

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 32

01/04/2023 Authored by Noor
The bill was read for the first time and referred to the Committee on Human Services Finance

1.1 A bill for an act
1.2 relating to human services; modifying rates for certain disability waiver services;
1.3 modifying rates for certain elderly waiver services; modifying rate floors for certain
1.4 customized living services; modifying rates for nursing facilities; establishing rate
1.5 floors for intermediate care facilities for persons with developmental disabilities;
1.6 modifying rates for intermediate care facilities for persons with developmental
1.7 disabilities; modifying rates for community first services and supports; modifying
1.8 rates for personal care assistance services; modifying rates for certain home care
1.9 services; modifying rates for nonemergency medical transportation services;
1.10 establishing a fuel cost rate adjustment for medical transportation services;
1.11 modifying provisions related to home and community-based services; modifying
1.12 provisions related to the emergency staffing pool; establishing a residential settings
1.13 closure prevention grant program; appropriating money; amending Minnesota
1.14 Statutes 2022, sections 256B.0625, subdivisions 17, 17a; 256B.0659, subdivisions
1.15 1, 12, 17a, 19, 24; 256B.0913, subdivisions 4, 5; 256B.4911, by adding a
1.16 subdivision; 256B.4912, by adding a subdivision; 256B.4914, subdivisions 3, as
1.17 amended, 4, 5, 5a, 5b, 5c, 5d, 5e, 8, 9, 10, 10a, 10c, 12, 14, by adding a subdivision;
1.18 256B.5012, by adding subdivisions; 256B.85, subdivisions 7, 7a, by adding a
1.19 subdivision; 256B.851, subdivision 5; 256E.35, subdivisions 1, 2, 4a, 6, 7; 256P.02,
1.20 by adding a subdivision; 256R.02, subdivisions 16, 24, 26, 29, 34, by adding
1.21 subdivisions; 256R.23, subdivisions 2, 3; 256R.24, subdivision 1; 256R.25;
1.22 256S.15, subdivision 2; 256S.18, by adding a subdivision; 256S.19, subdivision
1.23 3; 256S.205, subdivisions 3, 5; 256S.2101, subdivisions 1, 2, by adding
1.24 subdivisions; 256S.212; 256S.213; 256S.214; 256S.215; Laws 2022, chapter 40,
1.25 section 6; proposing coding for new law in Minnesota Statutes, chapter 256;
1.26 repealing Minnesota Statutes 2022, sections 256B.4914, subdivision 9a; 256S.19,
1.27 subdivision 4.

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

1.29 ARTICLE 1
1.30 CAREGIVERS STABILIZATION ACT

1.31 Section 1. TITLE.

1.32 This act may be cited as the "Caregivers Stabilization Act of 2023."

2.1 **ARTICLE 2**2.2 **DISABILITY WAIVERS**

2.3 Section 1. Minnesota Statutes 2022, section 256B.4912, is amended by adding a subdivision
2.4 to read:

2.5 Subd. 16. **Rates established by the commissioner.** For homemaker services eligible
2.6 for reimbursement under the developmental disabilities waiver, the brain injury waiver, the
2.7 community alternative care waiver, and the community access for disability inclusion waiver,
2.8 the commissioner must establish rates equal to the rates established under sections 256S.21
2.9 to 256S.215 for the corresponding homemaker services.

2.10 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
2.11 whichever is later. The commissioner of human services shall notify the revisor of statutes
2.12 when federal approval is obtained.

2.13 Sec. 2. Minnesota Statutes 2022, section 256B.4914, subdivision 3, is amended to read:

2.14 Subd. 3. **Applicable services.** Applicable services are those authorized under the state's
2.15 home and community-based services waivers under sections 256B.092 and 256B.49,
2.16 including the following, as defined in the federally approved home and community-based
2.17 services plan:

2.18 (1) 24-hour customized living;

2.19 (2) adult day services;

2.20 (3) adult day services bath;

2.21 (4) community residential services;

2.22 (5) customized living;

2.23 (6) day support services;

2.24 (7) employment development services;

2.25 (8) employment exploration services;

2.26 (9) employment support services;

2.27 (10) family residential services;

2.28 (11) individualized home supports;

2.29 (12) individualized home supports with family training;

- 3.1 (13) individualized home supports with training;
- 3.2 (14) integrated community supports;
- 3.3 (15) night supervision;
- 3.4 (16) positive support services;
- 3.5 (17) prevocational services;
- 3.6 (18) residential support services;
- 3.7 (19) ~~respite services;~~
- 3.8 ~~(20)~~ transportation services; and
- 3.9 ~~(21)~~ (20) other services as approved by the federal government in the state home and
- 3.10 community-based services waiver plan.

3.11 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,

3.12 whichever is later. The commissioner of human services shall notify the revisor of statutes

3.13 when federal approval is obtained.

3.14 Sec. 3. Minnesota Statutes 2022, section 256B.4914, subdivision 4, is amended to read:

3.15 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and

3.16 community-based waived services, including customized rates under subdivision 12, are

3.17 set by the rates management system.

3.18 (b) Data and information in the rates management system must be used to calculate an

3.19 individual's rate.

3.20 (c) Service providers, with information from the support plan and oversight by lead

3.21 agencies, shall provide values and information needed to calculate an individual's rate in

3.22 the rates management system. The determination of service levels must be part of a discussion

3.23 with members of the support team as defined in section 245D.02, subdivision 34. This

3.24 discussion must occur prior to the final establishment of each individual's rate. The values

3.25 and information include:

- 3.26 (1) shared staffing hours;
- 3.27 (2) individual staffing hours;
- 3.28 (3) direct registered nurse hours;
- 3.29 (4) direct licensed practical nurse hours;
- 3.30 (5) staffing ratios;

4.1 (6) information to document variable levels of service qualification for variable levels
4.2 of reimbursement in each framework;

4.3 (7) shared or individualized arrangements for unit-based services, including the staffing
4.4 ratio;

4.5 (8) number of trips and miles for transportation services; and

4.6 (9) service hours provided through monitoring technology.

4.7 (d) Updates to individual data must include:

4.8 (1) data for each individual that is updated annually when renewing service plans; and

4.9 (2) requests by individuals or lead agencies to update a rate whenever there is a change
4.10 in an individual's service needs, with accompanying documentation.

4.11 (e) Lead agencies shall review and approve all services reflecting each individual's needs,
4.12 and the values to calculate the final payment rate for services with variables under
4.13 subdivisions 6 to ~~9a~~ 9 for each individual. Lead agencies must notify the individual and the
4.14 service provider of the final agreed-upon values and rate, and provide information that is
4.15 identical to what was entered into the rates management system. If a value used was
4.16 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
4.17 agencies to correct it. Lead agencies must respond to these requests. When responding to
4.18 the request, the lead agency must consider:

4.19 (1) meeting the health and welfare needs of the individual or individuals receiving
4.20 services by service site, identified in their support plan under section 245D.02, subdivision
4.21 4b, and any addendum under section 245D.02, subdivision 4c;

4.22 (2) meeting the requirements for staffing under subdivision 2, paragraphs (h), (n), and
4.23 (o); and meeting or exceeding the licensing standards for staffing required under section
4.24 245D.09, subdivision 1; and

4.25 (3) meeting the staffing ratio requirements under subdivision 2, paragraph (o), and
4.26 meeting or exceeding the licensing standards for staffing required under section 245D.31.

4.27 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
4.28 whichever is later. The commissioner of human services shall notify the revisor of statutes
4.29 when federal approval is obtained.

5.1 Sec. 4. Minnesota Statutes 2022, section 256B.4914, subdivision 5, is amended to read:

5.2 Subd. 5. **Base wage index; establishment and updates.** (a) The base wage index is
 5.3 established to determine staffing costs associated with providing services to individuals
 5.4 receiving home and community-based services. For purposes of calculating the base wage,
 5.5 Minnesota-specific wages taken from job descriptions and standard occupational
 5.6 classification (SOC) codes from the Bureau of Labor Statistics as defined in the Occupational
 5.7 Handbook must be used.

5.8 (b) The commissioner shall update the base wage index in subdivision 5a, publish these
 5.9 updated values, and load them into the rate management system as follows:

5.10 (1) on January 1, 2022, based on wage data by SOC from the Bureau of Labor Statistics
 5.11 available as of December 31, 2019; and

5.12 ~~(2) on November 1, 2024, based on wage data by SOC from the Bureau of Labor Statistics~~
 5.13 ~~available as of December 31, 2021; and~~

5.14 ~~(3) (2) on July 1, 2026~~ January 1, 2024, and every two years thereafter, based on wage
 5.15 data by SOC from the Bureau of Labor Statistics available ~~30~~ 24 months and one day prior
 5.16 to the scheduled update.

5.17 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
 5.18 whichever is later. The commissioner of human services shall notify the revisor of statutes
 5.19 when federal approval is obtained.

5.20 Sec. 5. Minnesota Statutes 2022, section 256B.4914, subdivision 5a, is amended to read:

5.21 Subd. 5a. **Base wage index; calculations.** The base wage index must be calculated as
 5.22 follows:

5.23 (1) for supervisory staff, 100 percent of the median wage for community and social
 5.24 services specialist (SOC code 21-1099), with the exception of the supervisor of positive
 5.25 supports professional, positive supports analyst, and positive supports specialist, which is
 5.26 100 percent of the median wage for clinical counseling and school psychologist (SOC code
 5.27 19-3031);

5.28 (2) for registered nurse staff, 100 percent of the median wage for registered nurses (SOC
 5.29 code 29-1141);

5.30 (3) for licensed practical nurse staff, 100 percent of the median wage for licensed practical
 5.31 nurses (SOC code 29-2061);

6.1 (4) for residential asleep-overnight staff, the minimum wage in Minnesota for large
6.2 employers, with the exception of asleep-overnight staff for family residential services, which
6.3 is 36 percent of the minimum wage in Minnesota for large employers;

6.4 (5) for residential direct care staff, the sum of:

6.5 (i) 15 percent of the subtotal of 50 percent of the median wage for home health and
6.6 personal care aide (SOC code 31-1120); 30 percent of the median wage for nursing assistant
6.7 (SOC code 31-1131); and 20 percent of the median wage for social and human services
6.8 aide (SOC code 21-1093); and

6.9 (ii) 85 percent of the subtotal of 40 percent of the median wage for home health and
6.10 personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant
6.11 (SOC code ~~31-1014~~ 31-1131); 20 percent of the median wage for psychiatric technician
6.12 (SOC code 29-2053); and 20 percent of the median wage for social and human services
6.13 aide (SOC code 21-1093);

6.14 (6) for adult day services staff, 70 percent of the median wage for nursing assistant (SOC
6.15 code 31-1131); and 30 percent of the median wage for home health and personal care aide
6.16 (SOC code 31-1120);

6.17 (7) for day support services staff and prevocational services staff, 20 percent of the
6.18 median wage for nursing assistant (SOC code 31-1131); 20 percent of the median wage for
6.19 psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social
6.20 and human services aide (SOC code 21-1093);

6.21 (8) for positive supports analyst staff, 100 percent of the median wage for substance
6.22 abuse, behavioral disorder, and mental health counselor (SOC code 21-1018);

6.23 (9) for positive supports professional staff, 100 percent of the median wage for clinical
6.24 counseling and school psychologist (SOC code 19-3031);

6.25 (10) for positive supports specialist staff, 100 percent of the median wage for psychiatric
6.26 technicians (SOC code 29-2053);

6.27 (11) for individualized home supports with family training staff, 20 percent of the median
6.28 wage for nursing aide (SOC code 31-1131); 30 percent of the median wage for community
6.29 social service specialist (SOC code 21-1099); 40 percent of the median wage for social and
6.30 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
6.31 technician (SOC code 29-2053);

6.32 (12) for individualized home supports with training services staff, 40 percent of the
6.33 median wage for community social service specialist (SOC code 21-1099); 50 percent of

7.1 the median wage for social and human services aide (SOC code 21-1093); and ten percent
7.2 of the median wage for psychiatric technician (SOC code 29-2053);

7.3 (13) for employment support services staff, 50 percent of the median wage for
7.4 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
7.5 community and social services specialist (SOC code 21-1099);

7.6 (14) for employment exploration services staff, 50 percent of the median wage for
7.7 ~~rehabilitation counselor (SOC code 21-1015)~~ education, guidance, school, and vocational
7.8 counselor (SOC code 21-1012); and 50 percent of the median wage for community and
7.9 social services specialist (SOC code 21-1099);

7.10 (15) for employment development services staff, 50 percent of the median wage for
7.11 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
7.12 of the median wage for community and social services specialist (SOC code 21-1099);

7.13 (16) for individualized home support without training staff, 50 percent of the median
7.14 wage for home health and personal care aide (SOC code 31-1120); and 50 percent of the
7.15 median wage for nursing assistant (SOC code 31-1131); and

7.16 (17) for night supervision staff, 40 percent of the median wage for home health and
7.17 personal care aide (SOC code 31-1120); 20 percent of the median wage for nursing assistant
7.18 (SOC code 31-1131); 20 percent of the median wage for psychiatric technician (SOC code
7.19 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
7.20 21-1093); ~~and~~.

7.21 ~~(18) for respite staff, 50 percent of the median wage for home health and personal care~~
7.22 ~~aide (SOC code 31-1131); and 50 percent of the median wage for nursing assistant (SOC~~
7.23 ~~code 31-1014).~~

7.24 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
7.25 whichever is later. The commissioner of human services shall notify the revisor of statutes
7.26 when federal approval is obtained.

7.27 Sec. 6. Minnesota Statutes 2022, section 256B.4914, subdivision 5b, is amended to read:

7.28 Subd. 5b. **Standard component value adjustments.** The commissioner shall update
7.29 the client and programming support, transportation, and program facility cost component
7.30 values as required in subdivisions 6 to ~~9a~~ 9 for changes in the Consumer Price Index. The
7.31 commissioner shall adjust these values higher or lower, publish these updated values, and
7.32 load them into the rate management system as follows:

8.1 (1) on January 1, 2022, by the percentage change in the CPI-U from the date of the
8.2 previous update to the data available on December 31, 2019; and

8.3 ~~(2) on November 1, 2024, by the percentage change in the CPI-U from the date of the~~
8.4 ~~previous update to the data available as of December 31, 2021; and~~

8.5 ~~(3)~~ (2) on ~~July~~ January 1, 2026 ~~2024~~, and every two years thereafter, by the percentage
8.6 change in the CPI-U from the date of the previous update to the data available ~~30~~ 12 months
8.7 and one day prior to the scheduled update.

8.8 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
8.9 whichever is later. The commissioner of human services shall notify the revisor of statutes
8.10 when federal approval is obtained.

8.11 Sec. 7. Minnesota Statutes 2022, section 256B.4914, subdivision 5c, is amended to read:

8.12 Subd. 5c. **Removal of after-framework adjustments.** Any rate adjustments applied to
8.13 the service rates calculated under this section outside of the cost components and rate
8.14 methodology specified in this section shall be removed from rate calculations upon
8.15 implementation of the updates under subdivisions 5 ~~and~~, 5b, and 5f.

8.16 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
8.17 whichever is later. The commissioner of human services shall notify the revisor of statutes
8.18 when federal approval is obtained.

8.19 Sec. 8. Minnesota Statutes 2022, section 256B.4914, subdivision 5d, is amended to read:

8.20 Subd. 5d. **Unavailable data for updates and adjustments.** If Bureau of Labor Statistics
8.21 occupational codes or Consumer Price Index items specified in subdivision 5 ~~or~~, 5b, or 5f
8.22 are unavailable in the future, the commissioner shall recommend to the legislature codes or
8.23 items to update and replace.

8.24 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
8.25 whichever is later. The commissioner of human services shall notify the revisor of statutes
8.26 when federal approval is obtained.

8.27 Sec. 9. Minnesota Statutes 2022, section 256B.4914, subdivision 5e, is amended to read:

8.28 Subd. 5e. **Inflationary update spending requirement.** (a) At least 80 percent of the
8.29 marginal increase in revenue from the rate ~~adjustment applied to the service rates~~ adjustments
8.30 calculated under subdivisions 5 and, 5b beginning on January 1, 2022, and 5f for services
8.31 rendered between January 1, 2022, and March 31, 2024, on or after the day of implementation

9.1 of the adjustment must be used to increase compensation-related costs for employees directly
9.2 employed by the program ~~on or after January 1, 2022.~~

9.3 (b) For the purposes of this subdivision, compensation-related costs include:

9.4 (1) wages and salaries;

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

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

9.10 (4) benefits that address direct support professional workforce needs above and beyond
9.11 what employees were offered prior to ~~January 1, 2022~~ implementation of the applicable
9.12 rate adjustment, including retention and recruitment bonuses and tuition reimbursement.

9.13 (c) Compensation-related costs for persons employed in the central office of a corporation
9.14 or entity that has an ownership interest in the provider or exercises control over the provider,
9.15 or for persons paid by the provider under a management contract, do not count toward the
9.16 80 percent requirement under this subdivision.

9.17 (d) A provider agency or individual provider that receives a rate subject to the
9.18 requirements of this subdivision shall prepare, and upon request submit to the commissioner,
9.19 a distribution plan that specifies the amount of money the provider expects to receive that
9.20 is subject to the requirements of this subdivision, including how that money was or will be
9.21 distributed to increase compensation-related costs for employees. Within 60 days of final
9.22 implementation of a rate adjustment subject to the requirements of this subdivision, the
9.23 provider must post the distribution plan and leave it posted for a period of at least six months
9.24 in an area of the provider's operation to which all direct support professionals have access.
9.25 The posted distribution plan must include instructions regarding how to contact the
9.26 commissioner or commissioner's representative if an employee believes the employee has
9.27 not received the compensation-related increase described in the plan.

9.28 ~~(e) This subdivision expires June 30, 2024.~~

9.29 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
9.30 whichever is later. The commissioner of human services shall notify the revisor of statutes
9.31 when federal approval is obtained.

10.1 Sec. 10. Minnesota Statutes 2022, section 256B.4914, is amended by adding a subdivision
10.2 to read:

10.3 Subd. 5f. **Competitive workforce factor adjustments.** (a) On January 1, 2024, and
10.4 every two years thereafter, the commissioner shall update the competitive workforce factor
10.5 to equal the differential between:

10.6 (1) the most recently available wage data by SOC code for the weighted average wage
10.7 for direct care staff for residential support services and direct care staff for day programs;
10.8 and

10.9 (2) the most recently available wage data by SOC code of the weighted average wage
10.10 of comparable occupations.

10.11 (b) For each update of the competitive workforce factor, the update must not decrease
10.12 the competitive workforce factor by more than 2.0. If the competitive workforce factor is
10.13 less than or equal to zero, then the competitive workforce factor is zero.

10.14 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
10.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
10.16 when federal approval is obtained.

10.17 Sec. 11. Minnesota Statutes 2022, section 256B.4914, subdivision 8, is amended to read:

10.18 Subd. 8. **Unit-based services with programming; component values and calculation**
10.19 **of payment rates.** (a) For the purpose of this section, unit-based services with programming
10.20 include employment exploration services, employment development services, employment
10.21 support services, individualized home supports with family training, individualized home
10.22 supports with training, and positive support services provided to an individual outside of
10.23 any service plan for a day program or residential support service.

