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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 3191

03/01/2018 Authored by Schomacker, Baker, Bennett, Backer, Franson and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/14/2018 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; modifying the disability waiver rate system; amending
1.3 Minnesota Statutes 2016, section 256B.4914, subdivision 4; Minnesota Statutes
1.4 2017 Supplement, section 256B.4914, subdivisions 2, 5, 6, 7, 8, 9, 10, 10a; Laws
1.5 2014, chapter 312, article 27, section 76.

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

1.7 Section 1. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 2, is
1.8 amended to read:

1.9 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
1.10 meanings given them, unless the context clearly indicates otherwise.

1.11 (b) "Commissioner" means the commissioner of human services.

1.12 (c) "Component value" means underlying factors that are part of the cost of providing
1.13 services that are built into the waiver rates methodology to calculate service rates.

1.14 (d) "Customized living tool" means a methodology for setting service rates that delineates
1.15 and documents the amount of each component service included in a recipient's customized
1.16 living service plan.

1.17 (e) "Direct care staff" means employees providing direct service provision to people
1.18 receiving services under this section. Direct care staff does not include executive, managerial,
1.19 and administrative staff.

1.20 (f) "Disability waiver rates system" means a statewide system that establishes rates that
1.21 are based on uniform processes and captures the individualized nature of waiver services
1.22 and recipient needs.

2.1 ~~(f)~~ (g) "Individual staffing" means the time spent as a one-to-one interaction specific to
2.2 an individual recipient by staff to provide direct support and assistance with activities of
2.3 daily living, instrumental activities of daily living, and training to participants, and is based
2.4 on the requirements in each individual's coordinated service and support plan under section
2.5 245D.02, subdivision 4b; any coordinated service and support plan addendum under section
2.6 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
2.7 needs must also be considered.

2.8 ~~(g)~~ (h) "Lead agency" means a county, partnership of counties, or tribal agency charged
2.9 with administering waived services under sections 256B.092 and 256B.49.

2.10 ~~(h)~~ (i) "Median" means the amount that divides distribution into two equal groups,
2.11 one-half above the median and one-half below the median.

2.12 ~~(i)~~ (j) "Payment or rate" means reimbursement to an eligible provider for services
2.13 provided to a qualified individual based on an approved service authorization.

2.14 ~~(j)~~ (k) "Rates management system" means a Web-based software application that uses
2.15 a framework and component values, as determined by the commissioner, to establish service
2.16 rates.

2.17 ~~(k)~~ (l) "Recipient" means a person receiving home and community-based services funded
2.18 under any of the disability waivers.

2.19 ~~(l)~~ (m) "Shared staffing" means time spent by employees, not defined under paragraph
2.20 ~~(f)~~ (g), providing or available to provide more than one individual with direct support and
2.21 assistance with activities of daily living as defined under section 256B.0659, subdivision
2.22 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659,
2.23 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and
2.24 training to participants, and is based on the requirements in each individual's coordinated
2.25 service and support plan under section 245D.02, subdivision 4b; any coordinated service
2.26 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and
2.27 provider observation of an individual's service need. Total shared staffing hours are divided
2.28 proportionally by the number of individuals who receive the shared service provisions.

2.29 ~~(m)~~ (n) "Staffing ratio" means the number of recipients a service provider employee
2.30 supports during a unit of service based on a uniform assessment tool, provider observation,
2.31 case history, and the recipient's services of choice, and not based on the staffing ratios under
2.32 section 245D.31.

2.33 ~~(n)~~ (o) "Unit of service" means the following:

3.1 (1) for residential support services under subdivision 6, a unit of service is a day. Any
3.2 portion of any calendar day, within allowable Medicaid rules, where an individual spends
3.3 time in a residential setting is billable as a day;

3.4 (2) for day services under subdivision 7:

3.5 (i) for day training and habilitation services, a unit of service is either:

3.6 (A) a day unit of service is defined as six or more hours of time spent providing direct
3.7 services and transportation; or

3.8 (B) a partial day unit of service is defined as fewer than six hours of time spent providing
3.9 direct services and transportation; and

3.10 (C) for new day service recipients after January 1, 2014, 15 minute units of service must
3.11 be used for fewer than six hours of time spent providing direct services and transportation;

3.12 (ii) for adult day and structured day services, a unit of service is a day or 15 minutes. A
3.13 day unit of service is six or more hours of time spent providing direct services;

3.14 (iii) for prevocational services, a unit of service is a day or an hour. A day unit of service
3.15 is six or more hours of time spent providing direct service;

3.16 (3) for unit-based services with programming under subdivision 8:

3.17 (i) for supported living services, a unit of service is a day or 15 minutes. When a day
3.18 rate is authorized, any portion of a calendar day where an individual receives services is
3.19 billable as a day; and

3.20 (ii) for all other services, a unit of service is 15 minutes; and

3.21 (4) for unit-based services without programming under subdivision 9, a unit of service
3.22 is 15 minutes.

