated and actual outcomes for persons experiencing homelessness in emergency shelters; (2) improved efficiencies in administration; (3) requirements for individual eligibility; and (4) plans

for quality assurance monitoring and quality assurance outcomes. The commissioner shall review the agency plan to monitor implementation and outcomes at least biennially, and more frequently if the commissioner deems necessary.

(b) The funding under paragraph (a) may be used for the provision of room and board or supplemental services according to section 256I.03, subdivisions 2 and 8. Providers must meet the requirements of section 256I.04, subdivisions 2a to 2f. Funding must be allocated annually, and the room and board portion of the allocation shall be adjusted according to the percentage change in the housing support room and board rate. The room and board portion of the allocation shall be determined at the time of transfer. The commissioner or agency may return beds to the housing support fund with 180 days' notice, including financial reconciliation.

History: 1989 c 282 art 5 s 119; 1990 c 568 art 4 s 59,60; 1991 c 292 art 4 s 71-74; art 6 s 51; 1992 c 363 art 1 s 10; 1992 c 513 art 8 s 38-47; 1Sp1993 c 1 art 8 s 22-26; 1995 c 207 art 5 s 32-34; 1996 c 312 s 1; 1996 c 451 art 2 s 52; art 3 s 8; 1997 c 203 art 3 s 13; art 4 s 60; 3Sp1997 c 3 s 20; 1998 c 407 art 3 s 21; 1999 c 245 art 3 s 40-42; 1Sp2001 c 9 art 13 s 14-16; 2002 c 379 art 1 s 113; 1Sp2002 c 1 s 13; 1Sp2003 c 14 art 2 s 44-46; 2005 c 159 art 5 s 6; 1Sp2005 c 4 art 3 s 13; 2007 c 147 art 7 s 63-68; 2009 c 79 art 2 s 12; art 6 s 16; 2009 c 101 art 2 s 109; 2009 c 175 art 3 s 5; 1Sp2010 c 1 art 18 s 2; 1Sp2011 c 9 art 1 s 17; 2012 c 247 art 3 s 14,15; 2013 c 108 art 2 s 40,44; art 15 s 3,4; 2014 c 262 art 1 s 7; 2014 c 312 art 29 s 11; 2015 c 71 art 1 s 35,36; art 6 s 40; 2016 c 99 art 2 s 10; 2016 c 158 art 1 s 144,145,214; 1Sp2017 c 6 art 2 s 26-34,39; 1Sp2019 c 9 art 1 s 42; 1Sp2020 c 2 art 5 s 53-55; 2021 c 30 art 12 s 3,4; 1Sp2021 c 7 art 13 s 56,57; 2022 c 98 art 4 s 51

256I.051 [Repealed, 1Sp1993 c 1 art 8 s 29]

256I.06 PAYMENT METHODS.

Subdivision 1. **Monthly payments.** Monthly payments made on an individual's behalf for housing support must be issued as a voucher or vendor payment.

Subd. 2. **Time of payment.** A county agency may make payments in advance for an individual whose stay is expected to last beyond the calendar month for which the payment is made. Housing support payments made by a county agency on behalf of an individual who is not expected to remain in the establishment beyond the month for which payment is made must be made subsequent to the individual's departure from the residence.

Subd. 3. **Filing of application.** The county agency must immediately provide an application form to any person requesting housing support. Application for housing support must be in writing on a form prescribed by the commissioner. The county agency must determine an applicant's eligibility for housing support as soon as the required verifications are received by the county agency and within 30 days after a signed application is received by the county agency for the aged or blind or within 60 days for people with a disability.

Subd. 4. **Verification.** The county agency must request, and applicants and recipients must provide and verify, all information necessary to determine initial and continuing eligibility and housing support payment amounts. If necessary, the county agency shall assist the applicant or recipient in obtaining verifications. If the applicant or recipient refuses or fails without good cause to provide the information or verification, the county agency shall deny or terminate eligibility for housing support payments.