10.24 (b) Component values for unit-based services with programming are:

10.25 (1) competitive workforce factor: 4.7 percent;

10.26 (2) supervisory span of control ratio: 11 percent;

10.27 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

10.28 (4) employee-related cost ratio: 23.6 percent;

10.29 (5) program plan support ratio: 15.5 percent;

10.30 (6) client programming and support ratio: 4.7 percent, updated as specified in subdivision
10.31 5b;

- 11.1 (7) general administrative support ratio: 13.25 percent;
- 11.2 (8) program-related expense ratio: 6.1 percent; and
- 11.3 (9) absence and utilization factor ratio: 3.9 percent.
- 11.4 (c) A unit of service for unit-based services with programming is 15 minutes.
- 11.5 (d) Payments for unit-based services with programming must be calculated as follows,
- 11.6 unless the services are reimbursed separately as part of a residential support services or day
- 11.7 program payment rate:
- 11.8 (1) determine the number of units of service to meet a recipient's needs;
- 11.9 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
- 11.10 provided in subdivisions 5 and 5a;
- 11.11 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
- 11.12 product of one plus the competitive workforce factor;
- 11.13 (4) for a recipient requiring customization for deaf and hard-of-hearing language
- 11.14 accessibility under subdivision 12, add the customization rate provided in subdivision 12
- 11.15 to the result of clause (3);
- 11.16 (5) multiply the number of direct staffing hours by the appropriate staff wage;
- 11.17 (6) multiply the number of direct staffing hours by the product of the supervisory span
- 11.18 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);
- 11.19 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
- 11.20 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
- 11.21 rate;
- 11.22 (8) for program plan support, multiply the result of clause (7) by one plus the program
- 11.23 plan support ratio;
- 11.24 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
- 11.25 employee-related cost ratio;
- 11.26 (10) for client programming and supports, multiply the result of clause (9) by one plus
- 11.27 the client programming and support ratio;
- 11.28 (11) this is the subtotal rate;
- 11.29 (12) sum the standard general administrative support ratio, the program-related expense
- 11.30 ratio, and the absence and utilization factor ratio;

12.1 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
12.2 total payment amount;

12.3 (14) for services provided in a shared manner, divide the total payment in clause (13)
12.4 as follows:

12.5 (i) for employment exploration services, divide by the number of service recipients, not
12.6 to exceed five;

12.7 (ii) for employment support services, divide by the number of service recipients, not to
12.8 exceed six; and

12.9 (iii) for individualized home supports with training and individualized home supports
12.10 with family training, divide by the number of service recipients, not to exceed ~~two~~ three;
12.11 and

12.12 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
12.13 to adjust for regional differences in the cost of providing services.

12.14 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
12.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
12.16 when federal approval is obtained.

12.17 Sec. 12. Minnesota Statutes 2022, section 256B.4914, subdivision 9, is amended to read:

12.18 **Subd. 9. Unit-based services without programming; component values and**
12.19 **calculation of payment rates.** (a) For the purposes of this section, unit-based services
12.20 without programming include individualized home supports without training and night
12.21 supervision provided to an individual outside of any service plan for a day program or
12.22 residential support service. Unit-based services without programming do not include respite.

12.23 (b) Component values for unit-based services without programming are:

12.24 (1) competitive workforce factor: 4.7 percent;

12.25 (2) supervisory span of control ratio: 11 percent;

12.26 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;

12.27 (4) employee-related cost ratio: 23.6 percent;

12.28 (5) program plan support ratio: 7.0 percent;

12.29 (6) client programming and support ratio: 2.3 percent, updated as specified in subdivision
12.30 5b;

- 13.1 (7) general administrative support ratio: 13.25 percent;
- 13.2 (8) program-related expense ratio: 2.9 percent; and
- 13.3 (9) absence and utilization factor ratio: 3.9 percent.
- 13.4 (c) A unit of service for unit-based services without programming is 15 minutes.
- 13.5 (d) Payments for unit-based services without programming must be calculated as follows
- 13.6 unless the services are reimbursed separately as part of a residential support services or day
- 13.7 program payment rate:
- 13.8 (1) determine the number of units of service to meet a recipient's needs;
- 13.9 (2) determine the appropriate hourly staff wage rates derived by the commissioner as
- 13.10 provided in subdivisions 5 to 5a;
- 13.11 (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the
- 13.12 product of one plus the competitive workforce factor;
- 13.13 (4) for a recipient requiring customization for deaf and hard-of-hearing language
- 13.14 accessibility under subdivision 12, add the customization rate provided in subdivision 12
- 13.15 to the result of clause (3);
- 13.16 (5) multiply the number of direct staffing hours by the appropriate staff wage;
- 13.17 (6) multiply the number of direct staffing hours by the product of the supervisory span
- 13.18 of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);
- 13.19 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
- 13.20 employee vacation, sick, and training allowance ratio. This is defined as the direct staffing
- 13.21 rate;
- 13.22 (8) for program plan support, multiply the result of clause (7) by one plus the program
- 13.23 plan support ratio;
- 13.24 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
- 13.25 employee-related cost ratio;
- 13.26 (10) for client programming and supports, multiply the result of clause (9) by one plus
- 13.27 the client programming and support ratio;
- 13.28 (11) this is the subtotal rate;
- 13.29 (12) sum the standard general administrative support ratio, the program-related expense
- 13.30 ratio, and the absence and utilization factor ratio;

14.1 (13) divide the result of clause (11) by one minus the result of clause (12). This is the
14.2 total payment amount;

14.3 (14) for individualized home supports without training provided in a shared manner,
14.4 divide the total payment amount in clause (13) by the number of service recipients, not to
14.5 exceed ~~two~~ three; and

14.6 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
14.7 to adjust for regional differences in the cost of providing services.

14.8 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
14.9 whichever is later. The commissioner of human services shall notify the revisor of statutes
14.10 when federal approval is obtained.

14.11 Sec. 13. Minnesota Statutes 2022, section 256B.4914, subdivision 10, is amended to read:

14.12 Subd. 10. **Evaluation of information and data.** (a) The commissioner shall, within
14.13 available resources, conduct research and gather data and information from existing state
14.14 systems or other outside sources on the following items:

14.15 (1) differences in the underlying cost to provide services and care across the state;

14.16 (2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and
14.17 units of transportation for all day services, which must be collected from providers using
14.18 the rate management worksheet and entered into the rates management system; and

14.19 (3) the distinct underlying costs for services provided by a license holder under sections
14.20 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
14.21 by a license holder certified under section 245D.33.

14.22 (b) The commissioner, in consultation with stakeholders, shall review and evaluate the
14.23 following values already in subdivisions 6 to ~~9a~~ 9, or issues that impact all services, including,
14.24 but not limited to:

14.25 (1) values for transportation rates;

14.26 (2) values for services where monitoring technology replaces staff time;

14.27 (3) values for indirect services;

14.28 (4) values for nursing;

14.29 (5) values for the facility use rate in day services, and the weightings used in the day
14.30 service ratios and adjustments to those weightings;

14.31 (6) values for workers' compensation as part of employee-related expenses;

- 15.1 (7) values for unemployment insurance as part of employee-related expenses;
- 15.2 (8) direct care workforce labor market measures;
- 15.3 (9) any changes in state or federal law with a direct impact on the underlying cost of
- 15.4 providing home and community-based services;
- 15.5 (10) outcome measures, determined by the commissioner, for home and community-based
- 15.6 services rates determined under this section; and
- 15.7 (11) different competitive workforce factors by service, as determined under subdivision
- 15.8 10b.

15.9 (c) The commissioner shall report to the chairs and the ranking minority members of

15.10 the legislative committees and divisions with jurisdiction over health and human services

15.11 policy and finance with the information and data gathered under paragraphs (a) and (b) on

15.12 January 15, 2021, with a full report, and a full report once every four years thereafter.

15.13 (d) Beginning July 1, 2022, the commissioner shall renew analysis and implement

15.14 changes to the regional adjustment factors once every six years. Prior to implementation,

15.15 the commissioner shall consult with stakeholders on the methodology to calculate the

15.16 adjustment.

15.17 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,

15.18 whichever is later. The commissioner of human services shall notify the revisor of statutes

15.19 when federal approval is obtained.

15.20 Sec. 14. Minnesota Statutes 2022, section 256B.4914, subdivision 10a, is amended to

15.21 read:

15.22 Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure

15.23 that wage values and component values in subdivisions 5 to ~~9a~~ 9 reflect the cost to provide

15.24 the service. As determined by the commissioner, in consultation with stakeholders identified

15.25 in subdivision 17, a provider enrolled to provide services with rates determined under this

15.26 section must submit requested cost data to the commissioner to support research on the cost

15.27 of providing services that have rates determined by the disability waiver rates system.

15.28 Requested cost data may include, but is not limited to:

- 15.29 (1) worker wage costs;
- 15.30 (2) benefits paid;
- 15.31 (3) supervisor wage costs;

- 16.1 (4) executive wage costs;
- 16.2 (5) vacation, sick, and training time paid;
- 16.3 (6) taxes, workers' compensation, and unemployment insurance costs paid;
- 16.4 (7) administrative costs paid;
- 16.5 (8) program costs paid;
- 16.6 (9) transportation costs paid;
- 16.7 (10) vacancy rates; and
- 16.8 (11) other data relating to costs required to provide services requested by the
- 16.9 commissioner.

16.10 (b) At least once in any five-year period, a provider must submit cost data for a fiscal

16.11 year that ended not more than 18 months prior to the submission date. The commissioner

16.12 shall provide each provider a 90-day notice prior to its submission due date. If a provider

16.13 fails to submit required reporting data, the commissioner shall provide notice to providers

16.14 that have not provided required data 30 days after the required submission date, and a second

16.15 notice for providers who have not provided required data 60 days after the required

16.16 submission date. The commissioner shall temporarily suspend payments to the provider if

16.17 cost data is not received 90 days after the required submission date. Withheld payments

16.18 shall be made once data is received by the commissioner.

16.19 (c) The commissioner shall conduct a random validation of data submitted under

16.20 paragraph (a) to ensure data accuracy.

16.21 (d) The commissioner shall analyze cost data submitted under paragraph (a) and, in

16.22 consultation with stakeholders identified in subdivision 17, may submit recommendations

16.23 on component values and inflationary factor adjustments to the chairs and ranking minority

16.24 members of the legislative committees with jurisdiction over human services once every

16.25 four years beginning January 1, 2021. The commissioner shall make recommendations in

16.26 conjunction with reports submitted to the legislature according to subdivision 10, paragraph

16.27 (c).

16.28 (e) The commissioner shall release cost data in an aggregate form, and cost data from

16.29 individual providers shall not be released except as provided for in current law.

16.30 (f) The commissioner, in consultation with stakeholders identified in subdivision 17,

16.31 shall develop and implement a process for providing training and technical assistance

17.1 necessary to support provider submission of cost documentation required under paragraph
17.2 (a).

17.3 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
17.4 whichever is later. The commissioner of human services shall notify the revisor of statutes
17.5 when federal approval is obtained.

17.6 Sec. 15. Minnesota Statutes 2022, section 256B.4914, subdivision 10c, is amended to
17.7 read:

17.8 Subd. 10c. **Reporting and analysis of competitive workforce factor.** (a) Beginning
17.9 February 1, ~~2024~~ 2025, and every two years thereafter, the commissioner shall report to the
17.10 chairs and ranking minority members of the legislative committees and divisions with
17.11 jurisdiction over health and human services policy and finance an analysis of the competitive
17.12 workforce factor.

17.13 (b) The report must include ~~recommendations to update the competitive workforce factor~~
17.14 ~~using:~~

17.15 (1) the most recently available wage data by SOC code for the weighted average wage
17.16 for direct care staff for residential services and direct care staff for day services;

17.17 (2) the most recently available wage data by SOC code of the weighted average wage
17.18 of comparable occupations; and

17.19 (3) workforce data as required under subdivision 10b.

17.20 (c) ~~The commissioner shall not recommend an increase or decrease of the competitive~~
17.21 ~~workforce factor from the current value by more than two percentage points. If, after a~~
17.22 ~~biennial analysis for the next report, the competitive workforce factor is less than or equal~~
17.23 ~~to zero, the commissioner shall recommend a competitive workforce factor of zero. This~~
17.24 subdivision expires upon submission of the calendar year 2030 report.

17.25 **EFFECTIVE DATE.** This section is effective July 1, 2023.

17.26 Sec. 16. Minnesota Statutes 2022, section 256B.4914, subdivision 12, is amended to read:

17.27 Subd. 12. **Customization of rates for individuals.** (a) For persons determined to have
17.28 higher needs based on being deaf or hard-of-hearing, the direct-care costs must be increased
17.29 by an adjustment factor prior to calculating the rate under subdivisions 6 to ~~9a~~ 9. The
17.30 customization rate with respect to deaf or hard-of-hearing persons shall be \$2.50 per hour
17.31 for waiver recipients who meet the respective criteria as determined by the commissioner.

18.1 (b) For the purposes of this section, "deaf and hard-of-hearing" means:

18.2 (1) the person has a developmental disability and:

18.3 (i) an assessment score which indicates a hearing impairment that is severe or that the
18.4 person has no useful hearing;

18.5 (ii) an expressive communications score that indicates the person uses single signs or
18.6 gestures, uses an augmentative communication aid, or does not have functional
18.7 communication, or the person's expressive communications is unknown; and

18.8 (iii) a communication score which indicates the person comprehends signs, gestures,
18.9 and modeling prompts or does not comprehend verbal, visual, or gestural communication,
18.10 or that the person's receptive communication score is unknown; or

18.11 (2) the person receives long-term care services and has an assessment score that indicates
18.12 the person hears only very loud sounds, the person has no useful hearing, or a determination
18.13 cannot be made; and the person receives long-term care services and has an assessment that
18.14 indicates the person communicates needs with sign language, symbol board, written
18.15 messages, gestures, or an interpreter; communicates with inappropriate content, makes
18.16 garbled sounds or displays echolalia, or does not communicate needs.

18.17 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
18.18 whichever is later. The commissioner of human services shall notify the revisor of statutes
18.19 when federal approval is obtained.

18.20 Sec. 17. Minnesota Statutes 2022, section 256B.4914, subdivision 14, is amended to read:

18.21 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead agencies
18.22 must identify individuals with exceptional needs that cannot be met under the disability
18.23 waiver rate system. The commissioner shall use that information to evaluate and, if necessary,
18.24 approve an alternative payment rate for those individuals. Whether granted, denied, or
18.25 modified, the commissioner shall respond to all exception requests in writing. The
18.26 commissioner shall include in the written response the basis for the action and provide
18.27 notification of the right to appeal under paragraph (h).

18.28 (b) Lead agencies must act on an exception request within 30 days and notify the initiator
18.29 of the request of their recommendation in writing. A lead agency shall submit all exception
18.30 requests along with its recommendation to the commissioner.

18.31 (c) An application for a rate exception may be submitted for the following criteria:

18.32 (1) an individual has service needs that cannot be met through additional units of service;

19.1 (2) an individual's rate determined under subdivisions 6 to ~~9a~~ 9 is so insufficient that it
19.2 has resulted in an individual receiving a notice of discharge from the individual's provider;
19.3 or

19.4 (3) an individual's service needs, including behavioral changes, require a level of service
19.5 which necessitates a change in provider or which requires the current provider to propose
19.6 service changes beyond those currently authorized.

19.7 (d) Exception requests must include the following information:

19.8 (1) the service needs required by each individual that are not accounted for in subdivisions
19.9 6 to ~~9a~~ 9;

19.10 (2) the service rate requested and the difference from the rate determined in subdivisions
19.11 6 to ~~9a~~ 9;

19.12 (3) a basis for the underlying costs used for the rate exception and any accompanying
19.13 documentation; and

19.14 (4) any contingencies for approval.

19.15 (e) Approved rate exceptions shall be managed within lead agency allocations under
19.16 sections 256B.092 and 256B.49.

19.17 (f) Individual disability waiver recipients, an interested party, or the license holder that
19.18 would receive the rate exception increase may request that a lead agency submit an exception
19.19 request. A lead agency that denies such a request shall notify the individual waiver recipient,
19.20 interested party, or license holder of its decision and the reasons for denying the request in
19.21 writing no later than 30 days after the request has been made and shall submit its denial to
19.22 the commissioner in accordance with paragraph (b). The reasons for the denial must be
19.23 based on the failure to meet the criteria in paragraph (c).

19.24 (g) The commissioner shall determine whether to approve or deny an exception request
19.25 no more than 30 days after receiving the request. If the commissioner denies the request,
19.26 the commissioner shall notify the lead agency and the individual disability waiver recipient,
19.27 the interested party, and the license holder in writing of the reasons for the denial.

19.28 (h) The individual disability waiver recipient may appeal any denial of an exception
19.29 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
19.30 256.0451. When the denial of an exception request results in the proposed demission of a
19.31 waiver recipient from a residential or day habilitation program, the commissioner shall issue
19.32 a temporary stay of demission, when requested by the disability waiver recipient, consistent
19.33 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary

20.1 stay shall remain in effect until the lead agency can provide an informed choice of
20.2 appropriate, alternative services to the disability waiver.

20.3 (i) Providers may petition lead agencies to update values that were entered incorrectly
20.4 or erroneously into the rate management system, based on past service level discussions
20.5 and determination in subdivision 4, without applying for a rate exception.

20.6 (j) The starting date for the rate exception will be the later of the date of the recipient's
20.7 change in support or the date of the request to the lead agency for an exception.

20.8 (k) The commissioner shall track all exception requests received and their dispositions.
20.9 The commissioner shall issue quarterly public exceptions statistical reports, including the
20.10 number of exception requests received and the numbers granted, denied, withdrawn, and
20.11 pending. The report shall include the average amount of time required to process exceptions.

20.12 (l) Approved rate exceptions remain in effect in all cases until an individual's needs
20.13 change as defined in paragraph (c).

20.14 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
20.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
20.16 when federal approval is obtained.

20.17 Sec. 18. Minnesota Statutes 2022, section 256S.2101, subdivision 1, is amended to read:

20.18 Subdivision 1. **Phase-in for disability waiver customized living rates.** All rates and
20.19 rate components for community access for disability inclusion customized living and brain
20.20 injury customized living under section 256B.4914 ~~shall~~ must be the sum of ~~ten~~ 21.6 percent
20.21 of the rates calculated under sections 256S.211 to 256S.215 and ~~90~~ 78.4 percent of the rates
20.22 calculated using the rate methodology in effect as of June 30, 2017.

20.23 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
20.24 whichever is later. The commissioner of human services shall notify the revisor of statutes
20.25 when federal approval is obtained.

20.26 Sec. 19. **DIRECTION TO COMMISSIONER; DISABILITY WAIVER SHARED**
20.27 **SERVICES RATES.**

20.28 The commissioner of human services shall establish a rate system for shared homemaker
20.29 services and shared chore services provided under Minnesota Statutes, sections 256B.092
20.30 and 256B.49. For two persons sharing services, the rate paid to a provider must not exceed
20.31 1-1/2 times the rate paid for serving a single individual, and for three persons sharing
20.32 services, the rate paid to a provider must not exceed two times the rate paid for serving a

21.1 single individual. These rates apply only when all of the criteria for the shared service have
21.2 been met.