3.23 Sec. 2. Minnesota Statutes 2016, section 256B.4914, subdivision 4, is amended to read:

3.24 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and
3.25 community-based waived services, including rate exceptions under subdivision 12, are
3.26 set by the rates management system.

3.27 (b) Data for services under section 256B.4913, subdivision 4a, shall be collected in a
3.28 manner prescribed by the commissioner.

3.29 (c) Data and information in the rates management system may be used to calculate an
3.30 individual's rate.

4.1 (d) Service providers, with information from the community support plan and oversight
4.2 by lead agencies, shall provide values and information needed to calculate an individual's
4.3 rate into the rates management system. The determination of service levels must be part of
4.4 a discussion with members of the support team as defined in section 245D.02, subdivision
4.5 34. This discussion must occur prior to the final establishment of each individual's rate. The
4.6 values and information include:

4.7 (1) shared staffing hours;

4.8 (2) individual staffing hours;

4.9 (3) direct registered nurse hours;

4.10 (4) direct licensed practical nurse hours;

4.11 (5) staffing ratios;

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

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

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

4.17 (9) service hours provided through monitoring technology.

4.18 (e) Updates to individual data must include:

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

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

4.22 (f) Lead agencies shall review and approve all services reflecting each individual's needs,
4.23 and the values to calculate the final payment rate for services with variables under
4.24 subdivisions 6, 7, 8, and 9 for each individual. Lead agencies must notify the individual and
4.25 the service provider of the final agreed-upon values and rate, and provide information that
4.26 is identical to what was entered into the rates management system. If a value used was
4.27 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
4.28 agencies to correct it. Lead agencies must respond to these requests. When responding to
4.29 the request, the lead agency must consider:

5.1 (1) meeting the health and welfare needs of the individual or individuals receiving
5.2 services by service site, identified in their coordinated service and support plan under section
5.3 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

5.4 (2) meeting the requirements for staffing under subdivision 2, paragraphs ~~(f)~~ (g), ~~(h)~~ (m),
5.5 and ~~(n)~~ (n); and meeting or exceeding the licensing standards for staffing required under
5.6 section 245D.09, subdivision 1; and

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

5.9 Sec. 3. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 5, is amended
5.10 to read:

5.11 Subd. 5. **Base wage index and standard component values.** (a) The base wage index
5.12 is established to determine staffing costs associated with providing services to individuals
5.13 receiving home and community-based services. For purposes of developing and calculating
5.14 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
5.15 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
5.16 the most recent edition of the Occupational Handbook must be used. The base wage index
5.17 must be calculated as follows:

5.18 (1) for residential direct care staff, the sum of:

5.19 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
5.20 health aide (SOC code 39-9021); 30 percent of the median wage for nursing assistant (SOC
5.21 code 31-1014); and 20 percent of the median wage for social and human services aide (SOC
5.22 code 21-1093); and

5.23 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
5.24 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
5.25 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
5.26 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
5.27 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

5.28 (2) for day services, 20 percent of the median wage for nursing assistant (SOC code
5.29 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
5.30 and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

5.31 (3) for residential asleep-overnight staff, the wage is the minimum wage in Minnesota
5.32 for large employers, except in a family foster care setting, the wage is 36 percent of the
5.33 minimum wage in Minnesota for large employers;

6.1 (4) for behavior program analyst staff, 100 percent of the median wage for mental health
6.2 counselors (SOC code 21-1014);

6.3 (5) for behavior program professional staff, 100 percent of the median wage for clinical
6.4 counseling and school psychologist (SOC code 19-3031);

6.5 (6) for behavior program specialist staff, 100 percent of the median wage for psychiatric
6.6 technicians (SOC code 29-2053);

6.7 (7) for supportive living services staff, 20 percent of the median wage for nursing assistant
6.8 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
6.9 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
6.10 21-1093);

6.11 (8) for housing access coordination staff, 100 percent of the median wage for community
6.12 and social services specialist (SOC code 21-1099);

6.13 (9) for in-home family support staff, 20 percent of the median wage for nursing aide
6.14 (SOC code 31-1012); 30 percent of the median wage for community social service specialist
6.15 (SOC code 21-1099); 40 percent of the median wage for social and human services aide
6.16 (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC
6.17 code 29-2053);

6.18 (10) for individualized home supports services staff, 40 percent of the median wage for
6.19 community social service specialist (SOC code 21-1099); 50 percent of the median wage
6.20 for social and human services aide (SOC code 21-1093); and ten percent of the median
6.21 wage for psychiatric technician (SOC code 29-2053);

6.22 (11) for independent living skills staff, 40 percent of the median wage for community
6.23 social service specialist (SOC code 21-1099); 50 percent of the median wage for social and
6.24 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
6.25 technician (SOC code 29-2053);

6.26 (12) for independent living skills specialist staff, 100 percent of mental health and
6.27 substance abuse social worker (SOC code 21-1023);

6.28 (13) for supported employment staff, 20 percent of the median wage for nursing assistant
6.29 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
6.30 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
6.31 21-1093);

