

1.1 A bill for an act

1.2 relating to human services; modifying programs and licensure provisions
1.3 for services to persons with disabilities; requiring a report; appropriating
1.4 money; amending Minnesota Statutes 2008, sections 245A.10, subdivision 3;
1.5 245A.11, by adding a subdivision; 245C.04, subdivision 1; 245C.20; 256B.5011,
1.6 subdivision 2; 256B.5012, subdivisions 4, 6, 7; 256B.5013, subdivision 1;
1.7 256D.44, subdivision 5; repealing Minnesota Statutes 2008, section 256B.5013,
1.8 subdivision 5; Minnesota Rules, part 9555.6125, subpart 4, item B.

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

1.10 Section 1. Minnesota Statutes 2008, section 245A.10, subdivision 3, is amended to
1.11 read:

1.12 Subd. 3. **Application fee for initial license or certification.** (a) For fees required
1.13 under subdivision 1, an applicant for an initial license or certification issued by the
1.14 commissioner shall submit a \$500 application fee with each new application required
1.15 under this subdivision. The application fee shall not be prorated, is nonrefundable, and
1.16 is in lieu of the annual license or certification fee that expires on December 31. The
1.17 commissioner shall not process an application until the application fee is paid.

1.18 (b) Except as provided in clauses (1) to (3), an applicant shall apply for a license
1.19 to provide services at a specific location.

1.20 (1) For a license to provide waived services to persons with developmental
1.21 disabilities or related conditions, an applicant shall submit an application for each county
1.22 in which the waived services will be provided to more than three persons. When a
1.23 provider holds a license in a county, the provider may provide services in another county
1.24 for three or fewer persons without completing a license application for that county.

2.1 (2) For a license to provide semi-independent living services to persons with
2.2 developmental disabilities or related conditions, an applicant shall submit a single
2.3 application to provide services statewide.

2.4 (3) For a license to provide independent living assistance for youth under section
2.5 245A.22, an applicant shall submit a single application to provide services statewide.

2.6 Sec. 2. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision
2.7 to read:

2.8 Subd. 8. **Overnight supervision.** Notwithstanding Minnesota Rules, part
2.9 9555.5105, subpart 37, item B, overnight supervision for a resident of an adult foster
2.10 home shall be determined by the interdisciplinary team and the individual's residential
2.11 placement agreement.

2.12 Sec. 3. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

2.13 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a
2.14 background study of an individual required to be studied under section 245C.03,
2.15 subdivision 1, at least upon application for initial license for all license types.

2.16 (b) The commissioner shall conduct a background study of an individual required to
2.17 be studied under section 245C.03, subdivision 1, at reapplication for a license for adult
2.18 foster care, family adult day services, and family child care.

2.19 (c) The commissioner is not required to conduct a study of an individual at the time
2.20 of reapplication for a license if the individual's background study was completed by the
2.21 commissioner of human services for an adult foster care license holder that is also:

2.22 (1) registered under chapter 144D; or

2.23 (2) licensed to provide home and community-based services to people with
2.24 disabilities at the foster care location and the license holder does not reside in the foster
2.25 care residence; and

2.26 (3) the following conditions are met:

2.27 (i) a study of the individual was conducted either at the time of initial licensure or
2.28 when the individual became affiliated with the license holder;

2.29 (ii) the individual has been continuously affiliated with the license holder since
2.30 the last study was conducted; and

2.31 (iii) the last study of the individual was conducted on or after October 1, 1995.

2.32 (d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall
2.33 conduct a study of an individual required to be studied under section 245C.03, at the
2.34 time of reapplication for a child foster care license. The county or private agency shall

3.1 collect and forward to the commissioner the information required under section 245C.05,
3.2 subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background
3.3 study conducted by the commissioner of human services under this paragraph must
3.4 include a review of the information required under section 245C.08, subdivisions 1,
3.5 paragraph (a), clauses (1) to (5), 3, and 4.

3.6 (e) The commissioner of human services shall conduct a background study of an
3.7 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2)
3.8 to (6), who is newly affiliated with a child foster care license holder. The county or
3.9 private agency shall collect and forward to the commissioner the information required
3.10 under section 245C.05, subdivisions 1 and 5. The background study conducted by the
3.11 commissioner of human services under this paragraph must include a review of the
3.12 information required under section 245C.08, subdivisions 1, 3, and 4.