21.3 Sec. 20. **DIRECTION TO COMMISSIONER; SHARED SERVICES.**

21.4 (a) By December 1, 2023, the commissioner of human services shall seek any necessary
21.5 changes to home and community-based services waiver plans regarding sharing services in
21.6 order to:

21.7 (1) permit shared services for additional services, including chore, homemaker, and
21.8 night supervision;

21.9 (2) permit existing shared services at higher ratios, including individualized home
21.10 supports without training, individualized home supports with training, and individualized
21.11 home supports with family training at a ratio of one staff person to three recipients;

21.12 (3) ensure that individuals who are seeking to share services permitted under the waiver
21.13 plans in an own-home setting are not required to live in a licensed setting in order to share
21.14 services so long as all other requirements are met; and

21.15 (4) issue guidance for shared services, including:

21.16 (i) informed choice for all individuals sharing the services;

21.17 (ii) guidance for when multiple shared services by different providers occur in one home
21.18 and how lead agencies and individuals shall determine that shared service is appropriate to
21.19 meet the needs, health, and safety of each individual for whom the lead agency provides
21.20 case management or care coordination; and

21.21 (iii) guidance clarifying that an individual's decision to share services does not reduce
21.22 any determination of the individual's overall or assessed needs for services.

21.23 (b) The commissioner shall develop or provide guidance outlining:

21.24 (1) instructions for shared services support planning;

21.25 (2) person-centered approaches and informed choice in shared services support planning;
21.26 and

21.27 (3) required contents of shared services agreements.

21.28 (c) The commissioner shall seek and utilize stakeholder input for any proposed changes
21.29 to waiver plans and any shared services guidance.

22.1 **Sec. 21. DIRECTION TO COMMISSIONER; LIFE-SHARING SERVICES.**

22.2 **Subdivision 1. Recommendations required.** The commissioner of human services shall
 22.3 develop recommendations for establishing life sharing as a covered medical assistance
 22.4 waiver service.

22.5 **Subd. 2. Definition.** For the purposes of this section, "life sharing" means a
 22.6 relationship-based living arrangement between an adult with a disability and an individual
 22.7 or family in which they share their lives and experiences while the adult with a disability
 22.8 receives support from the individual or family using person-centered practices.

22.9 **Subd. 3. Stakeholder engagement and consultation.** (a) The commissioner must
 22.10 proactively solicit participation in the development of the life-sharing medical assistance
 22.11 service through a robust stakeholder engagement process that results in the inclusion of a
 22.12 racially, culturally, and geographically diverse group of interested stakeholders from each
 22.13 of the following groups:

22.14 (1) providers currently providing or interested in providing life-sharing services;

22.15 (2) people with disabilities accessing or interested in accessing life-sharing services;

22.16 (3) disability advocacy organizations; and

22.17 (4) lead agencies.

22.18 **(b) The commissioner must proactively seek input into and assistance with the**
 22.19 **development of recommendations for establishing the life-sharing service from interested**
 22.20 **stakeholders.**

22.21 **(c) The commissioner must provide a method for the commissioner and interested**
 22.22 **stakeholders to cofacilitate public meetings. The first meeting must occur before January**
 22.23 **31, 2023. The commissioner must host the cofacilitated meetings at least monthly through**
 22.24 **December 31, 2023. All meetings must be accessible to all interested stakeholders, recorded,**
 22.25 **and posted online within one week of the meeting date.**

22.26 **Subd. 4. Required topics to be discussed during development of the**
 22.27 **recommendations.** The commissioner and the interested stakeholders must discuss the
 22.28 following topics:

22.29 (1) the distinction between life sharing and adult family foster care;

22.30 (2) successful life-sharing models used in other states;

22.31 (3) services and supports that could be included in a life-sharing service;

- 23.1 (4) potential barriers to providing or accessing life-sharing services;
 23.2 (5) solutions to remove identified barriers to providing or accessing life-sharing services;
 23.3 (6) potential medical assistance payment methodologies for life-sharing services;
 23.4 (7) expanding awareness of the life-sharing model; and
 23.5 (8) draft language for legislation necessary to define and implement life-sharing services.

23.6 Subd. 5. **Report to the legislature.** By December 31, 2024, the commissioner must
 23.7 provide to the chairs and ranking minority members of the house of representatives and
 23.8 senate committees and divisions with jurisdiction over direct care services a report
 23.9 summarizing the discussions between the commissioner and the interested stakeholders and
 23.10 the commissioner's recommendations. The report must also include any draft legislation
 23.11 necessary to define and implement life-sharing services.

23.12 Sec. 22. **REPEALER.**

23.13 Minnesota Statutes 2022, section 256B.4914, subdivision 9a, is repealed.

23.14 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
 23.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
 23.16 when federal approval is obtained.

ARTICLE 3

ELDERLY WAIVER

23.19 Section 1. Minnesota Statutes 2022, section 256B.0913, subdivision 4, is amended to read:

23.20 Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a)
 23.21 Funding for services under the alternative care program is available to persons who meet
 23.22 the following criteria:

23.23 (1) the person is a citizen of the United States or a United States national;

23.24 (2) the person has been determined by a community assessment under section 256B.0911
 23.25 to be a person who would require the level of care provided in a nursing facility, as
 23.26 determined under section 256B.0911, subdivision 26, but for the provision of services under
 23.27 the alternative care program;

23.28 (3) the person is age 65 or older;

23.29 (4) the person would be eligible for medical assistance within 135 days of admission to
 23.30 a nursing facility;

24.1 (5) the person is not ineligible for the payment of long-term care services by the medical
24.2 assistance program due to an asset transfer penalty under section 256B.0595 or equity
24.3 interest in the home exceeding \$500,000 as stated in section 256B.056;

24.4 (6) the person needs long-term care services that are not funded through other state or
24.5 federal funding, or other health insurance or other third-party insurance such as long-term
24.6 care insurance;

24.7 (7) except for individuals described in clause (8), the monthly cost of the alternative
24.8 care services funded by the program for this person does not exceed 75 percent of the
24.9 monthly limit described under section 256S.18. This monthly limit does not prohibit the
24.10 alternative care client from payment for additional services, but in no case may the cost of
24.11 additional services purchased under this section exceed the difference between the client's
24.12 monthly service limit defined under section 256S.04, and the alternative care program
24.13 monthly service limit defined in this paragraph. If care-related supplies and equipment or
24.14 environmental modifications and adaptations are or will be purchased for an alternative
24.15 care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive
24.16 months beginning with the month of purchase. If the monthly cost of a recipient's other
24.17 alternative care services exceeds the monthly limit established in this paragraph, the annual
24.18 cost of the alternative care services ~~shall~~ must be determined. In this event, the annual cost
24.19 of alternative care services ~~shall~~ must not exceed 12 times the monthly limit described in
24.20 this paragraph;

24.21 (8) for individuals assigned a case mix classification A as described under section
24.22 256S.18, with (i) no dependencies in activities of daily living, or (ii) up to two dependencies
24.23 in bathing, dressing, grooming, walking, and eating when the dependency score in eating
24.24 is three or greater as determined by an assessment performed under section 256B.0911, the
24.25 monthly cost of alternative care services funded by the program cannot exceed \$593 per
24.26 month for all new participants enrolled in the program on or after July 1, 2011. This monthly
24.27 limit shall be applied to all other participants who meet this criteria at reassessment. This
24.28 monthly limit ~~shall~~ must be increased annually as described in section 256S.18. This monthly
24.29 limit does not prohibit the alternative care client from payment for additional services, but
24.30 in no case may the cost of additional services purchased exceed the difference between the
24.31 client's monthly service limit defined in this clause and the limit described in clause (7) for
24.32 case mix classification A; ~~and~~

24.33 (9) the person is making timely payments of the assessed monthly fee; and

25.1 (10) for a person participating in consumer-directed community supports, the person's
25.2 monthly service limit must be equal to the monthly service limits in clause (7), except that
25.3 a person assigned a case mix classification L must receive the monthly service limit for
25.4 case mix classification A.

25.5 A person is ineligible if payment of the fee is over 60 days past due, unless the person
25.6 agrees to:

25.7 (i) the appointment of a representative payee;

25.8 (ii) automatic payment from a financial account;

25.9 (iii) the establishment of greater family involvement in the financial management of
25.10 payments; or

25.11 (iv) another method acceptable to the lead agency to ensure prompt fee payments.

25.12 (b) The lead agency may extend the client's eligibility as necessary while making
25.13 arrangements to facilitate payment of past-due amounts and future premium payments.

25.14 Following disenrollment due to nonpayment of a monthly fee, eligibility ~~shall~~ must not be
25.15 reinstated for a period of 30 days.

25.16 (c) Alternative care funding under this subdivision is not available for a person who is
25.17 a medical assistance recipient or who would be eligible for medical assistance without a
25.18 spenddown or waiver obligation. A person whose initial application for medical assistance
25.19 and the elderly waiver program is being processed may be served under the alternative care
25.20 program for a period up to 60 days. If the individual is found to be eligible for medical
25.21 assistance, medical assistance must be billed for services payable under the federally
25.22 approved elderly waiver plan and delivered from the date the individual was found eligible
25.23 for the federally approved elderly waiver plan. Notwithstanding this provision, alternative
25.24 care funds may not be used to pay for any service the cost of which: (i) is payable by medical
25.25 assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a
25.26 medical assistance income spenddown for a person who is eligible to participate in the
25.27 federally approved elderly waiver program under the special income standard provision.

25.28 (d) Alternative care funding is not available for a person who resides in a licensed nursing
25.29 home, certified boarding care home, hospital, or intermediate care facility, except for case
25.30 management services which are provided in support of the discharge planning process for
25.31 a nursing home resident or certified boarding care home resident to assist with a relocation
25.32 process to a community-based setting.

26.1 (e) Alternative care funding is not available for a person whose income is greater than
26.2 the maintenance needs allowance under section 256S.05, but equal to or less than 120 percent
26.3 of the federal poverty guideline effective July 1 in the fiscal year for which alternative care
26.4 eligibility is determined, who would be eligible for the elderly waiver with a waiver
26.5 obligation.

26.6 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
26.7 whichever is later. The commissioner of human services shall notify the revisor of statutes
26.8 when federal approval is obtained.

26.9 Sec. 2. Minnesota Statutes 2022, section 256B.0913, subdivision 5, is amended to read:

26.10 Subd. 5. **Services covered under alternative care.** Alternative care funding may be
26.11 used for payment of costs of:

26.12 (1) adult day services and adult day services bath;

26.13 (2) home care;

26.14 (3) homemaker services;

26.15 (4) personal care;

26.16 (5) case management and conversion case management;

26.17 (6) respite care;

26.18 (7) specialized supplies and equipment;

26.19 (8) home-delivered meals;

26.20 (9) nonmedical transportation;

26.21 (10) nursing services;

26.22 (11) chore services;

26.23 (12) companion services;

26.24 (13) nutrition services;

26.25 (14) family caregiver training and education;

26.26 (15) coaching and counseling;

26.27 (16) telehome care to provide services in their own homes in conjunction with in-home
26.28 visits;

27.1 (17) consumer-directed community supports ~~under the alternative care programs which~~
 27.2 ~~are available statewide and limited to the average monthly expenditures representative of~~
 27.3 ~~all alternative care program participants for the same case mix resident class assigned in~~
 27.4 ~~the most recent fiscal year for which complete expenditure data is available;~~

27.5 (18) environmental accessibility and adaptations; and

27.6 (19) discretionary services, for which lead agencies may make payment from their
 27.7 alternative care program allocation for services not otherwise defined in this section or
 27.8 section 256B.0625, following approval by the commissioner.

27.9 Total annual payments for discretionary services for all clients served by a lead agency
 27.10 must not exceed 25 percent of that lead agency's annual alternative care program base
 27.11 allocation, except that when alternative care services receive federal financial participation
 27.12 under the 1115 waiver demonstration, funding shall be allocated in accordance with
 27.13 subdivision 17.

27.14 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
 27.15 whichever is later. The commissioner of human services shall notify the revisor of statutes
 27.16 when federal approval is obtained.

27.17 Sec. 3. Minnesota Statutes 2022, section 256S.15, subdivision 2, is amended to read:

27.18 Subd. 2. **Foster care limit.** The elderly waiver payment for the foster care service in
 27.19 combination with the payment for all other elderly waiver services, including case
 27.20 management, must not exceed the monthly case mix budget cap for the participant as
 27.21 specified in sections 256S.18, subdivision 3, and 256S.19, ~~subdivisions~~ subdivision 3 and
 27.22 4.

27.23 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
 27.24 whichever is later. The commissioner of human services shall notify the revisor of statutes
 27.25 when federal approval is obtained.

27.26 Sec. 4. Minnesota Statutes 2022, section 256S.18, is amended by adding a subdivision to
 27.27 read:

27.28 Subd. 3a. **Monthly case mix budget caps for consumer-directed community**
 27.29 **supports.** The monthly case mix budget caps for each case mix classification for
 27.30 consumer-directed community supports must be equal to the monthly case mix budget caps
 27.31 in subdivision 3.

27.32 **EFFECTIVE DATE.** This section is effective January 1, 2024.

28.1 Sec. 5. Minnesota Statutes 2022, section 256S.19, subdivision 3, is amended to read:

28.2 Subd. 3. **Calculation of monthly conversion budget cap without consumer-directed**
 28.3 **community supports caps.** (a) The elderly waiver monthly conversion budget cap for the
 28.4 cost of elderly waiver services ~~without consumer-directed community supports~~ must be
 28.5 based on the nursing facility case mix adjusted total payment rate of the nursing facility
 28.6 where the elderly waiver applicant currently resides for the applicant's case mix classification
 28.7 as determined according to section 256R.17.

28.8 (b) The elderly waiver monthly conversion budget cap for the cost of elderly waiver
 28.9 services ~~without consumer-directed community supports shall~~ must be calculated by
 28.10 multiplying the applicable nursing facility case mix adjusted total payment rate by 365,
 28.11 dividing by 12, and subtracting the participant's maintenance needs allowance.

28.12 (c) A participant's initially approved monthly conversion budget cap for elderly waiver
 28.13 services ~~without consumer-directed community supports shall~~ must be adjusted at least
 28.14 annually as described in section 256S.18, subdivision 5.

28.15 (d) Conversion budget caps for individuals participating in consumer-directed community
 28.16 supports must also be set as described in paragraphs (a) to (c).

28.17 **EFFECTIVE DATE.** This section is effective January 1, 2024.

28.18 Sec. 6. Minnesota Statutes 2022, section 256S.205, subdivision 3, is amended to read:

28.19 Subd. 3. **Rate adjustment eligibility criteria.** Only facilities satisfying all of the
 28.20 following conditions on September 1 of the application year are eligible for designation as
 28.21 a disproportionate share facility:

28.22 (1) at least ~~83.5~~ 80 percent of the residents of the facility are customized living residents;
 28.23 and

28.24 (2) at least ~~70~~ 50 percent of the customized living residents are elderly waiver participants.

28.25 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 28.26 whichever is later. The commissioner of human services shall notify the revisor of statutes
 28.27 when federal approval is obtained.

28.28 Sec. 7. Minnesota Statutes 2022, section 256S.205, subdivision 5, is amended to read:

28.29 Subd. 5. **Rate adjustment; rate floor.** (a) Notwithstanding the 24-hour customized
 28.30 living monthly service rate limits under section 256S.202, subdivision 2, and the component
 28.31 service rates established under section 256S.201, subdivision 4, the commissioner must

29.1 establish a rate floor equal to ~~\$119~~ \$139 per resident per day for 24-hour customized living
 29.2 services provided to an elderly waiver participant in a designated disproportionate share
 29.3 facility.

29.4 (b) The commissioner must apply the rate floor to the services described in paragraph
 29.5 (a) provided during the rate year.

29.6 (c) The commissioner must adjust the rate floor by the same amount and at the same
 29.7 time as any adjustment to the 24-hour customized living monthly service rate limits under
 29.8 section 256S.202, subdivision 2.

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

29.12 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 29.13 whichever is later. The commissioner of human services shall notify the revisor of statutes
 29.14 when federal approval is obtained.

29.15 Sec. 8. Minnesota Statutes 2022, section 256S.2101, subdivision 2, is amended to read:

29.16 Subd. 2. **Phase-in for elderly waiver rates.** Except for ~~home-delivered meals as~~
 29.17 ~~described in section 256S.215, subdivision 15~~ the services in subdivisions 4 and 5, all rates
 29.18 and rate components for elderly waiver, elderly waiver customized living, and elderly waiver
 29.19 foster care under this chapter; alternative care under section 256B.0913; and essential
 29.20 community supports under section 256B.0922 ~~shall~~ must be the sum of ~~18.8~~ 21.6 percent
 29.21 of the rates calculated under sections 256S.211 to 256S.215, and ~~81.2~~ 78.4 percent of the
 29.22 rates calculated using the rate methodology in effect as of June 30, 2017. ~~The rate for~~
 29.23 ~~home-delivered meals shall be the sum of the service rate in effect as of January 1, 2019,~~
 29.24 ~~and the increases described in section 256S.215, subdivision 15.~~

29.25 **EFFECTIVE DATE.** This section is effective January 1, 2024.

29.26 Sec. 9. Minnesota Statutes 2022, section 256S.2101, is amended by adding a subdivision
 29.27 to read:

29.28 **Subd. 3. Spending requirements.** (a) At least 80 percent of the marginal increase in
 29.29 revenue from the implementation of any adjustments to a phase-in proportion under this
 29.30 section, or any adjustments to the base wage indices under section 256S.212, for services
 29.31 rendered on or after the day of implementation of the modified phase-in proportion or

30.1 applicable adjustment to the base wage indices must be used to increase compensation-related
30.2 costs for employees directly employed by the provider.

30.3 (b) For the purposes of this subdivision, compensation-related costs include:

30.4 (1) wages and salaries;

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

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

30.10 (4) benefits that address direct support professional workforce needs above and beyond
30.11 what employees were offered prior to the implementation of adjusted phase-in proportions
30.12 under this section, including any concurrent or subsequent adjustments to the base wage
30.13 indices.

30.14 (c) Compensation-related costs for persons employed in the central office of a corporation
30.15 or entity that has an ownership interest in the provider or exercises control over the provider,
30.16 or for persons paid by the provider under a management contract, do not count toward the
30.17 80 percent requirement under this subdivision.

30.18 (d) A provider agency or individual provider that receives additional revenue subject to
30.19 the requirements of this subdivision shall prepare, and upon request submit to the
30.20 commissioner, a distribution plan that specifies the amount of money the provider expects
30.21 to receive that is subject to the requirements of this subdivision, including how that money
30.22 was or will be distributed to increase compensation-related costs for employees. Within 60
30.23 days of final implementation of the new phase-in proportion or adjustment to the base wage
30.24 indices subject to the requirements of this subdivision, the provider must post the distribution
30.25 plan and leave it posted for a period of at least six months in an area of the provider's
30.26 operation to which all direct support professionals have access. The posted distribution plan
30.27 must include instructions regarding how to contact the commissioner, or the commissioner's
30.28 representative, if an employee has not received the compensation-related increase described
30.29 in the plan.

30.30 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
30.31 whichever is later. The commissioner of human services shall notify the revisor of statutes
30.32 when federal approval is obtained.

31.1 Sec. 10. Minnesota Statutes 2022, section 256S.2101, is amended by adding a subdivision
31.2 to read:

31.3 Subd. 4. **Phase-in for home-delivered meals rate.** The home-delivered meals rate for
31.4 the elderly waiver under this chapter; alternative care under section 256B.0913; and essential
31.5 community supports under section 256B.0922 must be the sum of 65 percent of the rate in
31.6 section 256S.215, subdivision 15, and 35 percent of the rate calculated using the rate
31.7 methodology in effect as of June 30, 2017.

