

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 3233

(SENATE AUTHORS: CLAUSEN)

DATE
02/17/2020

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Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to human services; modifying disability waiver payment rates for respite
1.3 care and individualized home supports with training; amending Minnesota Statutes
1.4 2018, section 256B.4914, as amended.

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

1.6 Section 1. Minnesota Statutes 2018, section 256B.4914, as amended by Laws 2019, chapter
1.7 50, article 2, sections 1, 2, 3, 4, 5, 6; and Laws 2019, First Special Session chapter 9, article
1.8 5, sections 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, is amended to read:

1.9 ~~**256B.4914 HOME AND COMMUNITY-BASED SERVICES WAIVERS; RATE**~~
1.10 ~~**SETTING DISABILITY WAIVER RATE SYSTEM.**~~

1.11 Subdivision 1. **Application.** The payment methodologies in this section apply to home
1.12 and community-based services waivers under sections 256B.092 and 256B.49. This section
1.13 does not change existing waiver policies and procedures.

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

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

1.17 (c) "Comparable occupations" means the occupations, excluding direct care staff, as
1.18 represented by the Bureau of Labor Statistics standard occupational classification codes
1.19 that have the same classification for:

1.20 (1) typical education needed for entry;

1.21 (2) work experience in a related occupation; and

2.1 (3) typical on-the-job training competency as the most predominant classification for
2.2 direct care staff.

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

2.5 (e) "Customized living tool" means a methodology for setting service rates that delineates
2.6 and documents the amount of each component service included in a recipient's customized
2.7 living service plan.

2.8 (f) "Direct care staff" means employees providing direct service to people receiving
2.9 services under this section. Direct care staff excludes executive, managerial, and
2.10 administrative staff.

2.11 (g) "Disability waiver rates system" means a statewide system that establishes rates that
2.12 are based on uniform processes and captures the individualized nature of waiver services
2.13 and recipient needs.

2.14 (h) "Individual staffing" means the time spent as a one-to-one interaction specific to an
2.15 individual recipient by staff to provide direct support and assistance with activities of daily
2.16 living, instrumental activities of daily living, and training to participants, and is based on
2.17 the requirements in each individual's coordinated service and support plan under section
2.18 245D.02, subdivision 4b; any coordinated service and support plan addendum under section
2.19 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
2.20 needs must also be considered.

2.21 (i) "Lead agency" means a county, partnership of counties, or tribal agency charged with
2.22 administering waived services under sections 256B.092 and 256B.49.

2.23 (j) "Median" means the amount that divides distribution into two equal groups, one-half
2.24 above the median and one-half below the median.

2.25 (k) "Payment or rate" means reimbursement to an eligible provider for services provided
2.26 to a qualified individual based on an approved service authorization.

2.27 (l) "Rates management system" means a web-based software application that uses a
2.28 framework and component values, as determined by the commissioner, to establish service
2.29 rates.

2.30 (m) "Recipient" means a person receiving home and community-based services funded
2.31 under any of the disability waivers.

3.1 (n) "Shared staffing" means time spent by employees, not defined under paragraph (f),
 3.2 providing or available to provide more than one individual with direct support and assistance
 3.3 with activities of daily living as defined under section 256B.0659, subdivision 1, paragraph
 3.4 (b); instrumental activities of daily living as defined under section 256B.0659, subdivision
 3.5 1, paragraph (i); ancillary activities needed to support individual services; and training to
 3.6 participants, and is based on the requirements in each individual's coordinated service and
 3.7 support plan under section 245D.02, subdivision 4b; any coordinated service and support
 3.8 plan addendum under section 245D.02, subdivision 4c; an assessment tool; and provider
 3.9 observation of an individual's service need. Total shared staffing hours are divided
 3.10 proportionally by the number of individuals who receive the shared service provisions.

3.11 (o) "Staffing ratio" means the number of recipients a service provider employee supports
 3.12 during a unit of service based on a uniform assessment tool, provider observation, case
 3.13 history, and the recipient's services of choice, and not based on the staffing ratios under
 3.14 section 245D.31.