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

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

7.7 (16) for employment development services staff, 50 percent of the median wage for
7.8 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
7.9 of the median wage for community and social services specialist (SOC code 21-1099);

7.10 (17) for adult companion staff, 50 percent of the median wage for personal and home
7.11 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant
7.12 (SOC code 31-1014);

7.13 (18) for night supervision staff, 20 percent of the median wage for home health aide
7.14 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
7.15 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
7.16 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
7.17 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

7.18 (19) for respite staff, 50 percent of the median wage for personal and home care aide
7.19 (SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code
7.20 31-1014);

7.21 (20) for personal support staff, 50 percent of the median wage for personal and home
7.22 care aide (SOC code 39-9021); and 50 percent of the median wage for nursing assistant
7.23 (SOC code 31-1014);

7.24 (21) for supervisory staff, 100 percent of the median wage for community and social
7.25 services specialist (SOC code 21-1099), with the exception of the supervisor of behavior
7.26 professional, behavior analyst, and behavior specialists, which is 100 percent of the median
7.27 wage for clinical counseling and school psychologist (SOC code 19-3031);

7.28 (22) for registered nurse staff, 100 percent of the median wage for registered nurses
7.29 (SOC code 29-1141); and

7.30 (23) for licensed practical nurse staff, 100 percent of the median wage for licensed
7.31 practical nurses (SOC code 29-2061).

7.32 (b) Component values for residential support services are:

- 8.1 (1) supervisory span of control ratio: 11 percent;
- 8.2 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.3 (3) employee-related cost ratio: 23.6 percent;
- 8.4 (4) general administrative support ratio: 13.25 percent;
- 8.5 (5) program-related expense ratio: 1.3 percent; and
- 8.6 (6) absence and utilization factor ratio: 3.9 percent.
- 8.7 (c) Component values for family foster care are:
- 8.8 (1) supervisory span of control ratio: 11 percent;
- 8.9 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.10 (3) employee-related cost ratio: 23.6 percent;
- 8.11 (4) general administrative support ratio: 3.3 percent;
- 8.12 (5) program-related expense ratio: 1.3 percent; and
- 8.13 (6) absence factor: 1.7 percent.
- 8.14 (d) Component values for day services for all services are:
- 8.15 (1) supervisory span of control ratio: 11 percent;
- 8.16 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.17 (3) employee-related cost ratio: 23.6 percent;
- 8.18 (4) program plan support ratio: 5.6 percent;
- 8.19 (5) client programming and support ratio: ten percent;
- 8.20 (6) general administrative support ratio: 13.25 percent;
- 8.21 (7) program-related expense ratio: 1.8 percent; and
- 8.22 (8) absence and utilization factor ratio: 9.4 percent.
- 8.23 (e) Component values for unit-based services with programming are:
- 8.24 (1) supervisory span of control ratio: 11 percent;
- 8.25 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 8.26 (3) employee-related cost ratio: 23.6 percent;
- 8.27 (4) program plan supports ratio: 15.5 percent;

- 9.1 (5) client programming and supports ratio: 4.7 percent;
- 9.2 (6) general administrative support ratio: 13.25 percent;
- 9.3 (7) program-related expense ratio: 6.1 percent; and
- 9.4 (8) absence and utilization factor ratio: 3.9 percent.
- 9.5 (f) Component values for unit-based services without programming except respite are:
- 9.6 (1) supervisory span of control ratio: 11 percent;
- 9.7 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 9.8 (3) employee-related cost ratio: 23.6 percent;
- 9.9 (4) program plan support ratio: 7.0 percent;
- 9.10 (5) client programming and support ratio: 2.3 percent;
- 9.11 (6) general administrative support ratio: 13.25 percent;
- 9.12 (7) program-related expense ratio: 2.9 percent; and
- 9.13 (8) absence and utilization factor ratio: 3.9 percent.
- 9.14 (g) Component values for unit-based services without programming for respite are:
- 9.15 (1) supervisory span of control ratio: 11 percent;
- 9.16 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 9.17 (3) employee-related cost ratio: 23.6 percent;
- 9.18 (4) general administrative support ratio: 13.25 percent;
- 9.19 (5) program-related expense ratio: 2.9 percent; and
- 9.20 (6) absence and utilization factor ratio: 3.9 percent.
- 9.21 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
- 9.22 (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor
- 9.23 Statistics available on December 31, 2016. The commissioner shall publish these updated
- 9.24 values and load them into the rate management system. On ~~July~~ January 1, 2022, and every
- 9.25 ~~five~~ two years thereafter, the commissioner shall update the base wage index in paragraph
- 9.26 (a) based on the ~~most recently available~~ wage data by SOC from the Bureau of Labor
- 9.27 Statistics available on December 31 of the year two years prior to the scheduled update.
- 9.28 The commissioner shall publish these updated values and load them into the rate management
- 9.29 system.