31.8 **EFFECTIVE DATE.** This section is effective January 1, 2024.

31.9 Sec. 11. Minnesota Statutes 2022, section 256S.2101, is amended by adding a subdivision
31.10 to read:

31.11 Subd. 5. **Service rates exempt from phase-in.** Subdivision 2 does not apply to rates
31.12 for homemaker services described in section 256S.215, subdivisions 9 to 11.

31.13 **EFFECTIVE DATE.** This section is effective January 1, 2024.

31.14 Sec. 12. Minnesota Statutes 2022, section 256S.212, is amended to read:

31.15 **256S.212 RATE SETTING; BASE WAGE INDEX.**

31.16 Subdivision 1. **Updating SOC codes.** If any of the SOC codes and positions used in
31.17 this section are no longer available, the commissioner shall, in consultation with stakeholders,
31.18 select a new SOC code and position that is the closest match to the previously used SOC
31.19 position.

31.20 Subd. 1a. **Updating base wages.** (a) On January 1, 2024, and every two years thereafter,
31.21 the commissioner must update the base wages for the services listed in paragraph (b) based
31.22 on the most recently available Bureau of Labor Statistics Minneapolis-St. Paul-Bloomington,
31.23 MN-WI MetroSA data. Any marginal increase in revenue from implementation of any
31.24 adjustment to base wages under this section, including any modifications to SOC codes or
31.25 positions, is subject to the spending requirements under section 256S.2101, subdivision 3.

31.26 (b) This subdivision applies to:

31.27 (1) the homemaker services and assistance with personal care base wage under subdivision
31.28 8;

31.29 (2) the homemaker services and cleaning base wage under subdivision 9;

31.30 (3) the homemaker services and home management base wage under subdivision 10;

31.31 and

32.1 (4) for the purposes of calculating the unlicensed supervisor supervision wage component
 32.2 used to calculate the homemaker services rates under section 256S.215, subdivisions 9 to
 32.3 11, the unlicensed supervisor base wage under subdivision 15.

32.4 Subd. 2. **Home management and support services base wage.** For customized living,
 32.5 and foster care, and residential care component services, the home management and support
 32.6 services base wage equals 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 32.7 MetroSA average wage for home health and personal and home care aide aides (SOC code
 32.8 ~~39-9021~~ 31-1120); 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 32.9 average wage for food preparation workers (SOC code 35-2021); and 33.34 percent of the
 32.10 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and
 32.11 housekeeping cleaners (SOC code 37-2012).

32.12 Subd. 3. **Home care aide base wage.** For customized living, and foster care, and
 32.13 ~~residential care~~ component services, the home care aide base wage equals ~~50~~ 75 percent of
 32.14 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health
 32.15 and personal care aides (SOC code ~~31-1014~~ 31-1120); and ~~50~~ 25 percent of the
 32.16 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
 32.17 (SOC code ~~31-1014~~ 31-1131).

32.18 Subd. 4. **Home health aide base wage.** For customized living, and foster care, and
 32.19 ~~residential care~~ component services, the home health aide base wage equals ~~20~~ 33.33 percent
 32.20 of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed
 32.21 practical and licensed vocational nurses (SOC code 29-2061); ~~and 80~~ 33.33 percent of the
 32.22 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
 32.23 (SOC code ~~31-1014~~ 31-1131); and 33.34 percent of the Minneapolis-St. Paul-Bloomington,
 32.24 MN-WI MetroSA average wage for home health and personal care aides (SOC code
 32.25 31-1120).

32.26 Subd. 5. **Medication setups by licensed nurse base wage.** For customized living, and
 32.27 ~~foster care, and residential care~~ component services, the medication setups by licensed nurse
 32.28 base wage equals ~~ten~~ 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 32.29 average wage for licensed practical and licensed vocational nurses (SOC code 29-2061);
 32.30 and ~~90~~ 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average
 32.31 wage for registered nurses (SOC code 29-1141).

32.32 Subd. 6. **Chore services base wage.** The chore services base wage equals ~~100~~ 50 percent
 32.33 of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for landscaping
 32.34 and groundskeeping workers (SOC code 37-3011); and 50 percent of the Minneapolis-St.

33.1 Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners
 33.2 (SOC code 37-2012).

33.3 Subd. 7. **Companion services base wage.** The companion services base wage equals
 33.4 ~~50~~ 80 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage
 33.5 for home health and personal and home care aides (SOC code ~~39-9021~~ 31-1120); and ~~50~~
 33.6 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for
 33.7 maids and housekeeping cleaners (SOC code 37-2012).

33.8 Subd. 8. **Homemaker services and assistance with personal care base wage.** The
 33.9 homemaker services and assistance with personal care base wage equals ~~60~~ 50 percent of
 33.10 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health
 33.11 and personal and home care aide aides (SOC code ~~39-9021~~ 31-1120); ~~20~~ and 50 percent of
 33.12 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
 33.13 (SOC code ~~31-1014~~ 31-1131); and ~~20~~ percent of the Minneapolis-St. Paul-Bloomington,
 33.14 ~~MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).~~

33.15 Subd. 9. **Homemaker services and cleaning base wage.** The homemaker services and
 33.16 cleaning base wage equals ~~60~~ percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 33.17 ~~MetroSA average wage for personal and home care aide (SOC code 39-9021); 20 percent~~
 33.18 ~~of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing~~
 33.19 ~~assistants (SOC code 31-1014); and 20~~ 100 percent of the Minneapolis-St. Paul-Bloomington,
 33.20 MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

33.21 Subd. 10. **Homemaker services and home management base wage.** The homemaker
 33.22 services and home management base wage equals ~~60~~ 50 percent of the Minneapolis-St.
 33.23 Paul-Bloomington, MN-WI MetroSA average wage for home health and personal and home
 33.24 care aide aides (SOC code ~~39-9021~~ 31-1120); ~~20~~ and 50 percent of the Minneapolis-St.
 33.25 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
 33.26 ~~31-1014~~ 31-1131); and ~~20~~ percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 33.27 ~~MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).~~

33.28 Subd. 11. **In-home respite care services base wage.** The in-home respite care services
 33.29 base wage equals ~~five~~ 15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
 33.30 average wage for registered nurses (SOC code 29-1141); 75 percent of the Minneapolis-St.
 33.31 Paul-Bloomington, MN-WI MetroSA average wage for ~~nursing assistants~~ home health and
 33.32 personal care aides (SOC code ~~31-1014~~ 31-1120); and ~~20~~ ten percent of the Minneapolis-St.
 33.33 Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed
 33.34 vocational nurses (SOC code 29-2061).

34.1 Subd. 12. **Out-of-home respite care services base wage.** The out-of-home respite care
 34.2 services base wage equals ~~five~~ 15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
 34.3 MetroSA average wage for registered nurses (SOC code 29-1141); 75 percent of the
 34.4 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for ~~nursing assistants~~
 34.5 home health and personal care aides (SOC code ~~31-1014~~ 31-1120); and ~~20~~ ten percent of
 34.6 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical
 34.7 and licensed vocational nurses (SOC code 29-2061).

34.8 Subd. 13. **Individual community living support base wage.** The individual community
 34.9 living support base wage equals ~~20~~ 60 percent of the Minneapolis-St. Paul-Bloomington,
 34.10 MN-WI MetroSA average wage for ~~licensed practical and licensed vocational nurses~~ social
 34.11 and human services aides (SOC code ~~29-2061~~ 21-1093); and ~~80~~ 40 percent of the
 34.12 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
 34.13 (SOC code ~~31-1014~~ 31-1131).

34.14 Subd. 14. **Registered nurse base wage.** The registered nurse base wage equals 100
 34.15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for
 34.16 registered nurses (SOC code 29-1141).

34.17 Subd. 15. ~~Social worker~~ **Unlicensed supervisor base wage.** The ~~social worker~~
 34.18 unlicensed supervisor base wage equals 100 percent of the Minneapolis-St.
 34.19 Paul-Bloomington, MN-WI MetroSA average wage for ~~medical and public health social~~
 34.20 first-line supervisors of personal service workers (SOC code ~~21-1022~~ 39-1098).

34.21 Subd. 16. **Adult day services base wage.** The adult day services base wage equals 75
 34.22 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home
 34.23 health and personal care aides (SOC code 31-1120); and 25 percent of the Minneapolis-St.
 34.24 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
 34.25 31-1131).

34.26 **EFFECTIVE DATE.** This section is effective January 1, 2024.

34.27 Sec. 13. Minnesota Statutes 2022, section 256S.213, is amended to read:

34.28 **256S.213 RATE SETTING; FACTORS AND SUPERVISION WAGE**
 34.29 **COMPONENTS.**

34.30 Subdivision 1. **Payroll taxes and benefits factor.** The payroll taxes and benefits factor
 34.31 is the sum of net payroll taxes and benefits, divided by the sum of all salaries for all nursing
 34.32 facilities on the most recent and available cost report.

35.1 Subd. 2. **General and administrative factor.** The general and administrative factor is
 35.2 ~~the difference of net general and administrative expenses and administrative salaries, divided~~
 35.3 ~~by total operating expenses for all nursing facilities on the most recent and available cost~~
 35.4 ~~report~~ 14.4 percent.

35.5 Subd. 3. **Program plan support factor.** (a) The program plan support factor is ~~12.8~~ ten
 35.6 percent for the following services to cover the cost of direct service staff needed to provide
 35.7 support for ~~home and community-based~~ the service when not engaged in direct contact with
 35.8 participants:

35.9 (1) adult day services;

35.10 (2) customized living; and

35.11 (3) foster care.

35.12 (b) The program plan support factor is 15.5 percent for the following services to cover
 35.13 the cost of direct service staff needed to provide support for the service when not engaged
 35.14 in direct contact with participants:

35.15 (1) chore services;

35.16 (2) companion services;

35.17 (3) homemaker services and assistance with personal care;

35.18 (4) homemaker services and cleaning;

35.19 (5) homemaker services and home management;

35.20 (6) in-home respite care;

35.21 (7) individual community living support; and

35.22 (8) out-of-home respite care.

35.23 Subd. 4. **Registered nurse management and supervision factor** wage component. The
 35.24 registered nurse management and supervision ~~factor~~ wage component equals 15 percent of
 35.25 the registered nurse adjusted base wage as defined in section 256S.214.

35.26 Subd. 5. ~~Social worker~~ **Unlicensed supervisor supervision factor** wage
 35.27 **component.** The ~~social worker~~ unlicensed supervisor supervision factor wage component
 35.28 equals 15 percent of the ~~social worker~~ unlicensed supervisor adjusted base wage as defined
 35.29 in section 256S.214.

35.30 Subd. 6. **Facility and equipment factor.** The facility and equipment factor for adult
 35.31 day services is 16.2 percent.

36.1 Subd. 7. Food, supplies, and transportation factor. The food, supplies, and
 36.2 transportation factor for adult day services is 24 percent.

36.3 Subd. 8. Supplies and transportation factor. The supplies and transportation factor
 36.4 for the following services is 1.56 percent:

36.5 (1) chore services;

36.6 (2) companion services;

36.7 (3) homemaker services and assistance with personal care;

36.8 (4) homemaker services and cleaning;

36.9 (5) homemaker services and home management;

36.10 (6) in-home respite care;

36.11 (7) individual community living support; and

36.12 (8) out-of-home respite care.

36.13 Subd. 9. Absence factor. The absence factor for the following services is 4.5 percent:

36.14 (1) adult day services;

36.15 (2) chore services;

36.16 (3) companion services;

36.17 (4) homemaker services and assistance with personal care;

36.18 (5) homemaker services and cleaning;

36.19 (6) homemaker services and home management;

36.20 (7) in-home respite care;

36.21 (8) individual community living support; and

36.22 (9) out-of-home respite care.

36.23 **EFFECTIVE DATE.** This section is effective January 1, 2024.

36.24 Sec. 14. Minnesota Statutes 2022, section 256S.214, is amended to read:

36.25 **256S.214 RATE SETTING; ADJUSTED BASE WAGE.**

36.26 For the purposes of section 256S.215, the adjusted base wage for each position equals
 36.27 the position's base wage under section 256S.212 plus:

37.1 (1) the position's base wage multiplied by the payroll taxes and benefits factor under
37.2 section 256S.213, subdivision 1;

37.3 ~~(2) the position's base wage multiplied by the general and administrative factor under~~
37.4 ~~section 256S.213, subdivision 2; and~~

37.5 ~~(3)~~ (2) the position's base wage multiplied by the applicable program plan support factor
37.6 under section 256S.213, subdivision 3; and

37.7 (3) the position's base wage multiplied by the absence factor under section 256S.213,
37.8 subdivision 9, if applicable.

37.9 **EFFECTIVE DATE.** This section is effective January 1, 2024.

37.10 Sec. 15. Minnesota Statutes 2022, section 256S.215, is amended to read:

37.11 **256S.215 RATE SETTING; COMPONENT RATES.**

37.12 Subdivision 1. **Medication setups by licensed nurse component rate.** The component
37.13 rate for medication setups by a licensed nurse equals the medication setups by licensed
37.14 nurse adjusted base wage.

37.15 Subd. 2. **Home management and support services component rate.** The component
37.16 rate for home management and support services is calculated as follows:

37.17 (1) sum the home management and support services adjusted base wage ~~plus~~ and the
37.18 registered nurse management and supervision ~~factor~~ wage component;

37.19 (2) multiply the result of clause (1) by the general and administrative factor; and

37.20 (3) sum the results of clauses (1) and (2).

37.21 Subd. 3. **Home care aide services component rate.** The component rate for home care
37.22 aide services is calculated as follows:

37.23 (1) sum the home health aide services adjusted base wage ~~plus~~ and the registered nurse
37.24 management and supervision ~~factor~~ wage component;

37.25 (2) multiply clause (1) by the general and administrative factor; and

37.26 (3) sum the results of clauses (1) and (2).

37.27 Subd. 4. **Home health aide services component rate.** The component rate for home
37.28 health aide services is calculated as follows:

37.29 (1) sum the home health aide services adjusted base wage ~~plus~~ and the registered nurse
37.30 management and supervision ~~factor~~ wage component;

38.1 (2) multiply the result of clause (1) by the general and administrative factor; and

38.2 (3) sum the results of clauses (1) and (2).

38.3 Subd. 5. **Socialization component rate.** The component rate under elderly waiver
38.4 customized living for one-to-one socialization equals the home management and support
38.5 services component rate.

38.6 Subd. 6. **Transportation component rate.** The component rate under elderly waiver
38.7 customized living for one-to-one transportation equals the home management and support
38.8 services component rate.

38.9 Subd. 7. **Chore services rate.** The 15-minute unit rate for chore services is calculated
38.10 as follows:

38.11 (1) sum the chore services adjusted base wage and the ~~social worker~~ unlicensed supervisor
38.12 supervision factor wage component; and

38.13 (2) multiply the result of clause (1) by the general and administrative factor;

38.14 (3) multiply the result of clause (1) by the supplies and transportation factor; and

38.15 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

38.16 Subd. 8. **Companion services rate.** The 15-minute unit rate for companion services is
38.17 calculated as follows:

38.18 (1) sum the companion services adjusted base wage and the ~~social worker~~ unlicensed
38.19 supervisor supervision factor wage component; and

38.20 (2) multiply the result of clause (1) by the general and administrative factor;

38.21 (3) multiply the result of clause (1) by the supplies and transportation factor; and

38.22 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

38.23 Subd. 9. **Homemaker services and assistance with personal care rate.** The 15-minute
38.24 unit rate for homemaker services and assistance with personal care is calculated as follows:

38.25 (1) sum the homemaker services and assistance with personal care adjusted base wage
38.26 and the ~~registered nurse management and~~ unlicensed supervisor supervision factor wage
38.27 component; and

38.28 (2) multiply the result of clause (1) by the general and administrative factor;

38.29 (3) multiply the result of clause (1) by the supplies and transportation factor; and

38.30 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

39.1 Subd. 10. **Homemaker services and cleaning rate.** The 15-minute unit rate for
39.2 homemaker services and cleaning is calculated as follows:

39.3 (1) sum the homemaker services and cleaning adjusted base wage and the ~~registered~~
39.4 ~~nurse management and~~ unlicensed supervisor supervision factor base wage; and

39.5 (2) multiply the result of clause (1) by the general and administrative factor;

39.6 (3) multiply the result of clause (1) by the supplies and transportation factor; and

39.7 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

39.8 Subd. 11. **Homemaker services and home management rate.** The 15-minute unit rate
39.9 for homemaker services and home management is calculated as follows:

39.10 (1) sum the homemaker services and home management adjusted base wage and the
39.11 ~~registered nurse management and~~ unlicensed supervisor supervision factor wage component;
39.12 and

39.13 (2) multiply the result of clause (1) by the general and administrative factor;

39.14 (3) multiply the result of clause (1) by the supplies and transportation factor; and

39.15 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

39.16 Subd. 12. **In-home respite care services rates.** (a) The 15-minute unit rate for in-home
39.17 respite care services is calculated as follows:

39.18 (1) sum the in-home respite care services adjusted base wage and the registered nurse
39.19 management and supervision ~~factor~~ wage component; and

39.20 (2) multiply the result of clause (1) by the general and administrative factor;

39.21 (3) multiply the result of clause (1) by the supplies and transportation factor; and

39.22 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

39.23 (b) The in-home respite care services daily rate equals the in-home respite care services
39.24 15-minute unit rate multiplied by 18.

39.25 Subd. 13. **Out-of-home respite care services rates.** (a) The 15-minute unit rate for
39.26 out-of-home respite care is calculated as follows:

39.27 (1) sum the out-of-home respite care services adjusted base wage and the registered
39.28 nurse management and supervision ~~factor~~ wage component; and

39.29 (2) multiply the result of clause (1) by the general and administrative factor;

39.30 (3) multiply the result of clause (1) by the supplies and transportation factor; and

40.1 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

40.2 (b) The out-of-home respite care services daily rate equals the 15-minute unit rate for
40.3 out-of-home respite care services multiplied by 18.

40.4 Subd. 14. **Individual community living support rate.** The individual community living
40.5 support rate is calculated as follows:

40.6 (1) ~~sum the home care aide~~ individual community living support adjusted base wage
40.7 ~~and the social worker registered nurse management and supervision factor wage component;~~
40.8 ~~and~~

40.9 (2) multiply the result of clause (1) by the general and administrative factor;

40.10 (3) multiply the result of clause (1) by the supplies and transportation factor; and

40.11 (4) sum the results of clauses (1) to (3) and divide the result of clause (1) by four.

40.12 Subd. 15. **Home-delivered meals rate.** The home-delivered meals rate equals ~~\$9.30~~
40.13 \$8.17. On July 1 of each year, the commissioner shall increase update the home delivered
40.14 meals rate ~~every July 1~~ by the percent increase in the nursing facility dietary per diem using
40.15 the two most recent and available nursing facility cost reports.

40.16 Subd. 16. **Adult day services rate.** The 15-minute unit rate for adult day services, ~~with~~
40.17 ~~an assumed staffing ratio of one staff person to four participants, is the sum of~~ is calculated
40.18 as follows:

40.19 (1) ~~one-sixteenth of the home care aide~~ divide the adult day services adjusted base wage,
40.20 ~~except that the general and administrative factor used to determine the home care aide~~
40.21 ~~services adjusted base wage is 20 percent~~ by five to reflect an assumed staffing ratio of one
40.22 to five;

40.23 (2) ~~one-fourth of the registered nurse management and supervision factor~~ sum the result
40.24 of clause (1) and the registered nurse management and supervision wage component; and

40.25 (3) ~~\$0.63 to cover the cost of meals.~~ multiply the result of clause (2) by the general and
40.26 administrative factor;

40.27 (4) multiply the result of clause (2) by the facility and equipment factor;

40.28 (5) multiply the result of clause (2) by the food, supplies, and transportation factor; and

40.29 (6) sum the results of clauses (2) to (5) and divide the result by four.