3.13 (f) Applicants for licensure, license holders, and other entities as provided in this
3.14 chapter must submit completed background study forms to the commissioner before
3.15 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct
3.16 contact in any licensed program.

3.17 (g) For purposes of this section, a physician licensed under chapter 147 is considered
3.18 to be continuously affiliated upon the license holder's receipt from the commissioner of
3.19 health or human services of the physician's background study results.

3.20 (h) When a background study of an individual specified under section 245C.03,
3.21 subdivision 1, paragraph (a), clause (3), (4), (6), or (7), has been completed, this
3.22 background study is valid for 60 days and shall be accepted by any licensed program.

3.23 Sec. 4. Minnesota Statutes 2008, section 245C.20, is amended to read:

3.24 **245C.20 LICENSE HOLDER RECORD KEEPING.**

3.25 A licensed program shall document the date the program initiates a background
3.26 study under this chapter in the program's personnel files. When a background study is
3.27 completed under this chapter, a licensed program shall maintain a notice that the study
3.28 was undertaken and completed in the program's personnel files. ~~If a licensed program~~
3.29 ~~has not received a response from the commissioner under section 245C.17 within 45~~
3.30 ~~days of initiation of the background study request, the licensed program must contact the~~
3.31 ~~commissioner to inquire about the status of the study.~~

3.32 Sec. 5. Minnesota Statutes 2008, section 256B.5011, subdivision 2, is amended to read:

3.33 Subd. 2. **Contract provisions.** (a) The service contract with each intermediate
3.34 care facility must include provisions for:

4.1 (1) modifying payments when significant changes occur in the needs of the
4.2 consumers;

4.3 ~~(2) the establishment and use of a quality improvement plan. Using criteria and~~
4.4 ~~options for performance measures developed by the commissioner, each intermediate care~~
4.5 ~~facility must identify a minimum of one performance measure on which to focus its efforts~~
4.6 ~~for quality improvement during the contract period;~~

4.7 ~~(3)~~ appropriate and necessary statistical information required by the commissioner;

4.8 ~~(4)~~ (3) annual aggregate facility financial information; and

4.9 ~~(5)~~ (4) additional requirements for intermediate care facilities not meeting the
4.10 standards set forth in the service contract.

4.11 (b) The commissioner of human services and the commissioner of health, in
4.12 consultation with representatives from counties, advocacy organizations, and the provider
4.13 community, shall review the consolidated standards under chapter 245B and the supervised
4.14 living facility rule under Minnesota Rules, chapter 4665, to determine what provisions
4.15 in Minnesota Rules, chapter 4665, may be waived by the commissioner of health for
4.16 intermediate care facilities in order to enable facilities to implement the performance
4.17 measures in their contract and provide quality services to residents without a duplication
4.18 of or increase in regulatory requirements.

4.19 Sec. 6. Minnesota Statutes 2008, section 256B.5012, subdivision 4, is amended to read:

4.20 Subd. 4. **ICF/MR rate increases beginning July 1, 2001, and July 1, 2002.** (a)

4.21 For the rate years beginning July 1, 2001, and July 1, 2002, the commissioner shall make
4.22 available to each facility reimbursed under this section an adjustment to the total operating
4.23 payment rate of 3.5 percent. Of this adjustment, two-thirds must be used as provided
4.24 under paragraph (b) and one-third must be used for operating costs.

4.25 (b) The adjustment under this paragraph must be used to increase the wages and
4.26 benefits and pay associated costs of all employees except administrative and central office
4.27 employees, provided that this increase must be used only for wage and benefit increases
4.28 implemented on or after the first day of the rate year and must not be used for increases
4.29 implemented prior to that date.

4.30 (c) For each facility, the commissioner shall make available an adjustment using the
4.31 percentage specified in paragraph (a) multiplied by the total payment rate, excluding the
4.32 property-related payment rate, in effect on the preceding June 30. The total payment rate
4.33 shall include the adjustment provided in section 256B.501, subdivision 12.

5.1 (d) A facility whose payment rates are governed by closure agreements, or
5.2 receivership agreements, ~~or Minnesota Rules, part 9553.0075,~~ is not eligible for an
5.3 adjustment otherwise granted under this subdivision.