3.15 (p) "Unit of service" means the following:

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

3.19 (2) for day ~~services under subdivision 7~~ programs:

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

3.21 (A) a day unit of service is, defined as six or more hours of time spent providing direct
 3.22 services and transportation; ~~or~~

3.23 (B) a partial day unit of service is, defined as fewer than six hours of time spent providing
 3.24 direct services and transportation; ~~and~~ or

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

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

3.30 (iii) for day support services, a unit of service is 15 minutes; and

3.31 (iv) for prevocational services, a unit of service is a day or 15 minutes. A day unit of
 3.32 service is six or more hours of time spent providing direct service;

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

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

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

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

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

4.12 (1) 24-hour customized living;

4.13 (2) adult day services;

4.14 (3) adult day services bath;

4.15 (4) companion services;

4.16 (5) community residential services;

4.17 (6) customized living;

4.18 (7) day support services;

4.19 (8) day training and habilitation;

4.20 (9) employment development services;

4.21 (10) employment exploration services;

4.22 (11) employment support services;

4.23 (12) family residential services;

4.24 (13) housing access coordination;

4.25 (14) independent living skills;

4.26 (15) individualized home supports;

4.27 (16) individualized home supports with family training;

4.28 (17) individualized home supports with training;

4.29 (18) in-home family support;

- 5.1 (19) integrated community supports;
- 5.2 (20) night supervision;
- 5.3 (21) personal support;
- 5.4 (22) positive support services;
- 5.5 (23) prevocational services;
- 5.6 (24) residential support services;
- 5.7 (25) respite services;
- 5.8 ~~(26)~~ structured day services;
- 5.9 ~~(27)~~ (26) supported living services;
- 5.10 ~~(28)~~ (27) transportation services; and
- 5.11 ~~(29)~~ (28) other services as approved by the federal government in the state home and
- 5.12 community-based services plan.

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

5.16 (b) Data and information in the rates management system may be used to calculate an
 5.17 individual's rate.

5.18 (c) Service providers, with information from the community support plan and oversight
 5.19 by lead agencies, ~~shall provide~~ must enter values and information needed to calculate an
 5.20 individual's rate into the rates management system. The determination of service levels must
 5.21 be part of a discussion with members of the support team as defined in section 245D.02,
 5.22 subdivision 34. This discussion must occur prior to the final establishment of each individual's
 5.23 rate. The values and information include:

- 5.24 (1) shared staffing hours;
- 5.25 (2) individual staffing hours;
- 5.26 (3) direct registered nurse hours;
- 5.27 (4) direct licensed practical nurse hours;
- 5.28 (5) staffing ratios;
- 5.29 (6) information to document variable levels of service qualification for variable levels
- 5.30 of reimbursement in each framework;

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

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

6.4 (9) service hours provided through monitoring technology.

6.5 (d) Updates to individual data must include:

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

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

6.9 (e) Lead agencies shall review and approve all services reflecting each individual's needs,
6.10 and the values to calculate the final payment rate for services with variables under
6.11 subdivisions 6, ~~7, 8, and~~ to 9 for each individual. Lead agencies must notify the individual
6.12 and the service provider of the final agreed-upon values and rate, and provide information
6.13 that is identical to what was entered into the rates management system. If a value used was
6.14 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
6.15 agencies to correct it. Lead agencies must respond to these requests. When responding to
6.16 the request, the lead agency must consider:

6.17 (1) meeting the health and welfare needs of the individual or individuals receiving
6.18 services by service site, identified in their coordinated service and support plan under section
6.19 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

6.20 (2) meeting the requirements for individual staffing ~~under subdivision 2, paragraphs (h),~~
6.21 ~~(n), and (o);~~ shared staffing, and staffing ratios, and meeting or exceeding the licensing
6.22 standards for staffing required under section 245D.09, subdivision 1; and

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

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

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

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

7.5 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
7.6 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
7.7 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
7.8 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
7.9 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

7.10 (2) for adult day services staff, 70 percent of the median wage for nursing assistant (SOC
7.11 code 31-1014); and 30 percent of the median wage for personal care aide (SOC code
7.12 39-9021);