10.1 (i) On July 1, 2017, the commissioner shall update the framework components in
10.2 paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5); subdivision
10.3 6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for changes in the
10.4 Consumer Price Index. The commissioner will adjust these values higher or lower by the
10.5 percentage change in the Consumer Price Index-All Items, United States city average
10.6 (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner shall publish these
10.7 updated values and load them into the rate management system. On ~~July~~ January 1, 2022,
10.8 and every ~~five~~ two years thereafter, the commissioner shall update the framework components
10.9 in paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5);
10.10 subdivision 6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for changes
10.11 in the Consumer Price Index. The commissioner shall adjust these values higher or lower
10.12 by the percentage change in the CPI-U from the date of the previous update to the ~~date of~~
10.13 ~~the data most recently~~ available on December 31 of the year two years prior to the scheduled
10.14 update. The commissioner shall publish these updated values and load them into the rate
10.15 management system.

10.16 (j) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer
10.17 Price Index items are unavailable in the future, the commissioner shall recommend to the
10.18 legislature codes or items to update and replace missing component values.

10.19 (k) The commissioner shall increase the updated base wage index in paragraph (h) with
10.20 a competitive workforce factor of 8.35 percent.

10.21 **EFFECTIVE DATE.** This section is effective January 1, 2022, except the amendment
10.22 to paragraph (k), which is effective July 1, 2018, or upon federal approval. The commissioner
10.23 shall inform the revisor of statutes when federal approval is obtained.

10.24 Sec. 4. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 6, is amended
10.25 to read:

10.26 Subd. 6. **Payments for residential support services.** (a) Payments for residential support
10.27 services, as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22,
10.28 must be calculated as follows:

10.29 (1) determine the number of shared staffing and individual direct staff hours to meet a
10.30 recipient's needs provided on site or through monitoring technology;

10.31 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
10.32 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
10.33 5. This is defined as the direct-care rate;

11.1 (3) for a recipient requiring customization for deaf and hard-of-hearing language
11.2 accessibility under subdivision 12, add the customization rate provided in subdivision 12
11.3 to the result of clause (2). This is defined as the customized direct-care rate;

11.4 (4) multiply the number of shared and individual direct staff hours provided on site or
11.5 through monitoring technology and nursing hours by the appropriate staff wages in
11.6 subdivision 5, paragraph (a), or the customized direct-care rate;

11.7 (5) multiply the number of shared and individual direct staff hours provided on site or
11.8 through monitoring technology and nursing hours by the product of the supervision span
11.9 of control ratio in subdivision 5, paragraph (b), clause (1), and the appropriate supervision
11.10 wage in subdivision 5, paragraph (a), clause (21);

11.11 (6) combine the results of clauses (4) and (5), excluding any shared and individual direct
11.12 staff hours provided through monitoring technology, and multiply the result by one plus
11.13 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b),
11.14 clause (2). This is defined as the direct staffing cost;

11.15 (7) for employee-related expenses, multiply the direct staffing cost, excluding any shared
11.16 and individual direct staff hours provided through monitoring technology, by one plus the
11.17 employee-related cost ratio in subdivision 5, paragraph (b), clause (3);

11.18 (8) for client programming and supports, the commissioner shall add \$2,179; and

11.19 (9) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if
11.20 customized for adapted transport, based on the resident with the highest assessed need.

11.21 (b) The total rate must be calculated using the following steps:

11.22 (1) subtotal paragraph (a), clauses (7) to (9), and the direct staffing cost of any shared
11.23 and individual direct staff hours provided through monitoring technology that was excluded
11.24 in clause (7);

11.25 (2) sum the standard general and administrative rate, the program-related expense ratio,
11.26 and the absence and utilization ratio; and

11.27 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
11.28 payment amount; and

11.29 ~~(4) adjust the result of clause (3) by a factor to be determined by the commissioner to~~
11.30 ~~adjust for regional differences in the cost of providing services.~~

11.31 (c) The payment methodology for customized living, 24-hour customized living, and
11.32 residential care services must be the customized living tool. Revisions to the customized

12.1 living tool must be made to reflect the services and activities unique to disability-related
12.2 recipient needs.

12.3 (d) For individuals enrolled prior to January 1, 2014, the days of service authorized must
12.4 meet or exceed the days of service used to convert service agreements in effect on December
12.5 1, 2013, and must not result in a reduction in spending or service utilization due to conversion
12.6 during the implementation period under section 256B.4913, subdivision 4a. If during the
12.7 implementation period, an individual's historical rate, including adjustments required under
12.8 section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate
12.9 determined in this subdivision, the number of days authorized for the individual is 365.

12.10 (e) The number of days authorized for all individuals enrolling after January 1, 2014,
12.11 in residential services must include every day that services start and end.

12.12 **EFFECTIVE DATE.** This section is effective January 1, 2022.

