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State of Minnesota
HOUSE OF REPRESENTATIVES

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SESSION

HOUSE FILE No. **703**

February 12, 2009

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The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

February 23, 2009

By motion, recalled and re-referred to the Committee on Finance

A bill for an act

relating to human services; providing long-term care provider rate adjustments; modifying the phase-in of rebased nursing facility rates; providing funding for nursing facility moratorium exceptions and extending project approval; requiring the commissioner of human services to develop recommendations on specialized care; amending Minnesota Statutes 2008, sections 144A.073, by adding a subdivision; 256B.441, subdivisions 31, 51a, 55, by adding a subdivision.

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

Section 1. Minnesota Statutes 2008, section 144A.073, is amended by adding a subdivision to read:

Subd. 12. Extension of approval of moratorium exception projects.

Notwithstanding subdivision 3, the commissioner of health shall extend project approval by an additional 18 months for an approved proposal for an exception to the nursing home licensure and certification moratorium if the proposal was approved under this section between July 1, 2007, and June 30, 2009.

Sec. 2. Minnesota Statutes 2008, section 256B.441, subdivision 31, is amended to read:

Subd. 31. Prior system year operating cost payment rate. "Prior ~~system year~~ operating cost payment rate" means the operating cost payment rate in effect on September 30, ~~2008~~, prior to the start of each rate year under Minnesota Rules and Minnesota Statutes, not including planned closure rate adjustments under section 256B.436 or 256B.437, ~~or~~ single bed room incentives under section 256B.431, subdivision 42, or performance-based incentive payments under section 256B.434, subdivision 4, paragraph (d). The rate shall include the temporary rate adjustment provided to nursing facilities in Laws 2008, chapter 363, article 18, section 3, subdivision 6, paragraph (c).

2.1 Sec. 3. Minnesota Statutes 2008, section 256B.441, subdivision 51a, is amended to
2.2 read:

2.3 Subd. 51a. **Exception allowing contracting for specialized care.** (a) For rate years
2.4 beginning on or after October 1, 2016, the commissioner may negotiate increases to
2.5 the care-related limit for nursing facilities that provide specialized care, at a cost to the
2.6 general fund not to exceed \$600,000 per year. The commissioner shall publish a request
2.7 for proposals annually, and may negotiate increases to the limits that shall apply for either
2.8 one or two years before the increase shall be subject to a new proposal and negotiation.
2.9 The care-related limit may be increased by up to 50 percent.

2.10 (b) In selecting facilities with which to negotiate, the commissioner shall consider:

2.11 (1) the diagnoses or other circumstances of residents in the specialized program that
2.12 require care that costs substantially more than the RUG's rates associated with those
2.13 residents;

2.14 (2) the nature of the specialized program or programs offered to meet the needs
2.15 of these individuals; and

2.16 (3) outcomes achieved by the specialized program.

2.17 (c) The commissioner, in consultation with stakeholders, shall develop
2.18 recommendations on which facilities and residents should qualify for specialized care
2.19 under this subdivision, and how rate adjustments for specialized care should be determined.
2.20 The commissioner shall report the recommendations to the legislature by January 1, 2010.

2.21 Sec. 4. Minnesota Statutes 2008, section 256B.441, subdivision 55, is amended to read:

2.22 Subd. 55. **Phase-in of rebased operating payment rates.** (a) For the rate years
2.23 beginning October 1, 2008, to October 1, 2015, the operating payment rate calculated
2.24 under this section shall be phased in by blending the operating rate with the ~~operating~~
2.25 ~~payment rate determined under section 256B.434~~ prior year operating cost payment
2.26 rate. ~~For purposes of this subdivision, the rate to be used that is determined under~~
2.27 ~~section 256B.434 shall not include the portion of the operating payment rate related to~~
2.28 ~~performance-based incentive payments under section 256B.434, subdivision 4, paragraph~~
2.29 ~~(d).~~ For the rate year beginning October 1, 2008, the operating payment rate for each
2.30 facility shall be 13 percent of the operating payment rate from this section, and 87 percent
2.31 of the operating payment rate from section 256B.434. For the rate year beginning October
2.32 1, 2009, the operating payment rate for each facility shall be ~~14~~ 25.5 percent of the
2.33 operating payment rate from this section, and ~~86~~ 74.5 percent of the prior year operating
2.34 cost payment rate from section 256B.434. For the rate year beginning October 1, 2010, the
2.35 operating payment rate for each facility shall be ~~14~~ 38 percent of the operating payment

3.1 rate from this section, and ~~86~~ 62 percent of the prior year operating cost payment rate ~~from~~
3.2 ~~section 256B.434~~. For the rate year beginning October 1, 2011, the operating payment
3.3 rate for each facility shall be ~~31~~ 50.5 percent of the operating payment rate from this
3.4 section, and ~~69~~ 49.5 percent of the prior year operating cost payment rate ~~from section~~
3.5 ~~256B.434~~. For the rate year beginning October 1, 2012, the operating payment rate for
3.6 each facility shall be ~~48~~ 63 percent of the operating payment rate from this section, and
3.7 ~~52~~ 37 percent of the prior year operating cost payment rate ~~from section 256B.434~~. For
3.8 the rate year beginning October 1, 2013, the operating payment rate for each facility shall
3.9 be ~~65~~ 75.5 percent of the operating payment rate from this section, and ~~35~~ 24.5 percent
3.10 of the prior year operating cost payment rate ~~from section 256B.434~~. For the rate year
3.11 beginning October 1, 2014, the operating payment rate for each facility shall be ~~82~~ 88
3.12 percent of the operating payment rate from this section, and ~~18~~ 12 percent of the prior year
3.13 operating cost payment rate ~~from section 256B.434~~. For the rate year beginning October
3.14 1, 2015, the operating payment rate for each facility shall be the operating payment rate
3.15 determined under this section. The blending of operating payment rates under this section
3.16 shall be performed separately for each RUG's class.