40.30 Subd. 17. **Adult day services bath rate.** The 15-minute unit rate for adult day services
40.31 bath is ~~the sum of~~ calculated as follows:

41.1 (1) ~~one-fourth of the home care aide~~ sum the adult day services adjusted base wage,
 41.2 ~~except that the general and administrative factor used to determine the home care aide~~
 41.3 ~~services adjusted base wage is 20 percent~~ and the registered nurse management and
 41.4 supervision wage component;

41.5 (2) ~~one-fourth of the registered nurse management and supervision factor~~ multiply the
 41.6 result of clause (1) by the general and administrative factor; and

41.7 (3) ~~\$0.63 to cover the cost of meals.~~ multiply the result of clause (1) by the facility and
 41.8 equipment factor;

41.9 (4) multiply the result of clause (1) by the food, supplies, and transportation factor; and

41.10 (5) sum the results of clauses (1) to (4) and divide the result by four.

41.11 **EFFECTIVE DATE.** This section is effective the January 1, 2024.

41.12 Sec. 16. **DIRECTION TO COMMISSIONER; ESTABLISHING SHARED SERVICE**
 41.13 **RATES.**

41.14 The commissioner shall establish a rate system for shared homemaker services and
 41.15 shared chore services based on homemaker rates for a single individual under section
 41.16 256S.215, subdivisions 9 to 11, and the chore rate for a single individual under section
 41.17 256S.215, subdivision 7. For two persons sharing services, the rate paid to a provider must
 41.18 not exceed 1-1/2 times the rate paid for serving a single individual, and for three persons
 41.19 sharing services, the rate paid to a provider must not exceed two times the rate paid for
 41.20 serving a single individual. These rates apply only when all of the criteria for the shared
 41.21 service have been met.

41.22 Sec. 17. **REVISOR INSTRUCTION.**

41.23 (a) In Minnesota Statutes, chapter 256S, the revisor of statutes shall change the following
 41.24 terms wherever the terms appear:

41.25 (1) "homemaker services and assistance with personal care" to "homemaker assistance
 41.26 with personal care services";

41.27 (2) "homemaker services and cleaning" to "homemaker cleaning services"; and

41.28 (3) "homemaker services and home management" to "homemaker home management
 41.29 services."

41.30 (b) The revisor shall make any necessary grammatical changes related to the changes
 41.31 in terms under paragraph (a).

42.1 **EFFECTIVE DATE.** This section is effective July 1, 2023.

42.2 Sec. 18. **REPEALER.**

42.3 Minnesota Statutes 2022, section 256S.19, subdivision 4, is repealed.

42.4 **EFFECTIVE DATE.** This section is effective January 1, 2024.

42.5 **ARTICLE 4**

42.6 **HOME CARE**

42.7 Section 1. Minnesota Statutes 2022, section 256B.0659, subdivision 1, is amended to read:

42.8 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in
42.9 paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

42.10 (b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility,
42.11 positioning, eating, and toileting.

42.12 (c) "Behavior," effective January 1, 2010, means a category to determine the home care
42.13 rating and is based on the criteria found in this section. "Level I behavior" means physical
42.14 aggression ~~towards~~ toward self, others, or destruction of property that requires the immediate
42.15 response of another person.

42.16 (d) "Complex health-related needs," effective January 1, 2010, means a category to
42.17 determine the home care rating and is based on the criteria found in this section.

42.18 (e) "Critical activities of daily living," effective January 1, 2010, means transferring,
42.19 mobility, eating, and toileting.

42.20 (f) "Dependency in activities of daily living" means a person requires assistance to begin
42.21 and complete one or more of the activities of daily living.

42.22 (g) "Extended personal care assistance service" means personal care assistance services
42.23 included in a service plan under one of the home and community-based services waivers
42.24 authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which
42.25 exceed the amount, duration, and frequency of the state plan personal care assistance services
42.26 for participants who:

42.27 (1) need assistance provided periodically during a week, but less than daily will not be
42.28 able to remain in their homes without the assistance, and other replacement services are
42.29 more expensive or are not available when personal care assistance services are to be reduced;
42.30 or

43.1 (2) need additional personal care assistance services beyond the amount authorized by
43.2 the state plan personal care assistance assessment in order to ensure that their safety, health,
43.3 and welfare are provided for in their homes.

43.4 (h) "Health-related procedures and tasks" means procedures and tasks that can be
43.5 delegated or assigned by a licensed health care professional under state law to be performed
43.6 by a personal care assistant.

43.7 (i) "Instrumental activities of daily living" means activities to include meal planning and
43.8 preparation; basic assistance with paying bills; shopping for food, clothing, and other
43.9 essential items; performing household tasks integral to the personal care assistance services;
43.10 communication by telephone and other media; and traveling, including to medical
43.11 appointments and to participate in the community. For purposes of this paragraph, traveling
43.12 includes driving and accompanying the recipient in the recipient's chosen mode of
43.13 transportation and according to the recipient's personal care assistance care plan.

43.14 (j) "Managing employee" has the same definition as Code of Federal Regulations, title
43.15 42, section 455.

43.16 (k) "Qualified professional" means a professional providing supervision of personal care
43.17 assistance services and staff as defined in section 256B.0625, subdivision 19c.

43.18 (l) "Personal care assistance provider agency" means a medical assistance enrolled
43.19 provider that provides or assists with providing personal care assistance services and includes
43.20 a personal care assistance provider organization, personal care assistance choice agency,
43.21 class A licensed nursing agency, and Medicare-certified home health agency.

43.22 (m) "Personal care assistant" or "PCA" means an individual employed by a personal
43.23 care assistance agency who provides personal care assistance services.

43.24 (n) "Personal care assistance care plan" means a written description of personal care
43.25 assistance services developed by the personal care assistance provider according to the
43.26 service plan.

43.27 (o) "Responsible party" means an individual who is capable of providing the support
43.28 necessary to assist the recipient to live in the community.

43.29 (p) "Self-administered medication" means medication taken orally, by injection, nebulizer,
43.30 or insertion, or applied topically without the need for assistance.

43.31 (q) "Service plan" means a written summary of the assessment and description of the
43.32 services needed by the recipient.

44.1 (r) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes,
 44.2 Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage
 44.3 reimbursement, health and dental insurance, life insurance, disability insurance, long-term
 44.4 care insurance, uniform allowance, and contributions to employee retirement accounts.

44.5 EFFECTIVE DATE. This section is effective July 1, 2023, or upon federal approval,
 44.6 whichever is later. The commissioner of human services shall notify the revisor of statutes
 44.7 when federal approval is obtained.

44.8 Sec. 2. Minnesota Statutes 2022, section 256B.0659, subdivision 12, is amended to read:

44.9 **Subd. 12. Documentation of personal care assistance services provided.** (a) Personal
 44.10 care assistance services for a recipient must be documented daily by each personal care
 44.11 assistant, on a time sheet form approved by the commissioner. All documentation may be
 44.12 web-based, electronic, or paper documentation. The completed form must be submitted on
 44.13 a monthly basis to the provider and kept in the recipient's health record.

44.14 (b) The activity documentation must correspond to the personal care assistance care plan
 44.15 and be reviewed by the qualified professional.

44.16 (c) The personal care assistant time sheet must be on a form approved by the
 44.17 commissioner documenting time the personal care assistant provides services in the home.
 44.18 The following criteria must be included in the time sheet:

44.19 (1) full name of personal care assistant and individual provider number;

44.20 (2) provider name and telephone numbers;

44.21 (3) full name of recipient and either the recipient's medical assistance identification
 44.22 number or date of birth;

44.23 (4) consecutive dates, including month, day, and year, and arrival and departure times
 44.24 with a.m. or p.m. notations;

44.25 (5) signatures of recipient or the responsible party;

44.26 (6) personal signature of the personal care assistant;

44.27 (7) any shared care provided, if applicable;

44.28 (8) a statement that it is a federal crime to provide false information on personal care
 44.29 service billings for medical assistance payments; ~~and~~

44.30 (9) dates and location of recipient stays in a hospital, care facility, or incarceration; and

45.1 (10) any time spent traveling, as described in subdivision 1, paragraph (i), including
45.2 start and stop times with a.m. and p.m. designations, the origination site, and the destination
45.3 site.

45.4 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
45.5 whichever is later. The commissioner of human services shall notify the revisor of statutes
45.6 when federal approval is obtained.

45.7 Sec. 3. Minnesota Statutes 2022, section 256B.0659, subdivision 17a, is amended to read:

45.8 Subd. 17a. **Enhanced rate.** An enhanced rate of ~~107.5~~ 143 percent of the rate paid for
45.9 personal care assistance services shall be paid for services provided to persons who qualify
45.10 for ten or more hours of personal care assistance services per day when provided by a
45.11 personal care assistant who meets the requirements of subdivision 11, paragraph (d). Any
45.12 change in the eligibility criteria for the enhanced rate for personal care assistance services
45.13 as described in this subdivision and referenced in subdivision 11, paragraph (d), does not
45.14 constitute a change in a term or condition for individual providers as defined in section
45.15 256B.0711, and is not subject to the state's obligation to meet and negotiate under chapter
45.16 179A.

45.17 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
45.18 whichever is later. The commissioner of human services shall notify the revisor of statutes
45.19 when federal approval is obtained.

45.20 Sec. 4. Minnesota Statutes 2022, section 256B.0659, subdivision 19, is amended to read:

45.21 Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under
45.22 personal care assistance choice, the recipient or responsible party shall:

45.23 (1) recruit, hire, schedule, and terminate personal care assistants according to the terms
45.24 of the written agreement required under subdivision 20, paragraph (a);

45.25 (2) develop a personal care assistance care plan based on the assessed needs and
45.26 addressing the health and safety of the recipient with the assistance of a qualified professional
45.27 as needed;

45.28 (3) orient and train the personal care assistant with assistance as needed from the qualified
45.29 professional;

45.30 (4) supervise and evaluate the personal care assistant with the qualified professional,
45.31 who is required to visit the recipient at least every 180 days;

46.1 (5) monitor and verify in writing and report to the personal care assistance choice agency
46.2 the number of hours worked by the personal care assistant and the qualified professional;

46.3 (6) engage in an annual reassessment as required in subdivision 3a to determine
46.4 continuing eligibility and service authorization; ~~and~~

46.5 (7) use the same personal care assistance choice provider agency if shared personal
46.6 assistance care is being used; and

46.7 (8) ensure that a personal care assistant driving the recipient under subdivision 1,
46.8 paragraph (i), has a valid driver's license and the vehicle used is registered and insured
46.9 according to Minnesota law.

46.10 (b) The personal care assistance choice provider agency shall:

46.11 (1) meet all personal care assistance provider agency standards;

46.12 (2) enter into a written agreement with the recipient, responsible party, and personal
46.13 care assistants;

46.14 (3) not be related as a parent, child, sibling, or spouse to the recipient or the personal
46.15 care assistant; and

46.16 (4) ensure arm's-length transactions without undue influence or coercion with the recipient
46.17 and personal care assistant.

46.18 (c) The duties of the personal care assistance choice provider agency are to:

46.19 (1) be the employer of the personal care assistant and the qualified professional for
46.20 employment law and related regulations including but not limited to purchasing and
46.21 maintaining workers' compensation, unemployment insurance, surety and fidelity bonds,
46.22 and liability insurance, and submit any or all necessary documentation including but not
46.23 limited to workers' compensation, unemployment insurance, and labor market data required
46.24 under section 256B.4912, subdivision 1a;

46.25 (2) bill the medical assistance program for personal care assistance services and qualified
46.26 professional services;

46.27 (3) request and complete background studies that comply with the requirements for
46.28 personal care assistants and qualified professionals;

46.29 (4) pay the personal care assistant and qualified professional based on actual hours of
46.30 services provided;

46.31 (5) withhold and pay all applicable federal and state taxes;

47.1 (6) verify and keep records of hours worked by the personal care assistant and qualified
47.2 professional;

47.3 (7) make the arrangements and pay taxes and other benefits, if any, and comply with
47.4 any legal requirements for a Minnesota employer;

47.5 (8) enroll in the medical assistance program as a personal care assistance choice agency;
47.6 and

47.7 (9) enter into a written agreement as specified in subdivision 20 before services are
47.8 provided.

47.9 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
47.10 whichever is later. The commissioner of human services shall notify the revisor of statutes
47.11 when federal approval is obtained.

47.12 Sec. 5. Minnesota Statutes 2022, section 256B.0659, subdivision 24, is amended to read:

47.13 Subd. 24. **Personal care assistance provider agency; general duties.** A personal care
47.14 assistance provider agency shall:

47.15 (1) enroll as a Medicaid provider meeting all provider standards, including completion
47.16 of the required provider training;

47.17 (2) comply with general medical assistance coverage requirements;

47.18 (3) demonstrate compliance with law and policies of the personal care assistance program
47.19 to be determined by the commissioner;

47.20 (4) comply with background study requirements;

47.21 (5) verify and keep records of hours worked by the personal care assistant and qualified
47.22 professional;

47.23 (6) not engage in any agency-initiated direct contact or marketing in person, by phone,
47.24 or other electronic means to potential recipients, guardians, or family members;

47.25 (7) pay the personal care assistant and qualified professional based on actual hours of
47.26 services provided;

47.27 (8) withhold and pay all applicable federal and state taxes;

47.28 (9) document that the agency uses a minimum of 72.5 percent of the revenue generated
47.29 by the medical assistance rate for personal care assistance services for employee personal
47.30 care assistant wages and benefits. The revenue generated by the qualified professional and

48.1 the reasonable costs associated with the qualified professional shall not be used in making
48.2 this calculation;

48.3 (10) make the arrangements and pay unemployment insurance, taxes, workers'
48.4 compensation, liability insurance, and other benefits, if any;

48.5 (11) enter into a written agreement under subdivision 20 before services are provided;

48.6 (12) report suspected neglect and abuse to the common entry point according to section
48.7 256B.0651;

48.8 (13) provide the recipient with a copy of the home care bill of rights at start of service;

48.9 (14) request reassessments at least 60 days prior to the end of the current authorization
48.10 for personal care assistance services, on forms provided by the commissioner;

48.11 (15) comply with the labor market reporting requirements described in section 256B.4912,
48.12 subdivision 1a; ~~and~~

48.13 (16) document that the agency uses the additional revenue due to the enhanced rate under
48.14 subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements
48.15 under subdivision 11, paragraph (d); and

48.16 (17) ensure that a personal care assistant driving a recipient under subdivision 1,
48.17 paragraph (i), has a valid driver's license and the vehicle used is registered and insured
48.18 according to Minnesota law.

48.19 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
48.20 whichever is later. The commissioner of human services shall notify the revisor of statutes
48.21 when federal approval is obtained.

48.22 Sec. 6. Minnesota Statutes 2022, section 256B.4911, is amended by adding a subdivision
48.23 to read:

48.24 Subd. 6. **Services provided by parents and spouses.** (a) This subdivision limits medical
48.25 assistance payments under the consumer-directed community supports option for personal
48.26 assistance services provided by a parent to the parent's minor child or by a participant's
48.27 spouse. This subdivision applies to the consumer-directed community supports option
48.28 available under all of the following:

48.29 (1) alternative care program;

48.30 (2) brain injury waiver;

48.31 (3) community alternative care waiver;

49.1 (4) community access for disability inclusion waiver;

49.2 (5) developmental disabilities waiver;

49.3 (6) elderly waiver; and

49.4 (7) Minnesota senior health option.

49.5 (b) For the purposes of this subdivision, "parent" means a parent, stepparent, or legal
49.6 guardian of a minor.

49.7 (c) If multiple parents are providing personal assistance services to their minor child or
49.8 children, each parent may provide up to 40 hours of personal assistance services in any
49.9 seven-day period regardless of the number of children served. The total number of hours
49.10 of personal assistance services provided by all of the parents must not exceed 80 hours in
49.11 a seven-day period regardless of the number of children served.

49.12 (d) If only one parent is providing personal assistance services to a minor child or
49.13 children, the parent may provide up to 60 hours of personal assistance services in a seven-day
49.14 period regardless of the number of children served.

49.15 (e) If a participant's spouse is providing personal assistance services, the spouse may
49.16 provide up to 60 hours of personal assistance services in a seven-day period.

49.17 (f) This subdivision must not be construed to permit an increase in the total authorized
49.18 consumer-directed community supports budget for an individual.

49.19 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
49.20 whichever is later. The commissioner of human services shall notify the revisor of statutes
49.21 when federal approval is obtained.

49.22 Sec. 7. Minnesota Statutes 2022, section 256B.85, subdivision 7, is amended to read:

49.23 Subd. 7. **Community first services and supports; covered services.** Services and
49.24 supports covered under CFSS include:

49.25 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of
49.26 daily living (IADLs), and health-related procedures and tasks through hands-on assistance
49.27 to accomplish the task or constant supervision and cueing to accomplish the task;

49.28 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to
49.29 accomplish activities of daily living, instrumental activities of daily living, or health-related
49.30 tasks;

50.1 (3) expenditures for items, services, supports, environmental modifications, or goods,
50.2 including assistive technology. These expenditures must:

50.3 (i) relate to a need identified in a participant's CFSS service delivery plan; and

50.4 (ii) increase independence or substitute for human assistance, to the extent that
50.5 expenditures would otherwise be made for human assistance for the participant's assessed
50.6 needs;

50.7 (4) observation and redirection for behavior or symptoms where there is a need for
50.8 assistance;

50.9 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,
50.10 to ensure continuity of the participant's services and supports;

50.11 (6) services provided by a consultation services provider as defined under subdivision
50.12 17, that is under contract with the department and enrolled as a Minnesota health care
50.13 program provider;

50.14 (7) services provided by an FMS provider as defined under subdivision 13a, that is an
50.15 enrolled provider with the department;

50.16 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal
50.17 guardian of a participant under age 18, or who is the participant's spouse. ~~These support~~
50.18 ~~workers shall not:~~ Covered services under this clause are subject to the limitations described
50.19 in subdivision 7b; and

50.20 ~~(i) provide any medical assistance home and community-based services in excess of 40~~
50.21 ~~hours per seven-day period regardless of the number of parents providing services,~~
50.22 ~~combination of parents and spouses providing services, or number of children who receive~~
50.23 ~~medical assistance services; and~~

50.24 ~~(ii) have a wage that exceeds the current rate for a CFSS support worker including the~~
50.25 ~~wage, benefits, and payroll taxes; and~~

50.26 (9) worker training and development services as described in subdivision 18a.

50.27 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
50.28 whichever is later. The commissioner of human services shall notify the revisor of statutes
50.29 when federal approval is obtained.