7.13 (3) for day training and habilitation services, day support services, and prevocational
7.14 services staff, 20 percent of the median wage for nursing assistant (SOC code 31-1014); 20
7.15 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent
7.16 of the median wage for social and human services aide (SOC code 21-1093);

7.17 (4) for residential asleep-overnight staff, the wage is the minimum wage in Minnesota
7.18 for large employers, except in a family foster care setting, the wage is 36 percent of the
7.19 minimum wage in Minnesota for large employers;

7.20 (5) for positive supports analyst staff, 100 percent of the median wage for mental health
7.21 counselors (SOC code 21-1014);

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

7.24 (7) for positive supports specialist staff, 100 percent of the median wage for psychiatric
7.25 technicians (SOC code 29-2053);

7.26 (8) for supportive living services staff, 20 percent of the median wage for nursing assistant
7.27 (SOC code 31-1014); 20 percent of the median wage for psychiatric technician (SOC code
7.28 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
7.29 21-1093);

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

7.32 (10) for in-home family support and individualized home supports with family training
7.33 staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of

8.1 the median wage for community social service specialist (SOC code 21-1099); 40 percent
8.2 of the median wage for social and human services aide (SOC code 21-1093); and ten percent
8.3 of the median wage for psychiatric technician (SOC code 29-2053);

8.4 (11) for individualized home supports with training services staff, 40 percent of the
8.5 median wage for community social service specialist (SOC code 21-1099); 50 percent of
8.6 the median wage for social and human services aide (SOC code 21-1093); and ten percent
8.7 of the median wage for psychiatric technician (SOC code 29-2053);

8.8 (12) for independent living skills staff, 40 percent of the median wage for community
8.9 social service specialist (SOC code 21-1099); 50 percent of the median wage for social and
8.10 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
8.11 technician (SOC code 29-2053);

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

8.15 (14) for employment exploration services staff, 50 percent of the median wage for
8.16 rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for
8.17 community and social services specialist (SOC code 21-1099);

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

8.21 (16) for individualized home support staff, 50 percent of the median wage for personal
8.22 and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing
8.23 assistant (SOC code 31-1014);

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

8.27 (18) for night supervision staff, 20 percent of the median wage for home health aide
8.28 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
8.29 (SOC code 39-9021); 20 percent of the median wage for nursing assistant (SOC code
8.30 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
8.31 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

9.1 (19) ~~for respite staff, 50 percent of the median wage for personal and home care aide~~
 9.2 ~~(SOC code 39-9021); and 50 percent of the median wage for nursing assistant (SOC code~~
 9.3 ~~31-1014);~~

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

9.7 ~~(21)~~ (20) for supervisory staff, 100 percent of the median wage for community and social
 9.8 services specialist (SOC code 21-1099), with the exception of the supervisor of positive
 9.9 supports professional, positive supports analyst, and positive supports specialists, which is
 9.10 100 percent of the median wage for clinical counseling and school psychologist (SOC code
 9.11 19-3031);

9.12 ~~(22)~~ (21) for registered nurse staff, 100 percent of the median wage for registered nurses
 9.13 (SOC code 29-1141); and

9.14 ~~(23)~~ (22) for licensed practical nurse staff, 100 percent of the median wage for licensed
 9.15 practical nurses (SOC code 29-2061).

9.16 **Subd. 5a. Standard component values; residential support services except family**
 9.17 **foster care.** ~~(b)~~ Component values for corporate foster care services, corporate supportive
 9.18 living services daily, community residential services, and integrated community ~~support~~
 9.19 ~~services~~ supports are:

9.20 (1) competitive workforce factor: 4.7 percent;

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

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

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

9.24 (5) client programming and support price: \$2,260.21 divided by 365;

9.25 (6) general administrative support ratio: 13.25 percent;

9.26 ~~(6)~~ (7) program-related expense ratio: 1.3 percent; and

9.27 ~~(7)~~ (8) absence and utilization ~~factor~~ ratio: 3.9 percent.