5.4 (e) A facility may apply for the payment rate adjustment provided under paragraph
5.5 (b). The application must be made to the commissioner and contain a plan by which
5.6 the facility will distribute the adjustment in paragraph (b) to employees of the facility.
5.7 For facilities in which the employees are represented by an exclusive bargaining
5.8 representative, an agreement negotiated and agreed to by the employer and the exclusive
5.9 bargaining representative constitutes the plan. A negotiated agreement may constitute the
5.10 plan only if the agreement is finalized after the date of enactment of all rate increases for
5.11 the rate year. The commissioner shall review the plan to ensure that the payment rate
5.12 adjustment per diem is used as provided in this subdivision. To be eligible, a facility must
5.13 submit its plan by March 31, 2002, and March 31, 2003, respectively. If a facility's plan is
5.14 effective for its employees after the first day of the applicable rate year that the funds are
5.15 available, the payment rate adjustment per diem is effective the same date as its plan.

5.16 (f) A copy of the approved distribution plan must be made available to all employees
5.17 by giving each employee a copy or by posting it in an area of the facility to which all
5.18 employees have access. If an employee does not receive the wage and benefit adjustment
5.19 described in the facility's approved plan and is unable to resolve the problem with the
5.20 facility's management or through the employee's union representative, the employee
5.21 may contact the commissioner at an address or telephone number provided by the
5.22 commissioner and included in the approved plan.

5.23 Sec. 7. Minnesota Statutes 2008, section 256B.5012, subdivision 6, is amended to read:

5.24 Subd. 6. **ICF/MR rate increases October 1, 2005, and October 1, 2006.** (a) For
5.25 the rate periods beginning October 1, 2005, and October 1, 2006, the commissioner shall
5.26 make available to each facility reimbursed under this section an adjustment to the total
5.27 operating payment rate of 2.2553 percent.

5.28 (b) 75 percent of the money resulting from the rate adjustment under paragraph (a)
5.29 must be used to increase wages and benefits and pay associated costs for employees,
5.30 except for administrative and central office employees. 75 percent of the money received
5.31 by a facility as a result of the rate adjustment provided in paragraph (a) must be used only
5.32 for wage, benefit, and staff increases implemented on or after the effective date of the rate
5.33 increase each year, and must not be used for increases implemented prior to that date. The
5.34 wage adjustment eligible employees may receive may vary based on merit, seniority, or
5.35 other factors determined by the provider.

6.1 (c) For each facility, the commissioner shall make available an adjustment, based
6.2 on occupied beds, using the percentage specified in paragraph (a) multiplied by the total
6.3 payment rate, including variable rate but excluding the property-related payment rate, in
6.4 effect on the preceding day. The total payment rate shall include the adjustment provided
6.5 in section 256B.501, subdivision 12.

6.6 (d) A facility whose payment rates are governed by closure agreements, or
6.7 receivership agreements, ~~or Minnesota Rules, part 9553.0075,~~ is not eligible for an
6.8 adjustment otherwise granted under this subdivision.

6.9 (e) A facility may apply for the portion of the payment rate adjustment provided
6.10 under paragraph (a) for employee wages and benefits and associated costs. The application
6.11 must be made to the commissioner and contain a plan by which the facility will distribute
6.12 the funds according to paragraph (b). For facilities in which the employees are represented
6.13 by an exclusive bargaining representative, an agreement negotiated and agreed to by the
6.14 employer and the exclusive bargaining representative constitutes the plan. A negotiated
6.15 agreement may constitute the plan only if the agreement is finalized after the date of
6.16 enactment of all rate increases for the rate year. The commissioner shall review the plan to
6.17 ensure that the payment rate adjustment per diem is used as provided in this subdivision.
6.18 To be eligible, a facility must submit its plan by March 31, 2006, and December 31,
6.19 2006, respectively. If a facility's plan is effective for its employees after the first day of
6.20 the applicable rate period that the funds are available, the payment rate adjustment per
6.21 diem is effective the same date as its plan.

6.22 (f) A copy of the approved distribution plan must be made available to all employees
6.23 by giving each employee a copy or by posting it in an area of the facility to which all
6.24 employees have access. If an employee does not receive the wage and benefit adjustment
6.25 described in the facility's approved plan and is unable to resolve the problem with the
6.26 facility's management or through the employee's union representative, the employee
6.27 may contact the commissioner at an address or telephone number provided by the
6.28 commissioner and included in the approved plan.