51.1 Sec. 8. Minnesota Statutes 2022, section 256B.85, subdivision 7a, is amended to read:

51.2 Subd. 7a. **Enhanced rate.** An enhanced rate of ~~107.5~~ 143 percent of the rate paid for
 51.3 CFSS must be paid for services provided to persons who qualify for ten or more hours of
 51.4 CFSS per day when provided by a support worker who meets the requirements of subdivision
 51.5 16, paragraph (e). Any change in the eligibility criteria for the enhanced rate for CFSS as
 51.6 described in this subdivision and referenced in subdivision 16, paragraph (e), does not
 51.7 constitute a change in a term or condition for individual providers as defined in section
 51.8 256B.0711, and is not subject to the state's obligation to meet and negotiate under chapter
 51.9 179A.

51.10 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 51.11 whichever is later. The commissioner of human services shall notify the revisor of statutes
 51.12 when federal approval is obtained.

51.13 Sec. 9. Minnesota Statutes 2022, section 256B.85, is amended by adding a subdivision to
 51.14 read:

51.15 **Subd. 7b. Services provided by parents and spouses.** (a) This subdivision applies to
 51.16 services and supports described in subdivision 7, clause (8).

51.17 (b) If multiple parents are support workers providing CFSS services to their minor child
 51.18 or children, each parent may provide up to 40 hours of medical assistance home and
 51.19 community-based services in any seven-day period regardless of the number of children
 51.20 served. The total number of hours of medical assistance home and community-based services
 51.21 provided by all of the parents must not exceed 80 hours in a seven-day period regardless of
 51.22 the number of children served.

51.23 (c) If only one parent is a support worker providing CFSS services to the parent's minor
 51.24 child or children, the parent may provide up to 60 hours of medical assistance home and
 51.25 community-based services in a seven-day period regardless of the number of children served.

51.26 (d) If a participant's spouse is a support worker providing CFSS services, the spouse
 51.27 may provide up to 60 hours of medical assistance home and community-based services in
 51.28 a seven-day period.

51.29 (e) Paragraphs (b) to (d) must not be construed to permit an increase in either the total
 51.30 authorized service budget for an individual or the total number of authorized service units.

51.31 (f) A parent or participant's spouse must not receive a wage that exceeds the current rate
 51.32 for a CFSS support worker, including wages, benefits, and payroll taxes.

52.1 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 52.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
 52.3 when federal approval is obtained.

52.4 Sec. 10. Minnesota Statutes 2022, section 256B.851, subdivision 5, is amended to read:

52.5 Subd. 5. **Payment rates; component values.** (a) The commissioner must use the
 52.6 following component values:

52.7 (1) employee vacation, sick, and training factor, 8.71 percent;

52.8 (2) employer taxes and workers' compensation factor, 11.56 percent;

52.9 (3) employee benefits factor, 12.04 percent;

52.10 (4) client programming and supports factor, 2.30 percent;

52.11 (5) program plan support factor, 7.00 percent;

52.12 (6) general business and administrative expenses factor, 13.25 percent;

52.13 (7) program administration expenses factor, 2.90 percent; and

52.14 (8) absence and utilization factor, 3.90 percent.

52.15 (b) For purposes of implementation, the commissioner shall use the following
 52.16 implementation components:

52.17 (1) personal care assistance services and CFSS: ~~75.45~~ ... percent;

52.18 (2) enhanced rate personal care assistance services and enhanced rate CFSS: ~~75.45~~ ...
 52.19 percent; and

52.20 (3) qualified professional services and CFSS worker training and development: ~~75.45~~
 52.21 ... percent.

52.22 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 52.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
 52.24 when federal approval is obtained.

52.25 Sec. 11. **PERSONAL CARE ASSISTANCE ENHANCED RATE FOR PERSONS**
 52.26 **USING CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

52.27 The commissioner of human services shall increase the annual budgets for participants
 52.28 who use consumer-directed community supports under Minnesota Statutes, sections
 52.29 256B.0913, subdivision 5, clause (17); 256B.092, subdivision 1b, paragraph (a), clause (4);

53.1 and 256B.49, subdivision 16, paragraph (c); and chapter 256S, by 43 percent for participants
 53.2 who: (1) are determined by assessment to be eligible for ten or more hours of personal care
 53.3 assistance services or community first services and supports per day; and (2) use direct
 53.4 support services provided by a worker employed by the participant who has completed
 53.5 training identified in Minnesota Statutes, section 256B.0659, subdivision 11, paragraph (d),
 53.6 or 256B.85, subdivision 16, paragraph (e).

53.7 **EFFECTIVE DATE.** This section is effective January 1, 2024, or upon federal approval,
 53.8 whichever is later. The commissioner of human services shall notify the revisor of statutes
 53.9 when federal approval is obtained.

53.10 **Sec. 12. RATE INCREASE FOR CERTAIN HOME CARE SERVICES.**

53.11 Subdivision 1. **Rate increases.** (a) Effective January 1, 2024, or upon federal approval,
 53.12 whichever is later, the commissioner of human services shall increase payment rates for
 53.13 home health aide visits by 14 percent from the rates in effect on December 31, 2023. The
 53.14 commissioner must apply the annual rate increases under Minnesota Statutes, section
 53.15 256B.0653, subdivision 8, to the rates resulting from the application of the rate increases
 53.16 under this paragraph.

53.17 (b) Effective January 1, 2024, or upon federal approval, whichever is later, the
 53.18 commissioner shall increase payment rates for respiratory therapy under Minnesota Rules,
 53.19 part 9505.0295, subpart 2, item E, and for home health services and home care nursing
 53.20 services, except home health aide visits, under Minnesota Statutes, section 256B.0651,
 53.21 subdivision 2, clauses (1) to (3), by 38.8 percent from the rates in effect on December 31,
 53.22 2023. The commissioner must apply the annual rate increases under Minnesota Statutes,
 53.23 sections 256B.0653, subdivision 8, and 256B.0654, subdivision 5, to the rates resulting
 53.24 from the application of the rate increase under this paragraph.

53.25 Subd. 2. **Spending requirements.** (a) At least 80 percent of the marginal increase in
 53.26 revenue for home care services resulting from implementation of the rate increases under
 53.27 this section for services rendered on or after the day of implementation of the increase must
 53.28 be used to increase compensation-related costs for employees directly employed by the
 53.29 provider to provide the services.

53.30 (b) For the purposes of this subdivision, compensation-related costs include:

53.31 (1) wages and salaries;

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

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

54.4 (4) benefits that address direct support professional workforce needs above and beyond
 54.5 what employees were offered prior to implementation of the rate increases.

54.6 (c) Compensation-related costs for persons employed in the central office of a corporation
 54.7 or entity that has an ownership interest in the provider or exercises control over the provider,
 54.8 or for persons paid by the provider under a management contract, do not count toward the
 54.9 80 percent requirement under this subdivision.

54.10 (d) A provider agency or individual provider that receives additional revenue subject to
 54.11 the requirements of this subdivision shall prepare, and upon request submit to the
 54.12 commissioner, a distribution plan that specifies the amount of money the provider expects
 54.13 to receive that is subject to the requirements of this subdivision, including how that money
 54.14 was or will be distributed to increase compensation-related costs for employees. Within 60
 54.15 days of final implementation of the new rate methodology or any rate adjustment subject
 54.16 to the requirements of this subdivision, the provider must post the distribution plan and
 54.17 leave it posted for a period of at least six months in an area of the provider's operation to
 54.18 which all direct support professionals have access. The posted distribution plan must include
 54.19 instructions regarding how to contact the commissioner, or the commissioner's representative,
 54.20 if an employee has not received the compensation-related increase described in the plan.

54.21 **ARTICLE 5**

54.22 **NURSING FACILITIES**

54.23 Section 1. Minnesota Statutes 2022, section 256R.02, subdivision 16, is amended to read:

54.24 Subd. 16. **Dietary costs.** "Dietary costs" means the costs for ~~the salaries and wages of~~
 54.25 ~~the dietary supervisor, dietitians, chefs, cooks, dishwashers, and other employees assigned~~
 54.26 ~~to the kitchen and dining room, and associated fringe benefits and payroll taxes. Dietary~~
 54.27 ~~costs also includes~~ the salaries or fees of dietary consultants, dietary supplies, and food
 54.28 preparation and serving.

54.29 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
 54.30 2025, or upon federal approval, whichever is later. The commissioner of human services
 54.31 shall notify the revisor of statutes when federal approval is obtained.

55.1 Sec. 2. Minnesota Statutes 2022, section 256R.02, is amended by adding a subdivision to
55.2 read:

55.3 Subd. 16a. **Dietary labor costs.** "Dietary labor costs" means the costs for the salaries
55.4 and wages of the dietary supervisor, dietitians, chefs, cooks, dishwashers, and other
55.5 employees assigned to the kitchen and dining room, and associated fringe benefits and
55.6 payroll taxes.

55.7 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
55.8 2025, or upon federal approval, whichever is later. The commissioner of human services
55.9 shall notify the revisor of statutes when federal approval is obtained.

55.10 Sec. 3. Minnesota Statutes 2022, section 256R.02, subdivision 24, is amended to read:

55.11 Subd. 24. **Housekeeping costs.** "Housekeeping costs" means ~~the costs for the salaries~~
55.12 ~~and wages of the housekeeping supervisor, housekeepers, and other cleaning employees~~
55.13 ~~and associated fringe benefits and payroll taxes. It also includes the cost of housekeeping~~
55.14 supplies, including, but not limited to, cleaning and lavatory supplies and contract services.

55.15 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
55.16 2025, or upon federal approval, whichever is later. The commissioner of human services
55.17 shall notify the revisor of statutes when federal approval is obtained.

55.18 Sec. 4. Minnesota Statutes 2022, section 256R.02, is amended by adding a subdivision to
55.19 read:

55.20 Subd. 24a. **Housekeeping labor costs.** "Housekeeping labor costs" means the costs for
55.21 the salaries and wages of the housekeeping supervisor, housekeepers, and other cleaning
55.22 employees, and associated fringe benefits and payroll taxes.

55.23 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
55.24 2025, or upon federal approval, whichever is later. The commissioner of human services
55.25 shall notify the revisor of statutes when federal approval is obtained.

55.26 Sec. 5. Minnesota Statutes 2022, section 256R.02, is amended by adding a subdivision to
55.27 read:

55.28 Subd. 25b. **Known cost change factor.** "Known cost change factor" means 1.00 plus
55.29 the forecasted percentage change in the CPI-U index from July 1 of the reporting period to
55.30 July 1 of the rate year as determined by the national economic consultant used by the
55.31 commissioner of management and budget.

56.1 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
 56.2 2025, or upon federal approval, whichever is later. The commissioner of human services
 56.3 shall notify the revisor of statutes when federal approval is obtained.

56.4 Sec. 6. Minnesota Statutes 2022, section 256R.02, subdivision 26, is amended to read:

56.5 Subd. 26. **Laundry costs.** "Laundry costs" means the costs ~~for the salaries and wages~~
 56.6 ~~of the laundry supervisor and other laundry employees, associated fringe benefits, and~~
 56.7 ~~payroll taxes. It also includes the costs~~ of linen and bedding, the laundering of resident
 56.8 clothing, laundry supplies, and contract services.

56.9 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
 56.10 2025, or upon federal approval, whichever is later. The commissioner of human services
 56.11 shall notify the revisor of statutes when federal approval is obtained.

56.12 Sec. 7. Minnesota Statutes 2022, section 256R.02, is amended by adding a subdivision to
 56.13 read:

56.14 Subd. 26a. **Laundry labor costs.** "Laundry labor costs" means the costs for the salaries
 56.15 and wages of the laundry supervisor and other laundry employees, and associated fringe
 56.16 benefits and payroll taxes.

56.17 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
 56.18 2025, or upon federal approval, whichever is later. The commissioner of human services
 56.19 shall notify the revisor of statutes when federal approval is obtained.

56.20 Sec. 8. Minnesota Statutes 2022, section 256R.02, subdivision 29, is amended to read:

56.21 Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations
 56.22 costs" means ~~the costs for the salaries and wages of the maintenance supervisor, engineers,~~
 56.23 ~~heating plant employees, and other maintenance employees and associated fringe benefits~~
 56.24 ~~and payroll taxes. It also includes~~ identifiable costs for maintenance and operation of the
 56.25 building and grounds, including, but not limited to, fuel, electricity, plastic waste bags,
 56.26 medical waste and garbage removal, water, sewer, supplies, tools, repairs, and minor
 56.27 equipment not requiring capitalization under Medicare guidelines.

56.28 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
 56.29 2025, or upon federal approval, whichever is later. The commissioner of human services
 56.30 shall notify the revisor of statutes when federal approval is obtained.

57.1 Sec. 9. Minnesota Statutes 2022, section 256R.02, is amended by adding a subdivision to
57.2 read:

57.3 Subd. 29a. **Maintenance and plant operations labor costs.** "Maintenance and plant
57.4 operations labor costs" means the costs for the salaries and wages of the maintenance
57.5 supervisor, engineers, heating-plant employees, and other maintenance employees, and
57.6 associated fringe benefits and payroll taxes.

57.7 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
57.8 2025, or upon federal approval, whichever is later. The commissioner of human services
57.9 shall notify the revisor of statutes when federal approval is obtained.

57.10 Sec. 10. Minnesota Statutes 2022, section 256R.02, subdivision 34, is amended to read:

57.11 Subd. 34. **Other care-related costs.** "Other care-related costs" means the sum of activities
57.12 costs, other direct care costs, raw food costs, dietary labor costs, housekeeping labor costs,
57.13 laundry labor costs, maintenance and plant operations labor costs, therapy costs, and social
57.14 services costs.

57.15 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
57.16 2025, or upon federal approval, whichever is later. The commissioner of human services
57.17 shall notify the revisor of statutes when federal approval is obtained.

57.18 Sec. 11. Minnesota Statutes 2022, section 256R.23, subdivision 2, is amended to read:

57.19 Subd. 2. **Calculation of direct care cost per standardized day.** Each facility's direct
57.20 care cost per standardized day is (1) the product of the facility's direct care costs and the
57.21 known cost change factor, (2) divided by the sum of the facility's standardized days. A
57.22 facility's direct care cost per standardized day is the facility's cost per day for direct care
57.23 services associated with a case mix index of 1.00.

57.24 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
57.25 2025, or upon federal approval, whichever is later. The commissioner of human services
57.26 shall notify the revisor of statutes when federal approval is obtained.

57.27 Sec. 12. Minnesota Statutes 2022, section 256R.23, subdivision 3, is amended to read:

57.28 Subd. 3. **Calculation of other care-related cost per resident day.** Each facility's other
57.29 care-related cost per resident day is (1) the product of its other care-related costs and the
57.30 known cost change factor, (2) divided by the sum of the facility's resident days.

58.1 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
58.2 2025, or upon federal approval, whichever is later. The commissioner of human services
58.3 shall notify the revisor of statutes when federal approval is obtained.

58.4 Sec. 13. Minnesota Statutes 2022, section 256R.24, subdivision 1, is amended to read:

58.5 Subdivision 1. **Determination of other operating cost per day.** Each facility's other
58.6 operating cost per day is (1) the product of its other operating costs and the known cost
58.7 change factor, (2) divided by the sum of the facility's resident days.

58.8 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
58.9 2025, or upon federal approval, whichever is later. The commissioner of human services
58.10 shall notify the revisor of statutes when federal approval is obtained.

58.11 Sec. 14. Minnesota Statutes 2022, section 256R.25, is amended to read:

58.12 **256R.25 EXTERNAL FIXED COSTS PAYMENT RATE.**

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

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

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

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

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

58.25 (f) The portion related to planned closure rate adjustments is as determined under section
58.26 256R.40, subdivision 5, and Minnesota Statutes 2010, section 256B.436.

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

58.29 (h) The portion related to single-bed room incentives is as determined under section
58.30 256R.41.

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

59.8 (j) The portion related to employer health insurance costs is (1) the product of the
 59.9 allowable costs and the known cost change factor, (2) divided by the sum of the facility's
 59.10 resident days.

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

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

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

59.17 (n) The portion related to special dietary needs is the amount determined under section
 59.18 256R.51.

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

59.21 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
 59.22 2025, or upon federal approval, whichever is later. The commissioner of human services
 59.23 shall notify the revisor of statutes when federal approval is obtained.

59.24 **Sec. 15. NURSING FACILITY FUNDING.**

59.25 (a) Effective July 1, 2023, through December 31, 2025, the total payment rate for all
 59.26 facilities reimbursed under Minnesota Statutes, chapter 256R, must be increased by \$28.65
 59.27 per resident day.

59.28 (b) To be eligible to receive a payment under this section, a nursing facility must attest
 59.29 to the commissioner of human services that the additional revenue will be used exclusively
 59.30 to increase compensation-related costs for employees directly employed by the facility on
 59.31 or after July 1, 2023, excluding:

59.32 (1) owners of the building and operation;

60.1 (2) persons employed in the central office of an entity that has any ownership interest
60.2 in the nursing facility or exercises control over the nursing facility;

60.3 (3) persons paid by the nursing facility under a management contract; and

60.4 (4) persons providing separately billable services.

60.5 (c) Contracted housekeeping, dietary, and laundry employees providing services on site
60.6 at the nursing facility are eligible for compensation-related cost increases under this section,
60.7 provided the agency that employs them submits to the nursing facility proof of the costs of
60.8 the increases provided to those employees.

60.9 (d) For purposes of this section, compensation-related costs include:

60.10 (1) permanent new increases to wages and salaries implemented on or after July 1, 2023,
60.11 and before September 1, 2023, for nursing facility employees;

60.12 (2) permanent new increases to wages and salaries implemented on or after July 1, 2023,
60.13 and before September 1, 2023, for employees in the organization's shared services
60.14 departments of hospital-attached nursing facilities for the nursing facility allocated share
60.15 of wages; and

60.16 (3) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
60.17 taxes, PERA, workers' compensation, and pension and employee retirement accounts directly
60.18 associated with the wage and salary increases in clauses (1) and (2) incurred no later than
60.19 December 31, 2025, and paid for no later than June 30, 2026.

60.20 (e) A facility that receives a rate increase under this section must complete a distribution
60.21 plan in the form and manner determined by the commissioner. This plan must specify the
60.22 total amount of money the facility is estimated to receive from this rate increase and how
60.23 that money will be distributed to increase the allowable compensation-related costs described
60.24 in paragraph (d) for employees described in paragraphs (b) and (c). This estimate must be
60.25 computed by multiplying \$28.65 by the sum of the medical assistance and private pay
60.26 resident days as defined in Minnesota Statutes, section 256R.02, subdivision 45, for the
60.27 period beginning October 1, 2021, through September 30, 2022, dividing this sum by 365
60.28 and multiplying the result by 915. A facility must submit its distribution plan to the
60.29 commissioner by October 1, 2023. The commissioner may review the distribution plan to
60.30 ensure that the payment rate adjustment per resident day is used in accordance with this
60.31 section. The commissioner may allow for a distribution plan amendment under exceptional
60.32 circumstances to be determined at the sole discretion of the commissioner.

61.1 (f) By September 1, 2023, a facility must post the distribution plan summary and leave
 61.2 it posted for a period of at least six months in an area of the facility to which all employees
 61.3 have access. The posted distribution plan summary must be in the form and manner
 61.4 determined by the commissioner. The distribution plan summary must include instructions
 61.5 regarding how to contact the commissioner, or the commissioner's representative, if an
 61.6 employee believes the employee is covered by paragraph (b) or (c) and has not received the
 61.7 compensation-related increases described in paragraph (d). The instruction to such employees
 61.8 must include the e-mail address and telephone number that may be used by the employee
 61.9 to contact the commissioner's representative. The posted distribution plan summary must
 61.10 demonstrate how the increase in paragraph (a) received by the nursing facility from July 1,
 61.11 2023, through December 1, 2025, will be used in full to pay the compensation-related costs
 61.12 in paragraph (d) for employees described in paragraphs (b) and (c).