12.13 Sec. 5. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 7, is amended
12.14 to read:

12.15 Subd. 7. **Payments for day programs.** Payments for services with day programs
12.16 including adult day care, day treatment and habilitation, prevocational services, and structured
12.17 day services must be calculated as follows:

12.18 (1) determine the number of units of service and staffing ratio to meet a recipient's needs:

12.19 (i) the staffing ratios for the units of service provided to a recipient in a typical week
12.20 must be averaged to determine an individual's staffing ratio; and

12.21 (ii) the commissioner, in consultation with service providers, shall develop a uniform
12.22 staffing ratio worksheet to be used to determine staffing ratios under this subdivision;

12.23 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
12.24 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
12.25 5;

12.26 (3) for a recipient requiring customization for deaf and hard-of-hearing language
12.27 accessibility under subdivision 12, add the customization rate provided in subdivision 12
12.28 to the result of clause (2). This is defined as the customized direct-care rate;

12.29 (4) multiply the number of day program direct staff hours and nursing hours by the
12.30 appropriate staff wage in subdivision 5, paragraph (a), or the customized direct-care rate;

13.1 (5) multiply the number of day direct staff hours by the product of the supervision span
13.2 of control ratio in subdivision 5, paragraph (d), clause (1), and the appropriate supervision
13.3 wage in subdivision 5, paragraph (a), clause (21);

13.4 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
13.5 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (d), clause
13.6 (2). This is defined as the direct staffing rate;

13.7 (7) for program plan support, multiply the result of clause (6) by one plus the program
13.8 plan support ratio in subdivision 5, paragraph (d), clause (4);

13.9 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
13.10 employee-related cost ratio in subdivision 5, paragraph (d), clause (3);

13.11 (9) for client programming and supports, multiply the result of clause (8) by one plus
13.12 the client programming and support ratio in subdivision 5, paragraph (d), clause (5);

13.13 (10) for program facility costs, add \$19.30 per week with consideration of staffing ratios
13.14 to meet individual needs;

13.15 (11) for adult day bath services, add \$7.01 per 15 minute unit;

13.16 (12) this is the subtotal rate;

13.17 (13) sum the standard general and administrative rate, the program-related expense ratio,
13.18 and the absence and utilization factor ratio;

13.19 (14) divide the result of clause (12) by one minus the result of clause (13). This is the
13.20 total payment amount;

13.21 ~~(15) adjust the result of clause (14) by a factor to be determined by the commissioner~~
13.22 ~~to adjust for regional differences in the cost of providing services;~~

13.23 ~~(16)~~ (15) for transportation provided as part of day training and habilitation for an
13.24 individual who does not require a lift, add:

13.25 (i) \$10.50 for a trip between zero and ten miles for a nonshared ride in a vehicle without
13.26 a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a shared ride in a
13.27 vehicle with a lift;

13.28 (ii) \$15.75 for a trip between 11 and 20 miles for a nonshared ride in a vehicle without
13.29 a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88 for a shared ride in a
13.30 vehicle with a lift;

14.1 (iii) \$25.75 for a trip between 21 and 50 miles for a nonshared ride in a vehicle without
14.2 a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88 for a shared ride in a
14.3 vehicle with a lift; or

14.4 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
14.5 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
14.6 with a lift; and

14.7 ~~(17)~~ (16) for transportation provided as part of day training and habilitation for an
14.8 individual who does require a lift, add:

14.9 (i) \$19.05 for a trip between zero and ten miles for a nonshared ride in a vehicle with a
14.10 lift, and \$15.05 for a shared ride in a vehicle with a lift;

14.11 (ii) \$32.16 for a trip between 11 and 20 miles for a nonshared ride in a vehicle with a
14.12 lift, and \$28.16 for a shared ride in a vehicle with a lift;

14.13 (iii) \$58.76 for a trip between 21 and 50 miles for a nonshared ride in a vehicle with a
14.14 lift, and \$58.76 for a shared ride in a vehicle with a lift; or

14.15 (iv) \$80.93 for a trip of 51 miles or more for a nonshared ride in a vehicle with a lift,
14.16 and \$80.93 for a shared ride in a vehicle with a lift.

14.17 **EFFECTIVE DATE.** This section is effective January 1, 2022.

14.18 Sec. 6. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 8, is amended
14.19 to read:

14.20 Subd. 8. **Payments for unit-based services with programming.** Payments for unit-based
14.21 services with programming, including behavior programming, housing access coordination,
14.22 in-home family support, independent living skills training, independent living skills specialist
14.23 services, individualized home supports, hourly supported living services, employment
14.24 exploration services, employment development services, supported employment, and
14.25 employment support services provided to an individual outside of any day or residential
14.26 service plan must be calculated as follows, unless the services are authorized separately
14.27 under subdivision 6 or 7:

14.28 (1) determine the number of units of service to meet a recipient's needs;

14.29 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
14.30 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
14.31 5;