9.28 **Subd. 5b. Standard component values; family foster care.** ~~(e)~~ Component values for
 9.29 family foster care are:

9.30 (1) competitive workforce factor: 4.7 percent;

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

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

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

10.3 (5) client programming and support price: \$2,260.21 divided by 365;

10.4 (6) general administrative support ratio: 3.3 percent;

10.5 ~~(6)~~ (7) program-related expense ratio: 1.3 percent; and

10.6 ~~(7)~~ (8) absence factor and utilization ratio: 1.7 percent.

10.7 Subd. 5c. Standard component values; day programs except adult day services. ~~(d)~~

10.8 Component values for day training and habilitation, structured day services, day support
10.9 services, and prevocational services are:

10.10 (1) competitive workforce factor: 4.7 percent;

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

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

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

10.14 (5) program plan support ratio: 5.6 percent;

10.15 (6) client programming and support ratio: ten percent;

10.16 (7) general administrative support ratio: 13.25 percent;

10.17 (8) program-related expense ratio: 1.8 percent; and

10.18 (9) absence and utilization ~~factor~~ ratio: 9.4 percent.

10.19 Subd. 5d. Standard component values; adult day services. ~~(e)~~ Component values for
10.20 adult day services are:

10.21 (1) competitive workforce factor: 4.7 percent;

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

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

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

10.25 (5) program plan support ratio: 5.6 percent;

10.26 (6) client programming and support ratio: 7.4 percent;

10.27 (7) general administrative support ratio: 13.25 percent;

10.28 (8) program-related expense ratio: 1.8 percent; and

11.1 (9) absence and utilization ~~factor~~ ratio: 9.4 percent.

11.2 **Subd. 5e. Standard component values; unit-based services with programming except**
 11.3 **individualized home supports with training.** ~~(f)~~ Component values for unit-based services
 11.4 with programming except individualized home supports with training are:

11.5 (1) competitive workforce factor: 4.7 percent;

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

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

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

11.9 (5) program plan supports ratio: 15.5 percent;

11.10 (6) client programming and ~~supports~~ support ratio: 4.7 percent;

11.11 (7) general administrative support ratio: 13.25 percent;

11.12 (8) program-related expense ratio: 6.1 percent; and

11.13 (9) absence and utilization ~~factor~~ ratio: 3.9 percent.

11.14 **Subd. 5f. Standard component values; individualized home supports with**
 11.15 **training.** Component values for unit-based services with programming for individualized
 11.16 home support with training are:

11.17 (1) competitive workforce factor: 4.7 percent;

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

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

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

11.21 (5) program plan supports ratio: 15.5 percent;

11.22 (6) client programming and support ratio: 4.7 percent;

11.23 (7) general administrative support ratio: 13.25 percent;

11.24 (8) program-related expense ratio: 6.1 percent; and

11.25 (9) absence and utilization ratio: 7.5 percent.

11.26 **Subd. 5g. Standard component values; unit-based services without programming.** ~~(g)~~
 11.27 Component values for unit-based services without programming ~~except respite~~ are:

11.28 (1) competitive workforce factor: 4.7 percent;

- 12.1 (2) supervisory span of control ratio: 11 percent;
- 12.2 (3) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 12.3 (4) employee-related cost ratio: 23.6 percent;
- 12.4 (5) program plan support ratio: 7.0 percent;
- 12.5 (6) client programming and support ratio: 2.3 percent;
- 12.6 (7) general administrative support ratio: 13.25 percent;
- 12.7 (8) program-related expense ratio: 2.9 percent; and
- 12.8 (9) absence and utilization factor ratio: 3.9 percent.