6.29 Sec. 8. Minnesota Statutes 2008, section 256B.5012, subdivision 7, is amended to read:

6.30 **Subd. 7. ICF/MR rate increases effective October 1, 2007, and October 1, 2008.**

6.31 (a) For the rate year beginning October 1, 2007, the commissioner shall make available to
6.32 each facility reimbursed under this section operating payment rate adjustments equal to
6.33 2.0 percent of the operating payment rates in effect on September 30, 2007. For the rate
6.34 year beginning October 1, 2008, the commissioner shall make available to each facility
6.35 reimbursed under this section operating payment rate adjustments equal to 2.0 percent

7.1 of the operating payment rates in effect on September 30, 2008. For each facility, the
7.2 commissioner shall make available an adjustment, based on occupied beds, using the
7.3 percentage specified in this paragraph multiplied by the total payment rate, including the
7.4 variable rate but excluding the property-related payment rate, in effect on the preceding
7.5 day. The total payment rate shall include the adjustment provided in section 256B.501,
7.6 subdivision 12. A facility whose payment rates are governed by closure agreements, or
7.7 receivership agreements, ~~or Minnesota Rules, part 9553.0075,~~ is not eligible for an
7.8 adjustment otherwise granted under this subdivision.

7.9 (b) Seventy-five percent of the money resulting from the rate adjustments under
7.10 paragraph (a) must be used for increases in compensation-related costs for employees
7.11 directly employed by the facility on or after the effective date of the rate adjustments,
7.12 except:

7.13 (1) the administrator;

7.14 (2) persons employed in the central office of a corporation that has an ownership
7.15 interest in the facility or exercises control over the facility; and

7.16 (3) persons paid by the facility under a management contract.

7.17 (c) Two-thirds of the money available under paragraph (b) must be used for wage
7.18 increases for all employees directly employed by the facility on or after the effective
7.19 date of the rate adjustments, except those listed in paragraph (b), clauses (1) to (3). The
7.20 wage adjustment that employees receive under this paragraph must be paid as an equal
7.21 hourly percentage wage increase for all eligible employees. All wage increases under this
7.22 paragraph must be effective on the same date. Only costs associated with the portion of
7.23 the equal hourly percentage wage increase that goes to all employees shall qualify under
7.24 this paragraph. Costs associated with wage increases in excess of the amount of the equal
7.25 hourly percentage wage increase provided to all employees shall be allowed only for
7.26 meeting the requirements in paragraph (b). This paragraph shall not apply to employees
7.27 covered by a collective bargaining agreement.

7.28 (d) The commissioner shall allow as compensation-related costs all costs for:

7.29 (1) wages and salaries;

7.30 (2) FICA taxes, Medicare taxes, state and federal unemployment taxes, and workers'
7.31 compensation;

7.32 (3) the employer's share of health and dental insurance, life insurance, disability
7.33 insurance, long-term care insurance, uniform allowance, and pensions; and

7.34 (4) other benefits provided, subject to the approval of the commissioner.

8.1 (e) The portion of the rate adjustments under paragraph (a) that is not subject to the
8.2 requirements in paragraphs (b) and (c) shall be provided to facilities effective October
8.3 1 of each year.

8.4 (f) Facilities may apply for the portion of the rate adjustments under paragraph
8.5 (a) that is subject to the requirements in paragraphs (b) and (c). The application
8.6 must be submitted to the commissioner within six months of the effective date of the
8.7 rate adjustments, and the facility must provide additional information required by
8.8 the commissioner within nine months of the effective date of the rate adjustments.
8.9 The commissioner must respond to all applications within three weeks of receipt.
8.10 The commissioner may waive the deadlines in this paragraph under extraordinary
8.11 circumstances, to be determined at the sole discretion of the commissioner. The
8.12 application must contain:

8.13 (1) an estimate of the amounts of money that must be used as specified in paragraphs
8.14 (b) and (c);

8.15 (2) a detailed distribution plan specifying the allowable compensation-related and
8.16 wage increases the facility will implement to use the funds available in clause (1);

8.17 (3) a description of how the facility will notify eligible employees of the contents of
8.18 the approved application, which must provide for giving each eligible employee a copy of
8.19 the approved application, excluding the information required in clause (1), or posting a
8.20 copy of the approved application, excluding the information required in clause (1), for
8.21 a period of at least six weeks in an area of the facility to which all eligible employees
8.22 have access; and

8.23 (4) instructions for employees who believe they have not received the
8.24 compensation-related or wage increases specified in clause (2), as approved by the
8.25 commissioner, and which must include a mailing address, e-mail address, and the
8.26 telephone number that may be used by the employee to contact the commissioner or the
8.27 commissioner's representative.