- 15.1 (3) for a recipient requiring customization for deaf and hard-of-hearing language
15.2 accessibility under subdivision 12, add the customization rate provided in subdivision 12
15.3 to the result of clause (2). This is defined as the customized direct-care rate;
- 15.4 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
15.5 5, paragraph (a), or the customized direct-care rate;
- 15.6 (5) multiply the number of direct staff hours by the product of the supervision span of
15.7 control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision
15.8 wage in subdivision 5, paragraph (a), clause (21);
- 15.9 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
15.10 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (e), clause
15.11 (2). This is defined as the direct staffing rate;
- 15.12 (7) for program plan support, multiply the result of clause (6) by one plus the program
15.13 plan supports ratio in subdivision 5, paragraph (e), clause (4);
- 15.14 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
15.15 employee-related cost ratio in subdivision 5, paragraph (e), clause (3);
- 15.16 (9) for client programming and supports, multiply the result of clause (8) by one plus
15.17 the client programming and supports ratio in subdivision 5, paragraph (e), clause (5);
- 15.18 (10) this is the subtotal rate;
- 15.19 (11) sum the standard general and administrative rate, the program-related expense ratio,
15.20 and the absence and utilization factor ratio;
- 15.21 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
15.22 total payment amount; and
- 15.23 (13) for supported employment provided in a shared manner, divide the total payment
15.24 amount in clause (12) by the number of service recipients, not to exceed three. For
15.25 employment support services provided in a shared manner, divide the total payment amount
15.26 in clause (12) by the number of service recipients, not to exceed six. For independent living
15.27 skills training and individualized home supports provided in a shared manner, divide the
15.28 total payment amount in clause (12) by the number of service recipients, not to exceed two;
15.29 and.
- 15.30 ~~(14) adjust the result of clause (13) by a factor to be determined by the commissioner~~
15.31 ~~to adjust for regional differences in the cost of providing services.~~
- 15.32 **EFFECTIVE DATE.** This section is effective January 1, 2022.

16.1 Sec. 7. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 9, is amended
16.2 to read:

16.3 Subd. 9. **Payments for unit-based services without programming.** Payments for
16.4 unit-based services without programming, including night supervision, personal support,
16.5 respite, and companion care provided to an individual outside of any day or residential
16.6 service plan must be calculated as follows unless the services are authorized separately
16.7 under subdivision 6 or 7:

16.8 (1) for all services except respite, determine the number of units of service to meet a
16.9 recipient's needs;

16.10 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
16.11 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

16.12 (3) for a recipient requiring customization for deaf and hard-of-hearing language
16.13 accessibility under subdivision 12, add the customization rate provided in subdivision 12
16.14 to the result of clause (2). This is defined as the customized direct care rate;

16.15 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
16.16 5 or the customized direct care rate;

16.17 (5) multiply the number of direct staff hours by the product of the supervision span of
16.18 control ratio in subdivision 5, paragraph (f), clause (1), and the appropriate supervision
16.19 wage in subdivision 5, paragraph (a), clause (21);

16.20 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
16.21 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (f), clause
16.22 (2). This is defined as the direct staffing rate;

16.23 (7) for program plan support, multiply the result of clause (6) by one plus the program
16.24 plan support ratio in subdivision 5, paragraph (f), clause (4);

16.25 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
16.26 employee-related cost ratio in subdivision 5, paragraph (f), clause (3);

16.27 (9) for client programming and supports, multiply the result of clause (8) by one plus
16.28 the client programming and support ratio in subdivision 5, paragraph (f), clause (5);

16.29 (10) this is the subtotal rate;

16.30 (11) sum the standard general and administrative rate, the program-related expense ratio,
16.31 and the absence and utilization factor ratio;

17.1 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
17.2 total payment amount;

17.3 (13) for respite services, determine the number of day units of service to meet an
17.4 individual's needs;

17.5 (14) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
17.6 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

17.7 (15) for a recipient requiring deaf and hard-of-hearing customization under subdivision
17.8 12, add the customization rate provided in subdivision 12 to the result of clause (14). This
17.9 is defined as the customized direct care rate;

17.10 (16) multiply the number of direct staff hours by the appropriate staff wage in subdivision
17.11 5, paragraph (a);

17.12 (17) multiply the number of direct staff hours by the product of the supervisory span of
17.13 control ratio in subdivision 5, paragraph (g), clause (1), and the appropriate supervision
17.14 wage in subdivision 5, paragraph (a), clause (21);

17.15 (18) combine the results of clauses (16) and (17), and multiply the result by one plus
17.16 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (g),
17.17 clause (2). This is defined as the direct staffing rate;

17.18 (19) for employee-related expenses, multiply the result of clause (18) by one plus the
17.19 employee-related cost ratio in subdivision 5, paragraph (g), clause (3);

17.20 (20) this is the subtotal rate;

17.21 (21) sum the standard general and administrative rate, the program-related expense ratio,
17.22 and the absence and utilization factor ratio; and

17.23 (22) divide the result of clause (20) by one minus the result of clause (21). This is the
17.24 total payment amount; and

17.25 ~~(23) adjust the result of clauses (12) and (22) by a factor to be determined by the~~
17.26 ~~commissioner to adjust for regional differences in the cost of providing services.~~

17.27 **EFFECTIVE DATE.** This section is effective January 1, 2022.