3.17 (b) For the rate year beginning October 1, 2008, the commissioner shall apply limits
3.18 to the operating payment rate increases under paragraph (a) by creating a minimum
3.19 percentage increase and a maximum percentage increase.

3.20 (1) Each nursing facility that receives a blended October 1, 2008, operating payment
3.21 rate increase under paragraph (a) of less than one percent, when compared to its operating
3.22 payment rate on September 30, 2008, computed using rates with RUG's weight of 1.00,
3.23 shall receive a rate adjustment of one percent.

3.24 (2) The commissioner shall determine a maximum percentage increase that will
3.25 result in savings equal to the cost of allowing the minimum increase in clause (1). Nursing
3.26 facilities with a blended October 1, 2008, operating payment rate increase under paragraph
3.27 (a) greater than the maximum percentage increase determined by the commissioner, when
3.28 compared to its operating payment rate on September 30, 2008, computed using rates with
3.29 a RUG's weight of 1.00, shall receive the maximum percentage increase.

3.30 (3) Nursing facilities with a blended October 1, 2008, operating payment rate
3.31 increase under paragraph (a) greater than one percent and less than the maximum
3.32 percentage increase determined by the commissioner, when compared to its operating
3.33 payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00,
3.34 shall receive the blended October 1, 2008, operating payment rate increase determined
3.35 under paragraph (a).

4.1 (4) The October 1, 2009, through October 1, 2015, operating payment rate for
 4.2 facilities receiving the maximum percentage increase determined in clause (2) shall be
 4.3 the amount determined under paragraph (a) less the difference between the amount
 4.4 determined under paragraph (a) for October 1, 2008, and the amount allowed under clause
 4.5 (2). This rate restriction does not apply to rate increases provided in any other section.

4.6 (c) A portion of the funds received under this subdivision that are in excess of
 4.7 operating payment rates that a facility would have received under section 256B.434, as
 4.8 determined in accordance with clauses (1) to (3), shall be subject to the requirements in
 4.9 section 256B.434, subdivision 19, paragraphs (b) to (h).

4.10 (1) Determine the amount of additional funding available to a facility, which shall be
 4.11 equal to total medical assistance resident days from the most recent reporting year times
 4.12 the difference between the blended rate determined in paragraph (a) for the rate year being
 4.13 computed and the blended rate for the prior year.

4.14 (2) Determine the portion of all operating costs, for the most recent reporting year,
 4.15 that are compensation related. If this value exceeds 75 percent, use 75 percent.

4.16 (3) Subtract the amount determined in clause (2) from 75 percent.

4.17 (4) The portion of the fund received under this subdivision that shall be subject to
 4.18 the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h), shall equal
 4.19 the amount determined in clause (1) times the amount determined in clause (3).

4.20 Sec. 5. Minnesota Statutes 2008, section 256B.441, is amended by adding a
 4.21 subdivision to read:

4.22 Subd. 59. **Rate adjustments for October 1, 2009, and October 1, 2010.** For the
 4.23 rate years beginning October 1, 2009, and October 1, 2010, the commissioner shall make
 4.24 available to each nursing facility reimbursed under this section operating payment rate
 4.25 adjustments equal to the change in the Nursing Home with Capital Market Basket as
 4.26 calculated by Global Insight from the midpoint of the previous rate year to the midpoint
 4.27 of the next rate year. This increase shall be applied to operating rates after the rebasing
 4.28 adjustment provided under subdivision 55.

4.29 Sec. 6. **RATE ADJUSTMENTS FOR ELDERLY WAIVER AND ALTERNATIVE**
 4.30 **CARE PROGRAMS.**

4.31 For the rate years beginning July 1, 2009, and July 1, 2010, the commissioner of
 4.32 human services shall provide rate adjustments for the elderly waiver and alternative care
 4.33 programs that are equal to the change in the Nursing Home with Capital Market Basket as
 4.34 calculated by Global Insight from the midpoint of the previous nursing home rate year to

5.1 the midpoint of the next nursing home rate year. Managed care organization payment rates
5.2 to providers under the elderly waiver program must reflect these rate adjustments as of
5.3 the date the adjustments are effective under this section.

5.4 Sec. 7. **NURSING HOME MORATORIUM EXCEPTIONS.**

5.5 During fiscal year 2010, the commissioner of health may approve moratorium
5.6 exception projects under Minnesota Statutes, section 144A.073, for which the full
5.7 annualized state share of medical assistance costs does not exceed \$3,000,000. During
5.8 fiscal year 2011, the commissioner of health may approve moratorium exception projects
5.9 under Minnesota Statutes, section 144A.073, for which the full annualized state share of
5.10 medical assistance costs does not exceed \$3,000,000 less the amount approved during
5.11 the first year.