12.9 ~~(h) Component values for unit-based services without programming for respite are:~~

- 12.10 ~~(1) competitive workforce factor: 4.7 percent;~~
- 12.11 ~~(2) supervisory span of control ratio: 11 percent;~~
- 12.12 ~~(3) employee vacation, sick, and training allowance ratio: 8.71 percent;~~
- 12.13 ~~(4) employee-related cost ratio: 23.6 percent;~~
- 12.14 ~~(5) general administrative support ratio: 13.25 percent;~~
- 12.15 ~~(6) program-related expense ratio: 2.9 percent; and~~
- 12.16 ~~(7) absence and utilization factor ratio: 3.9 percent.~~

12.17 Subd. 5h. Base wage index adjustments. ~~(†)~~ On July 1, 2022, and every two years
 12.18 thereafter, the commissioner shall update the base wage index ~~in paragraph (a)~~ based on
 12.19 wage data by SOC from the Bureau of Labor Statistics available 30 months and one day
 12.20 prior to the scheduled update. The commissioner shall publish these updated values and
 12.21 load them into the rate management system.

12.22 Subd. 5i. Competitive workforce factor adjustments. ~~(†)~~ Beginning February 1, 2021,
 12.23 and every two years thereafter, the commissioner shall report to the chairs and ranking
 12.24 minority members of the legislative committees and divisions with jurisdiction over health
 12.25 and human services policy and finance an analysis of the competitive workforce factor. The
 12.26 report must include recommendations to update the competitive workforce factor using:

- 12.27 (1) the most recently available wage data by SOC code for the weighted average wage
 12.28 for direct care staff for residential services and direct care staff for day services;
- 12.29 (2) the most recently available wage data by SOC code of the weighted average wage
 12.30 of comparable occupations; and

13.1 (3) workforce data as required under subdivision 10a, paragraph (g).

13.2 The commissioner shall not recommend an increase or decrease of the competitive workforce
13.3 factor from the current value by more than two percentage points. If, after a biennial analysis
13.4 for the next report, the competitive workforce factor is less than or equal to zero, the
13.5 commissioner shall recommend a competitive workforce factor of zero.

13.6 Subd. 5j. Standard component value adjustments. ~~(k)~~ On July 1, 2022, and every two
13.7 years thereafter, the commissioner shall must update the ~~framework components in paragraph~~
13.8 ~~(d), clause (6); paragraph (e), clause (6); paragraph (f), clause (6); and paragraph (g), clause~~
13.9 ~~(6); subdivision 6, paragraphs (b), clauses (9) and (10), and (e), clause (10); and subdivision~~
13.10 ~~7, clauses (11), (17), and (18);~~ ratios and prices for client programming and support, the
13.11 prices for residential support services and day training and habilitation transportation costs,
13.12 and the price for day program facility costs for changes in the Consumer Price Index. The
13.13 commissioner shall must adjust these values higher or lower by the percentage change in
13.14 the CPI-U from the date of the previous update to the data available 30 months and one day
13.15 prior to the scheduled update. The commissioner shall must publish these updated values
13.16 and load them into the rate management system.

13.17 Subd. 5k. Removal of after-framework adjustments. ~~(l)~~ (a) Upon the implementation
13.18 of the updates under ~~paragraphs (i) and (k)~~ subdivisions 5h and 5j, rate adjustments authorized
13.19 under section 256B.439, subdivision 7; Laws 2013, chapter 108, article 7, section 60; and
13.20 Laws 2014, chapter 312, article 27, section 75, shall must be removed from service rates
13.21 calculated under this section.

13.22 ~~(m)~~ (b) Any rate adjustments applied to the service rates calculated under this section
13.23 outside of the cost components and rate methodology specified in this section shall must
13.24 be removed from rate calculations upon implementation of the updates under ~~paragraphs~~
13.25 ~~(i) and (k)~~ subdivisions 5h and 5j.

13.26 Subd. 5l. Updating or replacing missing values. ~~(n)~~ In this subdivision, if Bureau of
13.27 Labor Statistics occupational codes or Consumer Price Index items are unavailable in the
13.28 future, the commissioner shall recommend to the legislature codes or items to update and
13.29 replace missing component values.

13.30 Subd. 6. Payments for residential support services; generally. (a) For purposes of
13.31 ~~this subdivision~~ subdivisions 6 to 6b, residential support services includes 24-hour customized
13.32 living services, community residential services, customized living services, family residential
13.33 services, foster care services, integrated community supports, and supportive living services
13.34 daily.