18.1 Sec. 8. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 10, is
18.2 amended to read:

18.3 Subd. 10. **Updating payment values and additional information.** (a) From January
18.4 1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform
18.5 procedures to refine terms and adjust values used to calculate payment rates in this section.

18.6 (b) No later than July 1, 2014, the commissioner shall, within available resources, begin
18.7 to conduct research and gather data and information from existing state systems or other
18.8 outside sources on the following items:

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

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

18.13 (3) the distinct underlying costs for services provided by a license holder under sections
18.14 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
18.15 by a license holder certified under section 245D.33.

18.16 (c) Beginning January 1, 2014, through December 31, 2018, using a statistically valid
18.17 set of rates management system data, the commissioner, in consultation with stakeholders,
18.18 shall analyze for each service the average difference in the rate on December 31, 2013, and
18.19 the framework rate at the individual, provider, lead agency, and state levels. The
18.20 commissioner shall issue semiannual reports to the stakeholders on the difference in rates
18.21 by service and by county during the banding period under section 256B.4913, subdivision
18.22 4a. The commissioner shall issue the first report by October 1, 2014, and the final report
18.23 shall be issued by December 31, 2018.

18.24 (d) No later than July 1, 2014, the commissioner, in consultation with stakeholders, shall
18.25 begin the review and evaluation of the following values already in subdivisions 6 to 9, or
18.26 issues that impact all services, including, but not limited to:

18.27 (1) values for transportation rates;

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

18.29 (3) values for indirect services;

18.30 (4) values for nursing;

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

- 19.1 (6) values for workers' compensation as part of employee-related expenses;
- 19.2 (7) values for unemployment insurance as part of employee-related expenses;
- 19.3 (8) any changes in state or federal law with a direct impact on the underlying cost of
- 19.4 providing home and community-based services; ~~and~~
- 19.5 (9) direct care staff labor market measures; and
- 19.6 (10) outcome measures, determined by the commissioner, for home and community-based
- 19.7 services rates determined under this section.

19.8 (e) The commissioner shall report to the chairs and the ranking minority members of

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

19.10 policy and finance with the information and data gathered under paragraphs (b) to (d) on

19.11 the following dates:

19.12 (1) January 15, 2015, with preliminary results and data;

19.13 (2) January 15, 2016, with a status implementation update, and additional data and

19.14 summary information;

19.15 (3) January 15, 2017, with the full report; and

19.16 (4) January 15, 2020, with another full report, and a full report once every four years

19.17 thereafter.

19.18 (f) The commissioner shall implement a regional adjustment factor to all rate calculations

19.19 in subdivisions 6 to 9, effective no later than January 1, 2015. Beginning July 1, 2017, the

19.20 commissioner shall renew analysis and implement changes to the regional adjustment factors

19.21 when adjustments required under subdivision 5, paragraph (h), occur. Prior to

19.22 implementation, the commissioner shall consult with stakeholders on the methodology to

19.23 calculate the adjustment.

19.24 (g) The commissioner shall provide a public notice via LISTSERV in October of each

19.25 year beginning October 1, 2014, containing information detailing legislatively approved

19.26 changes in:

19.27 (1) calculation values including derived wage rates and related employee and

19.28 administrative factors;

19.29 (2) service utilization;

19.30 (3) county and tribal allocation changes; and

20.1 (4) information on adjustments made to calculation values and the timing of those
20.2 adjustments.

20.3 The information in this notice must be effective January 1 of the following year.

20.4 (h) When the available shared staffing hours in a residential setting are insufficient to
20.5 meet the needs of an individual who enrolled in residential services after January 1, 2014,
20.6 or insufficient to meet the needs of an individual with a service agreement adjustment
20.7 described in section 256B.4913, subdivision 4a, paragraph (f), then individual staffing hours
20.8 shall be used.

20.9 (i) The commissioner shall study the underlying cost of absence and utilization for day
20.10 services. Based on the commissioner's evaluation of the data collected under this paragraph,
20.11 the commissioner shall make recommendations to the legislature by January 15, 2018, for
20.12 changes, if any, to the absence and utilization factor ratio component value for day services.

20.13 (j) Beginning July 1, 2017, the commissioner shall collect transportation and trip
20.14 information for all day services through the rates management system.

20.15 Sec. 9. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 10a, is
20.16 amended to read:

20.17 Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure
20.18 that wage values and component values in subdivisions 5 to 9 reflect the cost to provide the
20.19 service. As determined by the commissioner, in consultation with stakeholders identified
20.20 in section 256B.4913, subdivision 5, a provider enrolled to provide services with rates
20.21 determined under this section must submit requested cost data to the commissioner to support
20.22 research on the cost of providing services that have rates determined by the disability waiver
20.23 rates system. Requested cost data may include, but is not limited to:

20.24 (1) worker wage costs;

20.25 (2) benefits paid;

20.26 (3) supervisor wage costs;

20.27 (4) executive wage costs;

20.28 (5) vacation, sick, and training time paid;

20.29 (6) taxes, workers' compensation, and unemployment insurance costs paid;

20.30 (7) administrative costs paid;

20.31 (8) program costs paid;

21.1 (9) transportation costs paid;

21.2 (10) vacancy rates; and

21.3 (11) other data relating to costs required to provide services requested by the
21.4 commissioner.