61.13 (g) If the nursing facility expends less on new compensation-related costs than the amount
 61.14 that was made available by the rate increase in this section for that purpose, the amount of
 61.15 this rate adjustment must be reduced to equal the amount utilized by the facility for purposes
 61.16 authorized under this section. If the facility fails to post the distribution plan summary in
 61.17 its facility as required, fails to submit its distribution plan to the commissioner by the due
 61.18 date, or uses these funds for unauthorized purposes, these rate increases must be treated as
 61.19 an overpayment and subsequently recovered.

61.20 (h) The commissioner shall not treat payments received under this section as an applicable
 61.21 credit for purposes of setting total payment rates under Minnesota Statutes, chapter 256R.

61.22 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 61.23 whichever is later. The commissioner of human services shall notify the revisor of statutes
 61.24 when federal approval is obtained.

61.25 **ARTICLE 6**

61.26 **INTERMEDIATE CARE FACILITIES**

61.27 Section 1. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision
 61.28 to read:

61.29 Subd. 19. **ICF/DD rate increase effective July 1, 2023.** (a) Effective July 1, 2023, the
 61.30 daily operating payment rate for a class A intermediate care facility for persons with
 61.31 developmental disabilities is increased by \$50.

61.32 (b) Effective July 1, 2023, the daily operating payment rate for a class B intermediate
 61.33 care facility for persons with developmental disabilities is increased by \$50.

62.1 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 62.2 whichever is later. The commissioner of human services shall notify the revisor of statutes
 62.3 when federal approval is obtained.

62.4 Sec. 2. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision
 62.5 to read:

62.6 Subd. 20. **ICF/DD minimum daily operating payment rates.** (a) The minimum daily
 62.7 operating payment rate for a class A intermediate care facility for persons with developmental
 62.8 disabilities is \$300.

62.9 (b) The minimum daily operating payment rate for a class B intermediate care facility
 62.10 for persons with developmental disabilities is \$400.

62.11 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 62.12 whichever is later. The commissioner of human services shall notify the revisor of statutes
 62.13 when federal approval is obtained.

62.14 Sec. 3. Minnesota Statutes 2022, section 256B.5012, is amended by adding a subdivision
 62.15 to read:

62.16 Subd. 21. **Spending requirements.** (a) At least 80 percent of the marginal increase in
 62.17 revenue resulting from implementation of the rate increases under subdivisions 19 and 20
 62.18 for services rendered on or after the day of implementation of the increases must be used
 62.19 to increase compensation-related costs for employees directly employed by the facility.

62.20 (b) For the purposes of this subdivision, compensation-related costs include:

62.21 (1) wages and salaries;

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

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

62.27 (4) benefits that address direct support professional workforce needs above and beyond
 62.28 what employees were offered prior to implementation of the rate increases.

62.29 (c) Compensation-related costs for persons employed in the central office of a corporation
 62.30 or entity that has an ownership interest in the provider or exercises control over the provider,

63.1 or for persons paid by the provider under a management contract, do not count toward the
 63.2 80 percent requirement under this subdivision.

63.3 (d) A provider agency or individual provider that receives additional revenue subject to
 63.4 the requirements of this subdivision shall prepare, and upon request submit to the
 63.5 commissioner, a distribution plan that specifies the amount of money the provider expects
 63.6 to receive that is subject to the requirements of this subdivision, including how that money
 63.7 was or will be distributed to increase compensation-related costs for employees. Within 60
 63.8 days of final implementation of the new rate methodology or any rate adjustment subject
 63.9 to the requirements of this subdivision, the provider must post the distribution plan and
 63.10 leave it posted for a period of at least six months in an area of the provider's operation to
 63.11 which all direct support professionals have access. The posted distribution plan must include
 63.12 instructions regarding how to contact the commissioner, or the commissioner's representative,
 63.13 if an employee has not received the compensation-related increase described in the plan.

63.14 **Sec. 4. DIRECTION TO COMMISSIONER; APPLICATION OF INTERMEDIATE**
 63.15 **CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES**
 63.16 **RATE INCREASES.**

63.17 The commissioner of human services shall apply the rate increases under Minnesota
 63.18 Statutes, section 256B.5012, subdivisions 19 and 20, as follows:

63.19 (1) apply Minnesota Statutes, section 256B.5012, subdivision 19; and

63.20 (2) apply any required rate increase as required under Minnesota Statutes, section
 63.21 256B.5012, subdivision 20, to the results of clause (1).

63.22 **ARTICLE 7**

63.23 **EMERGENCY AND NONEMERGENCY MEDICAL TRANSPORTATION**

63.24 Section 1. Minnesota Statutes 2022, section 256B.0625, subdivision 17, is amended to
 63.25 read:

63.26 Subd. 17. **Transportation costs.** (a) "Nonemergency medical transportation service"
 63.27 means motor vehicle transportation provided by a public or private person that serves
 63.28 Minnesota health care program beneficiaries who do not require emergency ambulance
 63.29 service, as defined in section 144E.001, subdivision 3, to obtain covered medical services.

63.30 (b) Medical assistance covers medical transportation costs incurred solely for obtaining
 63.31 emergency medical care or transportation costs incurred by eligible persons in obtaining
 63.32 emergency or nonemergency medical care when paid directly to an ambulance company,

64.1 nonemergency medical transportation company, or other recognized providers of
64.2 transportation services. Medical transportation must be provided by:

64.3 (1) nonemergency medical transportation providers who meet the requirements of this
64.4 subdivision;

64.5 (2) ambulances, as defined in section 144E.001, subdivision 2;

64.6 (3) taxicabs that meet the requirements of this subdivision;

64.7 (4) public transit, as defined in section 174.22, subdivision 7; or

64.8 (5) not-for-hire vehicles, including volunteer drivers, as defined in section 65B.472,
64.9 subdivision 1, paragraph (h).

64.10 (c) Medical assistance covers nonemergency medical transportation provided by
64.11 nonemergency medical transportation providers enrolled in the Minnesota health care
64.12 programs. All nonemergency medical transportation providers must comply with the
64.13 operating standards for special transportation service as defined in sections 174.29 to 174.30
64.14 and Minnesota Rules, chapter 8840, and all drivers must be individually enrolled with the
64.15 commissioner and reported on the claim as the individual who provided the service. All
64.16 nonemergency medical transportation providers shall bill for nonemergency medical
64.17 transportation services in accordance with Minnesota health care programs criteria. Publicly
64.18 operated transit systems, volunteers, and not-for-hire vehicles are exempt from the
64.19 requirements outlined in this paragraph.

64.20 (d) An organization may be terminated, denied, or suspended from enrollment if:

64.21 (1) the provider has not initiated background studies on the individuals specified in
64.22 section 174.30, subdivision 10, paragraph (a), clauses (1) to (3); or

64.23 (2) the provider has initiated background studies on the individuals specified in section
64.24 174.30, subdivision 10, paragraph (a), clauses (1) to (3), and:

64.25 (i) the commissioner has sent the provider a notice that the individual has been
64.26 disqualified under section 245C.14; and

64.27 (ii) the individual has not received a disqualification set-aside specific to the special
64.28 transportation services provider under sections 245C.22 and 245C.23.

64.29 (e) The administrative agency of nonemergency medical transportation must:

64.30 (1) adhere to the policies defined by the commissioner;

65.1 (2) pay nonemergency medical transportation providers for services provided to
65.2 Minnesota health care programs beneficiaries to obtain covered medical services;

65.3 (3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled
65.4 trips, and number of trips by mode; and

65.5 (4) by July 1, 2016, in accordance with subdivision 18e, utilize a web-based single
65.6 administrative structure assessment tool that meets the technical requirements established
65.7 by the commissioner, reconciles trip information with claims being submitted by providers,
65.8 and ensures prompt payment for nonemergency medical transportation services.

65.9 (f) Until the commissioner implements the single administrative structure and delivery
65.10 system under subdivision 18e, clients shall obtain their level-of-service certificate from the
65.11 commissioner or an entity approved by the commissioner that does not dispatch rides for
65.12 clients using modes of transportation under paragraph (i), clauses (4), (5), (6), and (7).

65.13 (g) The commissioner may use an order by the recipient's attending physician, advanced
65.14 practice registered nurse, physician assistant, or a medical or mental health professional to
65.15 certify that the recipient requires nonemergency medical transportation services.

65.16 Nonemergency medical transportation providers shall perform driver-assisted services for
65.17 eligible individuals, when appropriate. Driver-assisted service includes passenger pickup
65.18 at and return to the individual's residence or place of business, assistance with admittance
65.19 of the individual to the medical facility, and assistance in passenger securement or in securing
65.20 of wheelchairs, child seats, or stretchers in the vehicle.

65.21 Nonemergency medical transportation providers must take clients to the health care
65.22 provider using the most direct route, and must not exceed 30 miles for a trip to a primary
65.23 care provider or 60 miles for a trip to a specialty care provider, unless the client receives
65.24 authorization from the local agency.

65.25 Nonemergency medical transportation providers may not bill for separate base rates for
65.26 the continuation of a trip beyond the original destination. Nonemergency medical
65.27 transportation providers must maintain trip logs, which include pickup and drop-off times,
65.28 signed by the medical provider or client, whichever is deemed most appropriate, attesting
65.29 to mileage traveled to obtain covered medical services. Clients requesting client mileage
65.30 reimbursement must sign the trip log attesting mileage traveled to obtain covered medical
65.31 services.

65.32 (h) The administrative agency shall use the level of service process established by the
65.33 commissioner to determine the client's most appropriate mode of transportation. If public

66.1 transit or a certified transportation provider is not available to provide the appropriate service
66.2 mode for the client, the client may receive a onetime service upgrade.

66.3 (i) The covered modes of transportation are:

66.4 (1) client reimbursement, which includes client mileage reimbursement provided to
66.5 clients who have their own transportation, or to family or an acquaintance who provides
66.6 transportation to the client;

66.7 (2) volunteer transport, which includes transportation by volunteers using their own
66.8 vehicle;

66.9 (3) unassisted transport, which includes transportation provided to a client by a taxicab
66.10 or public transit. If a taxicab or public transit is not available, the client can receive
66.11 transportation from another nonemergency medical transportation provider;

66.12 (4) assisted transport, which includes transport provided to clients who require assistance
66.13 by a nonemergency medical transportation provider;

66.14 (5) lift-equipped/ramp transport, which includes transport provided to a client who is
66.15 dependent on a device and requires a nonemergency medical transportation provider with
66.16 a vehicle containing a lift or ramp;

66.17 (6) protected transport, which includes transport provided to a client who has received
66.18 a prescreening that has deemed other forms of transportation inappropriate and who requires
66.19 a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety
66.20 locks, a video recorder, and a transparent thermoplastic partition between the passenger and
66.21 the vehicle driver; and (ii) who is certified as a protected transport provider; and

66.22 (7) stretcher transport, which includes transport for a client in a prone or supine position
66.23 and requires a nonemergency medical transportation provider with a vehicle that can transport
66.24 a client in a prone or supine position.

66.25 (j) The local agency shall be the single administrative agency and shall administer and
66.26 reimburse for modes defined in paragraph (i) according to paragraphs (m) and (n) when the
66.27 commissioner has developed, made available, and funded the web-based single administrative
66.28 structure, assessment tool, and level of need assessment under subdivision 18e. The local
66.29 agency's financial obligation is limited to funds provided by the state or federal government.

66.30 (k) The commissioner shall:

66.31 (1) verify that the mode and use of nonemergency medical transportation is appropriate;

66.32 (2) verify that the client is going to an approved medical appointment; and

67.1 (3) investigate all complaints and appeals.

67.2 (l) The administrative agency shall pay for the services provided in this subdivision and
67.3 seek reimbursement from the commissioner, if appropriate. As vendors of medical care,
67.4 local agencies are subject to the provisions in section 256B.041, the sanctions and monetary
67.5 recovery actions in section 256B.064, and Minnesota Rules, parts 9505.2160 to 9505.2245.

67.6 (m) Payments for nonemergency medical transportation must be paid based on the client's
67.7 assessed mode under paragraph (h), not the type of vehicle used to provide the service. The
67.8 medical assistance reimbursement rates for nonemergency medical transportation services
67.9 that are payable by or on behalf of the commissioner for nonemergency medical
67.10 transportation services are:

67.11 (1) \$0.22 per mile for client reimbursement;

67.12 (2) up to 100 percent of the Internal Revenue Service business deduction rate for volunteer
67.13 transport;

67.14 (3) equivalent to the standard fare for unassisted transport when provided by public
67.15 transit, and ~~\$11~~ \$12.93 for the base rate and ~~\$1.30~~ \$1.53 per mile when provided by a
67.16 nonemergency medical transportation provider;

67.17 (4) ~~\$13~~ \$15.28 for the base rate and ~~\$1.30~~ \$1.53 per mile for assisted transport;

67.18 (5) ~~\$18~~ \$21.15 for the base rate and ~~\$1.55~~ \$1.82 per mile for lift-equipped/ramp transport;

67.19 (6) \$75 for the base rate and \$2.40 per mile for protected transport; and

67.20 (7) \$60 for the base rate and \$2.40 per mile for stretcher transport, and \$9 per trip for
67.21 an additional attendant if deemed medically necessary.

67.22 (n) The base rate for nonemergency medical transportation services in areas defined
67.23 under RUCA to be super rural is equal to 111.3 percent of the respective base rate in
67.24 paragraph (m), clauses (1) to (7). The mileage rate for nonemergency medical transportation
67.25 services in areas defined under RUCA to be rural or super rural areas is:

67.26 (1) for a trip equal to 17 miles or less, equal to 125 percent of the respective mileage
67.27 rate in paragraph (m), clauses (1) to (7); and

67.28 (2) for a trip between 18 and 50 miles, equal to 112.5 percent of the respective mileage
67.29 rate in paragraph (m), clauses (1) to (7).

67.30 (o) For purposes of reimbursement rates for nonemergency medical transportation
67.31 services under paragraphs (m) and (n), the zip code of the recipient's place of residence
67.32 shall determine whether the urban, rural, or super rural reimbursement rate applies.

68.1 (p) For purposes of this subdivision, "rural urban commuting area" or "RUCA" means
68.2 a census-tract based classification system under which a geographical area is determined
68.3 to be urban, rural, or super rural.

68.4 (q) The commissioner, when determining reimbursement rates for nonemergency medical
68.5 transportation under paragraphs (m) and (n), shall exempt all modes of transportation listed
68.6 under paragraph (i) from Minnesota Rules, part 9505.0445, item R, subitem (2).

68.7 (r) Effective for the first day of each calendar quarter in which the price of gasoline as
68.8 posted publicly by the United States Energy Information Administration exceeds \$3.00 per
68.9 gallon, the commissioner shall adjust the rate paid per mile in paragraph (m) by one percent
68.10 up or down for every increase or decrease of ten cents for the price of gasoline. The increase
68.11 or decrease must be calculated using a base gasoline price of \$3.00. The percentage increase
68.12 or decrease must be calculated using the average of the most recently available price of all
68.13 grades of gasoline for Minnesota as posted publicly by the United States Energy Information
68.14 Administration.

68.15 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
68.16 whichever is later. The commissioner of human services shall notify the revisor of statutes
68.17 when federal approval is obtained.

68.18 Sec. 2. Minnesota Statutes 2022, section 256B.0625, subdivision 17a, is amended to read:

68.19 Subd. 17a. **Payment for ambulance services.** (a) Medical assistance covers ambulance
68.20 services. Providers shall bill ambulance services according to Medicare criteria.
68.21 Nonemergency ambulance services shall not be paid as emergencies. Effective for services
68.22 rendered on or after July 1, 2001, medical assistance payments for ambulance services shall
68.23 be paid at the Medicare reimbursement rate or at the medical assistance payment rate in
68.24 effect on July 1, 2000, whichever is greater.

68.25 (b) Effective for services provided on or after July 1, 2016, medical assistance payment
68.26 rates for ambulance services identified in this paragraph are increased by five percent.
68.27 Capitation payments made to managed care plans and county-based purchasing plans for
68.28 ambulance services provided on or after January 1, 2017, shall be increased to reflect this
68.29 rate increase. The increased rate described in this paragraph applies to ambulance service
68.30 providers whose base of operations as defined in section 144E.10 is located:

68.31 (1) outside the metropolitan counties listed in section 473.121, subdivision 4, and outside
68.32 the cities of Duluth, Mankato, Moorhead, St. Cloud, and Rochester; or

68.33 (2) within a municipality with a population of less than 1,000.

69.1 (c) Effective for the first day of each calendar quarter in which the price of gasoline as
 69.2 posted publicly by the United States Energy Information Administration exceeds \$3.00 per
 69.3 gallon, the commissioner shall adjust the rate paid per mile in paragraphs (a) and (b) by one
 69.4 percent up or down for every increase or decrease of ten cents for the price of gasoline. The
 69.5 increase or decrease must be calculated using a base gasoline price of \$3.00. The percentage
 69.6 increase or decrease must be calculated using the average of the most recently available
 69.7 price of all grades of gasoline for Minnesota as posted publicly by the United States Energy
 69.8 Information Administration.

69.9 **EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval,
 69.10 whichever is later. The commissioner of human services shall notify the revisor of statutes
 69.11 when federal approval is obtained.

69.12 **Sec. 3. NONEMERGENCY MEDICAL TRANSPORTATION SPENDING**
 69.13 **REQUIREMENTS.**

69.14 (a) At least 80 percent of the marginal increase in revenue from the implementation of
 69.15 rate increases in this act under Minnesota Statutes, section 256B.0625, subdivision 17,
 69.16 paragraph (m), clauses (3) to (5), for services rendered on or after the day of implementation
 69.17 of the rate increases must be used to increase compensation-related costs for drivers.

69.18 (b) For the purposes of this subdivision, compensation-related costs include:

69.19 (1) wages and salaries;

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

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

69.25 (4) benefits that address direct support professional workforce needs above and beyond
 69.26 what employees were offered prior to the implementation of the rate increases.

69.27 (c) Compensation-related costs for persons employed in the central office of a corporation
 69.28 or entity that has an ownership interest in the provider or exercises control over the provider,
 69.29 or for persons paid by the provider under a management contract, do not count toward the
 69.30 80 percent requirement under this subdivision.

69.31 (d) A provider agency or individual provider that receives additional revenue subject to
 69.32 the requirements of this subdivision shall prepare, and upon request submit to the

70.1 commissioner, a distribution plan that specifies the amount of money the provider expects
 70.2 to receive that is subject to the requirements of this section, including how that money was
 70.3 or will be distributed to increase compensation-related costs for drivers. Within 60 days of
 70.4 final implementation of the new phase-in proportion or adjustment to the base wage indices
 70.5 subject to the requirements of this subdivision, the provider must post the distribution plan
 70.6 and leave it posted for a period of at least six months in an area of the provider's operation
 70.7 to which all drivers have access. The posted distribution plan must include instructions
 70.8 regarding how to contact the commissioner, or the commissioner's representative, if a driver
 70.9 has not received the compensation-related increase described in the plan.