14.1 (b) The number of days authorized for all individuals enrolling in residential support
 14.2 services must include every day that services start and end.

14.3 Subd. 6a. **Payments for residential support services except customized living**

14.4 services. ~~(b)~~ (a) Payments for community residential services, corporate foster care services,
 14.5 corporate supportive living services daily, family residential services, and family foster care
 14.6 services, and integrated community supports must be calculated as follows:

14.7 (1) determine the number of shared staffing and individual direct staff hours to meet a
 14.8 recipient's needs provided on site or through monitoring technology. For integrated
 14.9 community supports, the base shared staffing must be eight hours divided by the number
 14.10 of people receiving support in the integrated community support setting and the individual
 14.11 staffing hours must be the average number of direct support hours provided directly to the
 14.12 service recipient;

14.13 (2) personnel hourly wage rate must be based on the ~~2009 Bureau of Labor Statistics~~
 14.14 ~~Minnesota-specific rates or rates derived by the commissioner as provided in subdivision~~
 14.15 ~~5 base wage index;~~

14.16 (3) except for ~~subdivision 5, paragraph (a), clauses (4) and (21) to (23)~~ the hourly wage
 14.17 rate for residential asleep-overnight staff, supervisory staff, registered nurse staff, and
 14.18 licensed practical nurse staff, multiply the result of clause (2) by the product of one plus
 14.19 the service-appropriate competitive workforce factor in subdivision 5, paragraph (b), clause
 14.20 ~~(1);~~

14.21 (4) for a recipient requiring customization for deaf and hard-of-hearing language
 14.22 accessibility under subdivision 12, add the customization rate provided in subdivision 12
 14.23 to the result of clause (3);

14.24 (5) multiply the number of shared and individual direct staff hours provided on site or
 14.25 through monitoring technology and nursing hours by the appropriate staff wages;

14.26 (6) multiply the number of shared and individual direct staff hours provided on site or
 14.27 through monitoring technology and nursing hours by the product of the service-appropriate
 14.28 supervision span of control ratio in subdivision 5, paragraph (b), clause (2), and the
 14.29 appropriate supervision supervisory staff wage in subdivision 5, paragraph (a), clause (21);

14.30 (7) combine the results of clauses (5) and (6), excluding any shared and individual direct
 14.31 staff hours provided through monitoring technology, and multiply the result by one plus
 14.32 the service-appropriate employee vacation, sick, and training allowance ratio ~~in subdivision~~
 14.33 ~~5, paragraph (b), clause (3).~~ This is defined as the direct staffing cost;

15.1 (8) for employee-related expenses, multiply the direct staffing cost, excluding any shared
 15.2 and individual direct staff hours provided through monitoring technology, by one plus the
 15.3 service-appropriate employee-related cost ratio ~~in subdivision 5, paragraph (b), clause (4);~~

15.4 (9) for client programming and supports, ~~the commissioner shall add \$2,179~~ the
 15.5 service-appropriate client programming and support price; and

15.6 (10) for transportation, if provided, the commissioner ~~shall~~ must add \$1,680, or \$3,000
 15.7 if customized for adapted transport, based on the resident with the highest assessed need.

15.8 ~~(e)~~ (b) The total rate must be calculated using the following steps:

15.9 (1) subtotal paragraph ~~(b)~~ (a), clauses (8) to (10), and the direct staffing cost of any
 15.10 shared and individual direct staff hours provided through monitoring technology that was
 15.11 excluded in paragraph (a), clause (8);

15.12 (2) sum the ~~standard~~ service-appropriate general and administrative rate, ~~the~~ support
 15.13 ratio, program-related expense ratio, and ~~the~~ absence and utilization ratio;

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

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

15.18 ~~(d) The payment methodology for customized living, 24-hour customized living, and~~
 15.19 ~~residential care services must be the customized living tool. Revisions to the customized~~
 15.20 ~~living tool must be made to reflect the services and activities unique to disability-related~~
 15.21 ~~recipient needs.~~

15.22 ~~(e) Payments for integrated community support services must be calculated as follows:~~