8.28 (g) The commissioner shall ensure that cost increases in distribution plans under
8.29 paragraph (f), clause (2), that may be included in approved applications, comply with
8.30 requirements in clauses (1) to (4):

8.31 (1) costs to be incurred during the applicable rate year resulting from wage and
8.32 salary increases effective after October 1, 2006, and prior to the first day of the facility's
8.33 payroll period that includes October 1 of each year shall be allowed if they were not used
8.34 in the prior year's application and they meet the requirements of paragraphs (b) and (c);

8.35 (2) a portion of the costs resulting from tenure-related wage or salary increases
8.36 may be considered to be allowable wage increases, according to formulas that the

9.1 commissioner shall provide, where employee retention is above the average statewide
9.2 rate of retention of direct care employees;

9.3 (3) the annualized amount of increases in costs for the employer's share of health
9.4 and dental insurance, life insurance, disability insurance, and workers' compensation shall
9.5 be allowable compensation-related increases if they are effective on or after April 1 of
9.6 the year in which the rate adjustments are effective and prior to April 1 of the following
9.7 year; and

9.8 (4) for facilities in which employees are represented by an exclusive bargaining
9.9 representative, the commissioner shall approve the application only upon receipt of a letter
9.10 of acceptance of the distribution plan, as regards members of the bargaining unit, signed
9.11 by the exclusive bargaining agent and dated after May 25, 2007. Upon receipt of the letter
9.12 of acceptance, the commissioner shall deem all requirements of this section as having
9.13 been met in regard to the members of the bargaining unit.

9.14 (h) The commissioner shall review applications received under paragraph (f) and
9.15 shall provide the portion of the rate adjustments under paragraphs (b) and (c) if the
9.16 requirements of this subdivision have been met. The rate adjustments shall be effective
9.17 October 1 of each year. Notwithstanding paragraph (a), if the approved application
9.18 distributes less money than is available, the amount of the rate adjustment shall be reduced
9.19 so that the amount of money made available is equal to the amount to be distributed.

9.20 Sec. 9. Minnesota Statutes 2008, section 256B.5013, subdivision 1, is amended to read:

9.21 Subdivision 1. **Variable rate adjustments.** (a) For rate years beginning on or after
9.22 October 1, 2000, when there is a documented increase in the needs of a current ICF/MR
9.23 recipient, the county of financial responsibility may recommend a variable rate to enable
9.24 the facility to meet the individual's increased needs. Variable rate adjustments made under
9.25 this subdivision replace payments for persons with special needs under section 256B.501,
9.26 subdivision 8, and payments for persons with special needs for crisis intervention services
9.27 under section 256B.501, subdivision 8a. Effective July 1, 2003, facilities with a base rate
9.28 above the 50th percentile of the statewide average reimbursement rate for a Class A
9.29 facility or Class B facility, whichever matches the facility licensure, are not eligible for a
9.30 variable rate adjustment. Variable rate adjustments may not exceed a 12-month period,
9.31 except when approved for purposes established in paragraph (b), clause (1). Variable rate
9.32 adjustments approved solely on the basis of changes on a developmental disabilities
9.33 screening document will end June 30, 2002.

9.34 (b) A variable rate may be recommended by the county of financial responsibility
9.35 for increased needs in the following situations:

10.1 (1) a need for resources due to an individual's full or partial retirement from
10.2 participation in a day training and habilitation service when the individual: (i) has reached
10.3 the age of 65 or has a change in health condition that makes it difficult for the person
10.4 to participate in day training and habilitation services over an extended period of time
10.5 because it is medically contraindicated; and (ii) has expressed a desire for change through
10.6 the developmental disability screening process under section 256B.092;

10.7 (2) a need for additional resources for intensive short-term programming which is
10.8 necessary prior to an individual's discharge to a less restrictive, more integrated setting;

10.9 (3) a demonstrated medical need that significantly impacts the type or amount of
10.10 services needed by the individual; or

10.11 (4) a demonstrated behavioral need that significantly impacts the type or amount of
10.12 services needed by the individual.