70.10 **ARTICLE 8**

70.11 **RESIDENTIAL SETTING CLOSURE PREVENTION GRANTS**

70.12 Section 1. **[256.4795] RESIDENTIAL SETTING CLOSURE PREVENTION**
 70.13 **GRANTS.**

70.14 Subdivision 1. **Residential setting closure prevention grants established.** The
 70.15 commissioner of human services shall establish a grant program to reduce the risk of
 70.16 residential settings in financial distress from closing. The commissioner shall limit
 70.17 expenditures under this subdivision to the amount appropriated for this purpose.

70.18 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms in this subdivision
 70.19 have the meanings given them.

70.20 (b) "At risk of closure" or "at risk of closing" means a residential setting is in significant
 70.21 financial distress, and, in the judgment of the commissioner, the setting will close without
 70.22 additional funding from the commissioner.

70.23 (c) "Residential setting" means any of the following: (1) a nursing facility; (2) an assisted
 70.24 living facility with a majority of residents receiving services funded by medical assistance;
 70.25 (3) a setting exempt from assisted living facility licensure under section 144G.08, subdivision
 70.26 7, clauses (10) to (13), with a majority of residents receiving services funded by medical
 70.27 assistance; (4) an intermediate care facility for persons with developmental disabilities; or
 70.28 (5) an adult foster care setting, a community residential setting, or an integrated community
 70.29 supports setting.

70.30 Subd. 3. **Eligibility.** (a) A license holder operating a residential setting in significant
 70.31 financial distress may apply to the commissioner for a grant under this section to relieve its
 70.32 immediate financial distress.

71.1 (b) Lead agencies that suspect a residential setting is in significant financial distress may
71.2 refer the license holder to the commissioner for consideration by the commissioner for grant
71.3 funding under this section. Upon a referral from a lead agency under this section, the
71.4 commissioner shall immediately solicit an application from the license holder, providing
71.5 individualized technical assistance to the license holder regarding the application process.

71.6 (c) The commissioner must give priority for closure prevention grants to residential
71.7 settings that are the most significantly at risk of closing in violation of the applicable notice
71.8 requirements prior to the termination of services.

71.9 Subd. 4. **Criteria and limitations.** (a) Within available appropriations for this purpose,
71.10 the commissioner must award sufficient funding to a residential setting at risk of closure to
71.11 ensure that the residential setting remains open long enough to comply with the applicable
71.12 termination of services notification requirements.

71.13 (b) The commissioner may award additional funding to a residential setting at risk of
71.14 closure if, in the judgment of the commissioner, the residential setting is likely to remain
71.15 open and financially viable after receiving time-limited additional funding from the
71.16 commissioner.

71.17 (c) Before receiving any additional funding under paragraph (b), grantees must work
71.18 with the commissioner to develop a business plan and corrective action plan to reduce the
71.19 risk of future financial distress. No residential setting may receive additional funding under
71.20 paragraph (b) more than once.

71.21 Subd. 5. **Interagency coordination.** The commissioner must coordinate the grant
71.22 activities under this section with any other impacted state agencies and lead agencies.

71.23 Subd. 6. **Administrative funding.** The commissioner may use up to 6.5 percent of the
71.24 grant money appropriated for the commissioner's costs related to administration of this
71.25 program.

71.26 **EFFECTIVE DATE.** This section is effective July 1, 2023.

ARTICLE 9

EXPANSION OF EMERGENCY STAFFING POOL

72.1

72.2

72.3 Section 1. Laws 2022, chapter 40, section 6, is amended to read:

72.4 Sec. 6. **COMMISSIONER OF HUMAN SERVICES; TEMPORARY STAFFING**
72.5 **POOL; ~~APPROPRIATION.~~**

72.6 (a) The commissioner of human services shall establish a temporary emergency staffing
72.7 pool for congregate settings and for providers or recipients of home- and community-based
72.8 services experiencing staffing crises. Vendor contracts may include retention bonuses,
72.9 sign-on bonuses, and payment for hours on call. The commissioner may pay for necessary
72.10 training, travel, and lodging expenses of the temporary staff. Contracts for temporary staffing
72.11 executed under this section: (1) should minimize the recruitment away from providers'
72.12 current workforces; and (2) may not be executed with an individual until at least 30 days
72.13 since the individual was last employed in Minnesota by one of the types of facilities,
72.14 providers, or individuals listed in paragraph (g).

72.15 (b) Temporary staff, at the request of the commissioner, may be deployed to providers
72.16 of home- and community-based services, individual recipients of home- and
72.17 community-based services, and long-term care facilities and other congregate care residential
72.18 facilities and programs experiencing an emergency staffing crisis on or after the effective
72.19 date of this section. Temporary staff must be provided at no cost to the provider, individual
72.20 recipient, facility, or program receiving the temporary staff.

72.21 (c) Members of the temporary staffing pool under this section are not state employees.

72.22 (d) The commissioner must coordinate the activities under this section with any other
72.23 impacted state agencies, to appropriately prioritize locations to deploy contracted temporary
72.24 staff.

72.25 (e) The commissioner must give priority for deploying staff to providers, individual
72.26 recipients, facilities, and programs with the most significant staffing crises and where, but
72.27 for this assistance, residents or service recipients would be at significant risk of injury due
72.28 to the need to transfer to ~~another~~ a facility or a hospital for adequately staffed care.

72.29 (f) A provider, individual recipient, facility, or program may seek onetime assistance
72.30 per setting or individual service recipient from the temporary staffing pool only after the
72.31 provider, individual recipient, facility, or program has used all resources available to obtain
72.32 temporary staff but is unable to meet the provider's, individual's, facility's, or program's
72.33 temporary staffing needs. A provider, individual, facility, or program may apply for

73.1 temporary staff for up to 21 days. Applicants must submit a proposed plan for ensuring
73.2 resident safety at the end of that time period.

73.3 (g) Providers, individuals, facilities, and programs eligible to obtain temporary staff
73.4 from the temporary staffing pool include:

73.5 (1) nursing facilities;

73.6 (2) assisted living facilities;

73.7 (3) intermediate care facilities for persons with developmental disabilities;

73.8 (4) adult foster care ~~or~~ community residential settings, or integrated community supports
73.9 settings;

73.10 (5) licensed substance use disorder treatment facilities;

73.11 (6) unlicensed county-based substance use disorder treatment facilities;

73.12 (7) licensed facilities for adults with mental illness;

73.13 (8) licensed detoxification programs;

73.14 (9) licensed withdrawal management programs;

73.15 (10) licensed children's residential facilities;

73.16 (11) licensed child foster residence settings;

73.17 (12) unlicensed, Tribal-certified facilities that perform functions similar to the licensed
73.18 facilities listed in this paragraph;

73.19 (13) boarding care homes;

73.20 (14) board and lodging establishments serving people with disabilities or disabling
73.21 conditions;

73.22 (15) board and lodging establishments with special services;

73.23 (16) supervised living facilities;

73.24 (17) supportive housing;

73.25 (18) sober homes;

73.26 (19) community-based halfway houses for people exiting the correctional system;

73.27 (20) shelters serving people experiencing homelessness;

73.28 (21) drop-in centers for people experiencing homelessness;

- 74.1 (22) homeless outreach services for unsheltered individuals;
- 74.2 (23) shelters for people experiencing domestic violence; ~~and~~
- 74.3 (24) temporary isolation spaces for people who test positive for COVID-19;
- 74.4 (25) individuals who use consumer-directed community supports;
- 74.5 (26) individuals who use the personal care assistance choice program;
- 74.6 (27) personal care assistance provider agencies;
- 74.7 (28) individuals who use the community first services and supports budget model;
- 74.8 (29) agency-providers of community first services and supports; and
- 74.9 (30) providers of individualized home supports.
- 74.10 (h) Notwithstanding Minnesota Statutes, chapter 16C, the commissioner may maintain,
- 74.11 extend, or renew contracts for temporary staffing entered into on or after September 1, 2020.
- 74.12 The commissioner may also enter into new contracts with eligible entities for temporary
- 74.13 staff deployed in the temporary staffing pool. The commissioner may use up to 6.5 percent
- 74.14 of this funding for the commissioner's costs related to administration of this program.
- 74.15 (i) The commissioner shall seek all allowable FEMA reimbursement for the costs of this
- 74.16 activity.

ARTICLE 10

FAMILY ASSETS FOR INDEPENDENCE

- 74.17
- 74.18
- 74.19 Section 1. Minnesota Statutes 2022, section 256E.35, subdivision 1, is amended to read:
- 74.20 Subdivision 1. **Establishment.** The Minnesota family assets for independence initiative
- 74.21 is established to provide incentives for low-income families to accrue assets for education,
- 74.22 housing, vehicles, emergencies, and economic development purposes.
- 74.23 Sec. 2. Minnesota Statutes 2022, section 256E.35, subdivision 2, is amended to read:
- 74.24 Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.
- 74.25 (b) "Eligible educational institution" means the following:
- 74.26 (1) an institution of higher education described in section 101 or 102 of the Higher
- 74.27 Education Act of 1965; or
- 74.28 (2) an area vocational education school, as defined in subparagraph (C) or (D) of United
- 74.29 States Code, title 20, chapter 44, section 2302 (3) (the Carl D. Perkins Vocational and

75.1 Applied Technology Education Act), which is located within any state, as defined in United
75.2 States Code, title 20, chapter 44, section 2302 (30). This clause is applicable only to the
75.3 extent section 2302 is in effect on August 1, 2008.

75.4 (c) "Family asset account" means a savings account opened by a household participating
75.5 in the Minnesota family assets for independence initiative.

75.6 (d) "Fiduciary organization" means:

75.7 (1) a community action agency that has obtained recognition under section 256E.31;

75.8 (2) a federal community development credit union ~~serving the seven-county metropolitan~~
75.9 ~~area; or~~

75.10 (3) a women-oriented economic development agency ~~serving the seven-county~~
75.11 ~~metropolitan area;~~

75.12 (4) a federally recognized Tribal nation; or

75.13 (5) a nonprofit organization, as defined under section 501(c)(3) of the Internal Revenue
75.14 Code.

75.15 (e) "Financial coach" means a person who:

75.16 (1) has completed an intensive financial literacy training workshop that includes
75.17 curriculum on budgeting to increase savings, debt reduction and asset building, building a
75.18 good credit rating, and consumer protection;

75.19 (2) participates in ongoing statewide family assets for independence in Minnesota (FAIM)
75.20 network training meetings under FAIM program supervision; and

75.21 (3) provides financial coaching to program participants under subdivision 4a.

75.22 (f) "Financial institution" means a bank, bank and trust, savings bank, savings association,
75.23 or credit union, the deposits of which are insured by the Federal Deposit Insurance
75.24 Corporation or the National Credit Union Administration.

75.25 (g) "Household" means all individuals who share use of a dwelling unit as primary
75.26 quarters for living and eating separate from other individuals.

75.27 (h) "Permissible use" means:

75.28 (1) postsecondary educational expenses at an eligible educational institution as defined
75.29 in paragraph (b), including books, supplies, and equipment required for courses of instruction;

75.30 (2) acquisition costs of acquiring, constructing, or reconstructing a residence, including
75.31 any usual or reasonable settlement, financing, or other closing costs;

76.1 (3) business capitalization expenses for expenditures on capital, plant, equipment, working
 76.2 capital, and inventory expenses of a legitimate business pursuant to a business plan approved
 76.3 by the fiduciary organization;

76.4 (4) acquisition costs of a principal residence within the meaning of section 1034 of the
 76.5 Internal Revenue Code of 1986 which do not exceed 100 percent of the average area purchase
 76.6 price applicable to the residence determined according to section 143(e)(2) and (3) of the
 76.7 Internal Revenue Code of 1986; ~~and~~

76.8 (5) acquisition costs of a personal vehicle only if approved by the fiduciary organization;

76.9 (6) contribution to an emergency savings account; and

76.10 (7) contribution to a Minnesota 529 savings plan.

76.11 Sec. 3. Minnesota Statutes 2022, section 256E.35, subdivision 4a, is amended to read:

76.12 Subd. 4a. **Financial coaching.** A financial coach shall provide the following to program
 76.13 participants:

76.14 (1) financial education relating to budgeting, debt reduction, asset-specific training,
 76.15 credit building, and financial stability activities;

76.16 (2) asset-specific training related to buying a home or vehicle, acquiring postsecondary
 76.17 education, ~~or~~ starting or expanding a small business, saving for emergencies, or saving for
 76.18 a child's education; and

76.19 (3) financial stability education and training to improve and sustain financial security.

76.20 Sec. 4. Minnesota Statutes 2022, section 256E.35, subdivision 6, is amended to read:

76.21 Subd. 6. **Withdrawal; matching; permissible uses.** (a) To receive a match, a
 76.22 participating household must transfer funds withdrawn from a family asset account to its
 76.23 matching fund custodial account held by the fiscal agent, according to the family asset
 76.24 agreement. The fiscal agent must determine if the match request is for a permissible use
 76.25 consistent with the household's family asset agreement.

76.26 (b) The fiscal agent must ensure the household's custodial account contains the applicable
 76.27 matching funds to match the balance in the household's account, including interest, on at
 76.28 least a quarterly basis and at the time of an approved withdrawal. Matches must be a
 76.29 contribution of \$3 from state grant or TANF funds for every \$1 of funds withdrawn from
 76.30 the family asset account not to exceed a ~~\$6,000~~ \$9,000 lifetime limit.

77.1 (c) Notwithstanding paragraph (b), if funds are appropriated for the Federal Assets for
77.2 Independence Act of 1998, and a participating fiduciary organization is awarded a grant
77.3 under that act, participating households with that fiduciary organization must be provided
77.4 matches as follows:

77.5 (1) from state grant and TANF funds, a matching contribution of \$1.50 for every \$1 of
77.6 funds withdrawn from the family asset account not to exceed a ~~\$3,000~~ \$4,500 lifetime limit;
77.7 and

77.8 (2) from nonstate funds, a matching contribution of not less than \$1.50 for every \$1 of
77.9 funds withdrawn from the family asset account not to exceed a ~~\$3,000~~ \$4,500 lifetime limit.

77.10 (d) Upon receipt of transferred custodial account funds, the fiscal agent must make a
77.11 direct payment to the vendor of the goods or services for the permissible use.

77.12 Sec. 5. Minnesota Statutes 2022, section 256E.35, subdivision 7, is amended to read:

77.13 Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary organization
77.14 participating in a family assets for independence initiative must report quarterly to the
77.15 commissioner of human services identifying the participants with accounts, the number of
77.16 accounts, the amount of savings and matches for each participant's account, the uses of the
77.17 account, ~~and~~ the number of businesses, homes, vehicles, and educational services paid for
77.18 with money from the account, and the amount of contributions to Minnesota 529 savings
77.19 plans and emergency savings accounts, as well as other information that may be required
77.20 for the commissioner to administer the program and meet federal TANF reporting
77.21 requirements.

77.22 Sec. 6. Minnesota Statutes 2022, section 256P.02, is amended by adding a subdivision to
77.23 read:

77.24 Subd. 4. **Account exception.** Family asset accounts under section 256E.35 and individual
77.25 development accounts authorized under the Assets for Independence Act, Title IV of the
77.26 Community Opportunities, Accountability, and Training and Educational Services Human
77.27 Services Reauthorization Act of 1998, Public Law 105-285, must be excluded when
77.28 determining the equity value of personal property.

78.1

ARTICLE 11

78.2

APPROPRIATIONS78.3 Section 1. **APPROPRIATION; FAMILY ASSETS FOR INDEPENDENCE.**

78.4 \$100,000 in fiscal year 2024 and \$100,000 in fiscal year 2025 are appropriated from the
78.5 general fund to the commissioner of human services for the purposes of the family assets
78.6 for independence program in Minnesota Statutes, section 256E.35.

78.7 Sec. 2. **APPROPRIATION; LIFESHARING SERVICE DEVELOPMENT.**

78.8 \$184,000 in fiscal year 2024 is appropriated from the general fund to the commissioner
78.9 of human services for engaging stakeholders and developing a lifesharing service under the
78.10 state's medical assistance disability waivers and elderly waiver. This is a onetime
78.11 appropriation and is available until June 30, 2025.

78.12 Sec. 3. **APPROPRIATION; RESIDENTIAL SETTING CLOSURE PREVENTION**
78.13 **GRANTS.**

78.14 \$6,671,000 in fiscal year 2024 and \$6,671,000 in fiscal year 2025 are appropriated from
78.15 the general fund to the commissioner of human services for residential setting closure
78.16 prevention grants under Minnesota Statutes, section 256.4795.

78.17 Sec. 4. **APPROPRIATION; WELLNESS IN THE WOODS.**

78.18 \$100,000 in fiscal year 2024 and \$100,000 in fiscal year 2025 are appropriated from the
78.19 general fund to the commissioner of human services for a grant to Wellness in the Woods
78.20 for daily peer support and special sessions for individuals who are in substance use disorder
78.21 recovery, are transitioning out of incarceration, or have experienced trauma.

256B.4914 HOME AND COMMUNITY-BASED SERVICES WAIVERS; RATE SETTING.

Subd. 9a. **Respite services; component values and calculation of payment rates.** (a) For the purposes of this section, respite services include respite services provided to an individual outside of any service plan for a day program or residential support service.

(b) Component values for respite services are:

- (1) competitive workforce factor: 4.7 percent;
- (2) supervisory span of control ratio: 11 percent;
- (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- (4) employee-related cost ratio: 23.6 percent;
- (5) general administrative support ratio: 13.25 percent;
- (6) program-related expense ratio: 2.9 percent; and
- (7) absence and utilization factor ratio: 3.9 percent.

(c) A unit of service for respite services is 15 minutes.

(d) Payments for respite services must be calculated as follows unless the service is reimbursed separately as part of a residential support services or day program payment rate:

- (1) determine the number of units of service to meet an individual's needs;
- (2) determine the appropriate hourly staff wage rates derived by the commissioner as provided in subdivisions 5 and 5a;
- (3) except for subdivision 5a, clauses (1) to (4), multiply the result of clause (2) by the product of one plus the competitive workforce factor;
- (4) for a recipient requiring deaf and hard-of-hearing customization under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (3);
- (5) multiply the number of direct staffing hours by the appropriate staff wage;
- (6) multiply the number of direct staffing hours by the product of the supervisory span of control ratio and the appropriate supervisory staff wage in subdivision 5a, clause (1);
- (7) combine the results of clauses (5) and (6), and multiply the result by one plus the employee vacation, sick, and training allowance ratio. This is defined as the direct staffing rate;
- (8) for employee-related expenses, multiply the result of clause (7) by one plus the employee-related cost ratio;
- (9) this is the subtotal rate;
- (10) sum the standard general administrative support ratio, the program-related expense ratio, and the absence and utilization factor ratio;
- (11) divide the result of clause (9) by one minus the result of clause (10). This is the total payment amount;
- (12) for respite services provided in a shared manner, divide the total payment amount in clause (11) by the number of service recipients, not to exceed three; and
- (13) adjust the result of clause (12) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

256S.19 MONTHLY CASE MIX BUDGET CAPS; NURSING FACILITY RESIDENTS.

Subd. 4. **Calculation of monthly conversion budget cap with consumer-directed community supports.** For the elderly waiver monthly conversion budget cap for the cost of elderly waiver services with consumer-directed community supports, the nursing facility case mix adjusted total payment rate used under subdivision 3 to calculate the monthly conversion budget cap for elderly waiver services without consumer-directed community supports must be reduced by a percentage equal to the percentage difference between the consumer-directed community supports budget limit that would be assigned according to the elderly waiver plan and the corresponding monthly case mix budget cap under this chapter, but not to exceed 50 percent.