15.23 ~~(1) the base shared staffing shall be eight hours divided by the number of people receiving~~
 15.24 ~~support in the integrated community support setting;~~

15.25 ~~(2) the individual staffing hours shall be the average number of direct support hours~~
 15.26 ~~provided directly to the service recipient;~~

15.27 ~~(3) the personnel hourly wage rate must be based on the most recent Bureau of Labor~~
 15.28 ~~Statistics Minnesota-specific rates or rates derived by the commissioner as provided in~~
 15.29 ~~subdivision 5;~~

15.30 ~~(4) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the~~
 15.31 ~~result of clause (3) by the product of one plus the competitive workforce factor in subdivision~~
 15.32 ~~5, paragraph (b), clause (1);~~

16.1 ~~(5) for a recipient requiring customization for deaf and hard-of-hearing language~~
 16.2 ~~accessibility under subdivision 12, add the customization rate provided in subdivision 12~~
 16.3 ~~to the result of clause (4);~~

16.4 ~~(6) multiply the number of shared and individual direct staff hours in clauses (1) and~~
 16.5 ~~(2) by the appropriate staff wages;~~

16.6 ~~(7) multiply the number of shared and individual direct staff hours in clauses (1) and~~
 16.7 ~~(2) by the product of the supervisory span of control ratio in subdivision 5, paragraph (b),~~
 16.8 ~~clause (2), and the appropriate supervisory wage in subdivision 5, paragraph (a), clause~~
 16.9 ~~(21);~~

16.10 ~~(8) combine the results of clauses (6) and (7) and multiply the result by one plus the~~
 16.11 ~~employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b), clause~~
 16.12 ~~(3). This is defined as the direct staffing cost;~~

16.13 ~~(9) for employee-related expenses, multiply the direct staffing cost by one plus the~~
 16.14 ~~employee-related cost ratio in subdivision 5, paragraph (b), clause (4); and~~

16.15 ~~(10) for client programming and supports, the commissioner shall add \$2,260.21 divided~~
 16.16 ~~by 365.~~

16.17 ~~(f) The total rate must be calculated as follows:~~

16.18 ~~(1) add the results of paragraph (e), clauses (9) and (10);~~

16.19 ~~(2) add the standard general and administrative rate, the program-related expense ratio,~~
 16.20 ~~and the absence and utilization factor ratio;~~

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

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

16.25 Subd. 6b. Payments for residential support services; customized living. ~~(g)~~ The
 16.26 payment methodology for customized living and 24-hour customized living services must
 16.27 be the customized living tool. The commissioner shall revise the customized living tool to
 16.28 reflect the services and activities unique to disability-related recipient needs and adjust for
 16.29 regional differences in the cost of providing services.

16.30 ~~(h) The number of days authorized for all individuals enrolling in residential services~~
 16.31 ~~must include every day that services start and end.~~