21.5 (b) At least once in any five-year period, a provider must submit cost data for a fiscal
21.6 year that ended not more than 18 months prior to the submission date. The commissioner
21.7 shall provide each provider a 90-day notice prior to its submission due date. If a provider
21.8 fails to submit required reporting data, the commissioner shall provide notice to providers
21.9 that have not provided required data 30 days after the required submission date, and a second
21.10 notice for providers who have not provided required data 60 days after the required
21.11 submission date. The commissioner shall temporarily suspend payments to the provider if
21.12 cost data is not received 90 days after the required submission date. Withheld payments
21.13 shall be made once data is received by the commissioner.

21.14 (c) The commissioner shall conduct a random validation of data submitted under
21.15 paragraph (a) to ensure data accuracy. The commissioner shall analyze cost documentation
21.16 in paragraph (a) and provide recommendations for adjustments to cost components.

21.17 (d) The commissioner shall analyze cost documentation in paragraph (a) and, in
21.18 consultation with stakeholders identified in section 256B.4913, subdivision 5, may submit
21.19 recommendations on component values and inflationary factor adjustments to the chairs
21.20 and ranking minority members of the legislative committees with jurisdiction over human
21.21 services every four years beginning January 1, 2020. The commissioner shall make
21.22 recommendations in conjunction with reports submitted to the legislature according to
21.23 subdivision 10, paragraph (e). The commissioner shall release cost data in an aggregate
21.24 form, and cost data from individual providers shall not be released except as provided for
21.25 in current law.

21.26 (e) The commissioner, in consultation with stakeholders identified in section 256B.4913,
21.27 subdivision 5, shall develop and implement a process for providing training and technical
21.28 assistance necessary to support provider submission of cost documentation required under
21.29 paragraph (a).

21.30 (f) Beginning January 1, 2019, providers enrolled to provide services with rates
21.31 determined under this section shall submit labor market data to the commissioner annually.

21.32 (g) Beginning January 15, 2020, the commissioner shall publish annual reports on
21.33 provider and state-level labor market data, including, but not limited to:

- 22.1 (1) number of direct care staff;
22.2 (2) wages of direct care staff;
22.3 (3) benefits provided to direct care staff;
22.4 (4) direct care staff job vacancies; and
22.5 (5) direct care staff retention rates.

22.6 Sec. 10. Laws 2014, chapter 312, article 27, section 76, is amended to read:

22.7 Sec. 76. **DISABILITY WAIVER REIMBURSEMENT RATE ADJUSTMENTS.**

22.8 ~~Subdivision 1. **Historical rate.** The commissioner of human services shall adjust the~~
22.9 ~~historical rates calculated in Minnesota Statutes, section 256B.4913, subdivision 4a,~~
22.10 ~~paragraph (b), in effect during the banding period under Minnesota Statutes, section~~
22.11 ~~256B.4913, subdivision 4a, paragraph (a), for the reimbursement rate increases effective~~
22.12 ~~April 1, 2014, and any rate modification enacted during the 2014 legislative session.~~

22.13 ~~Subd. 2. **Residential support services.** The commissioner of human services shall adjust~~
22.14 ~~the rates calculated in Minnesota Statutes, section 256B.4914, subdivision 6, paragraphs~~
22.15 ~~(b), clause (4), and (c), for the reimbursement rate increases effective April 1, 2014, and~~
22.16 ~~any rate modification enacted during the 2014 legislative session.~~

22.17 ~~Subd. 3. **Day programs.** The commissioner of human services shall adjust the rates~~
22.18 ~~calculated in Minnesota Statutes, section 256B.4914, subdivision 7, paragraph (a), clauses~~
22.19 ~~(15) to (17), for the reimbursement rate increases effective April 1, 2014, and any rate~~
22.20 ~~modification enacted during the 2014 legislative session.~~

22.21 ~~Subd. 4. **Unit-based services with programming.** The commissioner of human services~~
22.22 ~~shall adjust the rate calculated in Minnesota Statutes, section 256B.4914, subdivision 8,~~
22.23 ~~paragraph (a), clause (14), for the reimbursement rate increases effective April 1, 2014, and~~
22.24 ~~any rate modification enacted during the 2014 legislative session.~~

22.25 ~~Subd. 5. **Unit-based services without programming.** The commissioner of human~~
22.26 ~~services shall adjust the rate calculated in Minnesota Statutes, section 256B.4914, subdivision~~
22.27 ~~9, paragraph (a), clause (23), for the reimbursement rate increases effective April 1, 2014,~~
22.28 ~~and any rate modification enacted during the 2014 legislative session.~~