10.13 (c) The county of financial responsibility must justify the purpose, the projected
10.14 length of time, and the additional funding needed for the facility to meet the needs of
10.15 the individual.

10.16 ~~(d) The facility shall provide a quarterly report to the county case manager on
10.17 the use of the variable rate funds and the status of the individual on whose behalf the
10.18 funds were approved. The county case manager will forward the facility's report with a
10.19 recommendation to the commissioner to approve or disapprove a continuation of the
10.20 variable rate.~~

10.21 ~~(e)~~ Funds made available through the variable rate process that are not used by
10.22 the facility to meet the needs of the individual for whom they were approved shall be
10.23 returned to the state.

10.24 (e) Variable rates shall be allowed for new admissions when the overall system costs
10.25 remain neutral or result in a cost savings.

10.26 Sec. 10. Minnesota Statutes 2008, section 256D.44, subdivision 5, is amended to read:

10.27 Subd. 5. **Special needs.** In addition to the state standards of assistance established in
10.28 subdivisions 1 to 4, payments are allowed for the following special needs of recipients of
10.29 Minnesota supplemental aid who are not residents of a nursing home, a regional treatment
10.30 center, or a group residential housing facility.

10.31 (a) The county agency shall pay a monthly allowance for medically prescribed
10.32 diets if the cost of those additional dietary needs cannot be met through some other
10.33 maintenance benefit. The need for special diets or dietary items must be prescribed by
10.34 a licensed physician. Costs for special diets shall be determined as percentages of the
10.35 allotment for a one-person household under the thrifty food plan as defined by the United

11.1 States Department of Agriculture. The types of diets and the percentages of the thrifty
11.2 food plan that are covered are as follows:

11.3 (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;

11.4 (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent
11.5 of thrifty food plan;

11.6 (3) controlled protein diet, less than 40 grams and requires special products, 125
11.7 percent of thrifty food plan;

11.8 (4) low cholesterol diet, 25 percent of thrifty food plan;

11.9 (5) high residue diet, 20 percent of thrifty food plan;

11.10 (6) pregnancy and lactation diet, 35 percent of thrifty food plan;

11.11 (7) gluten-free diet, 25 percent of thrifty food plan;

11.12 (8) lactose-free diet, 25 percent of thrifty food plan;

11.13 (9) antidumping diet, 15 percent of thrifty food plan;

11.14 (10) hypoglycemic diet, 15 percent of thrifty food plan; or

11.15 (11) ketogenic diet, 25 percent of thrifty food plan.

11.16 (b) Payment for nonrecurring special needs must be allowed for necessary home
11.17 repairs or necessary repairs or replacement of household furniture and appliances using
11.18 the payment standard of the AFDC program in effect on July 16, 1996, for these expenses,
11.19 as long as other funding sources are not available.

11.20 (c) A fee for guardian or conservator service is allowed at a reasonable rate
11.21 negotiated by the county or approved by the court. This rate shall not exceed five percent
11.22 of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the
11.23 guardian or conservator is a member of the county agency staff, no fee is allowed.

11.24 (d) The county agency shall continue to pay a monthly allowance of \$68 for
11.25 restaurant meals for a person who was receiving a restaurant meal allowance on June 1,
11.26 1990, and who eats two or more meals in a restaurant daily. The allowance must continue
11.27 until the person has not received Minnesota supplemental aid for one full calendar month
11.28 or until the person's living arrangement changes and the person no longer meets the criteria
11.29 for the restaurant meal allowance, whichever occurs first.

11.30 (e) A fee of ten percent of the recipient's gross income or \$25, whichever is less,
11.31 is allowed for representative payee services provided by an agency that meets the
11.32 requirements under SSI regulations to charge a fee for representative payee services. This
11.33 special need is available to all recipients of Minnesota supplemental aid regardless of
11.34 their living arrangement.

11.35 (f)(1) Notwithstanding the language in this subdivision, an amount equal to the
11.36 maximum allotment authorized by the federal Food Stamp Program for a single individual

12.1 which is in effect on the first day of July of each year will be added to the standards of
12.2 assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify
12.3 as shelter needy and are: (i) relocating from an institution, or an adult mental health
12.4 residential treatment program under section 256B.0622; (ii) eligible for the self-directed
12.5 supports option as defined under section 256B.0657, subdivision 2; or (iii) home and
12.6 community-based waiver recipients living in their own home or rented or leased apartment
12.7 which is not owned, operated, or controlled by a provider of service not related by blood
12.8 or marriage.