Subd. 5. **Redetermination of eligibility.** The eligibility of each recipient must be redetermined at least once every 12 months.

Subd. 6. **Reports.** Recipients must report changes in circumstances according to section 256P.07 that affect eligibility or housing support payment amounts, other than changes in earned income, within ten days of the change. Recipients with countable earned income must complete a household report form at least once every six months. If the report form is not received before the end of the month in which it is due, the county agency must terminate eligibility for housing support payments. The termination shall be effective on the first day of the month following the month in which the report was due. If a complete report is received within the month eligibility was terminated, the individual is considered to have continued an application for housing support payment effective the first day of the month the eligibility was terminated.

Subd. 7. **Determination of rates.** The agency in the county in which a residence is located shall determine the amount of the housing support rate to be paid on behalf of an individual in the residence regardless of the individual's agency of financial responsibility.

Subd. 8. **Amount of housing support payment.** (a) The amount of a room and board payment to be made on behalf of an eligible individual is determined by subtracting the individual's countable income under section 256I.04, subdivision 1, for a whole calendar month from the room and board rate for that same month. The housing support payment is determined by multiplying the housing support rate times the period of time the individual was a resident or temporarily absent under section 256I.05, subdivision 2a.

(b) For an individual with earned income under paragraph (a), prospective budgeting must be used to determine the amount of the individual's payment for the following six-month period. An increase in income shall not affect an individual's eligibility or payment amount until the month following the reporting month. A decrease in income shall be effective the first day of the month after the month in which the decrease is reported.

(c) For an individual who receives housing support payments under section 256I.04, subdivision 1, paragraph (c), the amount of the housing support payment is determined by multiplying the housing support rate times the period of time the individual was a resident.

Subd. 9. [Repealed, 2009 c 79 art 2 s 36; 2009 c 173 art 1 s 40]

Subd. 10. **Correction of overpayments and underpayments.** The agency shall make an adjustment to housing support payments issued to individuals consistent with requirements of federal law and regulation and state law and rule and shall issue or recover benefits as appropriate. A recipient or former recipient is not responsible for overpayments due to agency error, unless the amount of the overpayment is large enough that a reasonable person would know it is an error.

History: 1989 c 282 art 5 s 120; 1992 c 513 art 8 s 49; 1Sp1993 c 1 art 8 s 27; 1995 c 207 art 5 s 35,36; 1Sp2005 c 4 art 7 s 48; 2015 c 71 art 1 s 37-40; art 5 s 14,35; 2017 c 40 art 1 s 121; 1Sp2017 c 6 art 2 s 35,36,39; 1Sp2019 c 9 art 6 s 70; 1Sp2020 c 2 art 5 s 56,57; 1Sp2021 c 7 art 13 s 58

256I.07 [Repealed, 2014 c 262 art 1 s 12]

256I.08 COUNTY SHARE FOR CERTAIN NURSING FACILITY STAYS.

Beginning July 1, 2004, if housing support is used to pay for a nursing facility placement due to the facility's status as an Institution for Mental Diseases, the county is liable for 20 percent of the nonfederal share of costs for persons under the age of 65 that have exceeded 90 days.

History: 1Sp2003 c 14 art 3 s 52; 1Sp2017 c 6 art 2 s 39

256I.09 COMMUNITY LIVING INFRASTRUCTURE.

The commissioner shall award grants to agencies through an annual competitive process. Grants awarded under this section may be used for: (1) outreach to locate and engage people who are homeless or residing in segregated settings to screen for basic needs and assist with referral to community living resources; (2) building capacity to provide technical assistance and consultation on housing and related support service resources for persons with both disabilities and low income; or (3) streamlining the administration and monitoring activities related to housing support funds. Agencies may collaborate and submit a joint application for funding under this section.

History: *1Sp2017 c 6 art 2 s 37*