12.9 (2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the
12.10 shelter needy benefit under this paragraph is considered a household of one. An eligible
12.11 individual who receives this benefit prior to age 65 may continue to receive the benefit
12.12 after the age of 65.

12.13 (3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that
12.14 exceed 40 percent of the assistance unit's gross income before the application of this
12.15 special needs standard. "Gross income" for the purposes of this section is the applicant's or
12.16 recipient's income as defined in section 256D.35, subdivision 10, or the standard specified
12.17 in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or
12.18 state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be
12.19 considered shelter needy for purposes of this paragraph.

12.20 (g) Notwithstanding this subdivision, recipients of home and community-based
12.21 services may relocate to services without 24-hour supervision and receive the equivalent
12.22 of the recipient's group residential housing allocation in Minnesota supplemental
12.23 assistance shelter needy funding if the cost of the services and housing is equal to or less
12.24 than provided to the recipient in home and community-based services and the relocation is
12.25 the recipient's choice and is approved by the recipient's interdisciplinary team.

12.26 (h) To access housing and services as provided in paragraph (g), the recipient may
12.27 choose housing that is owned, operated, or controlled by the recipient's service provider.

12.28 Sec. 11. **ESTABLISHING A SINGLE SET OF STANDARDS.**

12.29 (a) The commissioner of human services, in collaboration with the commissioner
12.30 of health, shall consult with disability service providers, advocates, counties, and
12.31 consumer families to develop a single set of standards governing services for people with
12.32 disabilities to replace all or portions of existing laws and rules including, but not limited
12.33 to, data practices, licensure of facilities and providers, background studies, reporting
12.34 of maltreatment of minors, reporting of maltreatment of vulnerable adults, and the
12.35 psychotropic medication checklist. The standards must:

- 13.1 (1) enable optimum consumer choice;
13.2 (2) be consumer driven;
13.3 (3) link services to individual needs and life goals;
13.4 (4) be based on quality assurance and individual outcomes; and
13.5 (5) utilize recipients' interdisciplinary teams in conjunction with the recipient's
13.6 risk management plan and ensure the recipient's health and safety and that services
13.7 cost-effectively meet the recipient's individual needs.

13.8 (b) The commissioner may consult with existing stakeholder groups convened under
13.9 the commissioner's authority, including the home and community-based expert services
13.10 panel established by the commissioner in 2008, to meet all or some of the requirements
13.11 of this section.

13.12 (c) The commissioner shall also consult with ICF/MR providers and advocates to
13.13 monitor progress made pursuant to the commissioner's December 15, 2008, ICF/MR
13.14 report to the legislature.

13.15 (d) The commissioner shall provide the reports and plans required by this section to
13.16 the legislative committees and budget divisions with jurisdiction over health and human
13.17 services policy and finance by January 15, 2012.

13.18 Sec. 12. **COMMON SERVICE MENU FOR HOME AND COMMUNITY-BASED**
13.19 **WAIVER PROGRAMS.**

13.20 The commissioner of human services shall confer with representatives of recipients,
13.21 advocacy groups, counties, providers, and health plans to develop and update a common
13.22 service menu for home and community-based waiver programs. The commissioner may
13.23 consult with existing stakeholder groups convened under the commissioner's authority to
13.24 meet all or part of the requirements of this section.

13.25 Sec. 13. **APPROPRIATION; COMPREHENSIVE ASSESSMENT.**

13.26 \$..... is appropriated from the general fund to the commissioner of human services
13.27 in fiscal year 2010 for the purpose of implementing a comprehensive assessment tool
13.28 across all long-term care programs and populations.

13.29 Sec. 14. **REPEALER.**

13.30 Minnesota Statutes 2008, section 256B.5013, subdivision 5, and Minnesota Rules,
13.31 part 9555.6125, subpart 4, item B, are repealed.

APPENDIX
Repealed Minnesota Statutes: s0854-1

256B.5013 PAYMENT RATE ADJUSTMENTS.

Subd. 5. **Required occupancy data.** Facilities shall maintain monthly occupancy bed use data by client and report this data monthly in a format determined by the commissioner.