- 17.1 Subd. 7. **Payments for day programs.** Payments for services with day programs
17.2 including adult day services, day ~~treatment~~ training and habilitation, day support services,
17.3 prevocational services, and structured day services must be calculated as follows:
- 17.4 (1) determine the number of units of service and staffing ratio to meet a recipient's needs:
- 17.5 (i) the staffing ratios for the units of service provided to a recipient in a typical week
17.6 must be averaged to determine an individual's staffing ratio; and
- 17.7 (ii) the commissioner, in consultation with service providers, shall develop a uniform
17.8 staffing ratio worksheet to be used to determine staffing ratios under this subdivision;
- 17.9 (2) personnel hourly wage rates must be based on the ~~2009 Bureau of Labor Statistics~~
17.10 ~~Minnesota-specific rates or rates derived by the commissioner as provided in subdivision~~
17.11 5 base wage index;
- 17.12 (3) except for ~~subdivision 5, paragraph (a), clauses (4) and (21) to (23)~~ the hourly wage
17.13 rate for supervisory staff, registered nurse staff, and licensed practical nurse staff, multiply
17.14 the result of clause (2) by the product of one plus the service-appropriate competitive
17.15 workforce factor ~~in subdivision 5, paragraph (d), clause (1)~~;
- 17.16 (4) for a recipient requiring customization for deaf and hard-of-hearing language
17.17 accessibility under subdivision 12, add the customization rate provided in subdivision 12
17.18 to the result of clause (3);
- 17.19 (5) multiply the number of day program direct staff hours and nursing hours by the
17.20 appropriate staff wage;
- 17.21 (6) multiply the number of day direct staff hours by the product of the service-appropriate
17.22 supervision span of control ratio ~~in subdivision 5, paragraph (d), clause (2)~~, and the
17.23 appropriate ~~supervision~~ supervisory staff wage ~~in subdivision 5, paragraph (a), clause (21)~~;
- 17.24 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
17.25 service-appropriate employee vacation, sick, and training allowance ratio ~~in subdivision 5,~~
17.26 ~~paragraph (d), clause (3)~~. This is defined as the direct staffing rate;
- 17.27 (8) for program plan support, multiply the result of clause (7) by one plus the
17.28 service-appropriate program plan support ratio ~~in subdivision 5, paragraph (d), clause (5)~~;
- 17.29 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
17.30 service-appropriate employee-related cost ratio ~~in subdivision 5, paragraph (d), clause (4)~~;

18.1 (10) for client programming and supports, multiply the result of clause (9) by one plus
18.2 the service-appropriate client programming and support ratio ~~in subdivision 5, paragraph~~
18.3 ~~(d), clause (6)~~;

18.4 (11) for program facility costs, add \$19.30 per week with consideration of staffing ratios
18.5 to meet individual needs;

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

18.7 (13) this is the subtotal rate;

18.8 (14) sum the ~~standard~~ service-appropriate general and administrative rate, the support
18.9 ratio, program-related expense ratio, and the absence and utilization ~~factor~~ ratio;

18.10 (15) divide the result of clause (13) by one minus the result of clause (14). This is the
18.11 total payment amount;

18.12 (16) adjust the result of clause (15) by a factor to be determined by the commissioner
18.13 to adjust for regional differences in the cost of providing services;

18.14 (17) for transportation provided as part of day training and habilitation for an individual
18.15 who does not require a lift, add:

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

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

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

18.25 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
18.26 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
18.27 with a lift;

18.28 (18) for transportation provided as part of day training and habilitation for an individual
18.29 who does require a lift, add:

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

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

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

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

19.7 **Subd. 8. Payments for unit-based services with programming; generally.** For purposes
 19.8 of this subdivision and subdivision 8a, unit-based services with programming includes
 19.9 employment exploration services, employment development services, housing access
 19.10 coordination, individualized home supports with family training, individualized home
 19.11 supports with training, in-home family support, independent living skills training, and hourly
 19.12 supported living services provided to an individual outside of any day or residential service
 19.13 plan, unless the services are authorized separately under subdivisions 6 to 7.

19.14 **Subd. 8a. Payments for unit-based services with programming.** Payments for
 19.15 unit-based services with programming, including employment exploration services,
 19.16 employment development services, housing access coordination, individualized home
 19.17 supports with family training, individualized home supports with training, in-home family
 19.18 support, independent living skills training, and hourly supported living services provided
 19.19 to an individual outside of any day or residential service plan must be calculated as follows;
 19.20 ~~unless the services are authorized separately under subdivision 6 or 7:~~

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

19.22 (2) personnel hourly wage rate must be based on the ~~2009 Bureau of Labor Statistics~~
 19.23 ~~Minnesota-specific rates or rates derived by the commissioner as provided in subdivision~~
 19.24 ~~5 base wage index;~~

19.25 (3) except for ~~subdivision 5, paragraph (a), clauses (4) and (21) to (23)~~ the hourly wage
 19.26 rate for supervisory staff, registered nurse staff, and licensed practical nurse staff, multiply
 19.27 the result of clause (2) by the product of one plus the service-appropriate competitive
 19.28 workforce factor in subdivision 5, paragraph (f), clause (1);

19.29 (4) for a recipient requiring customization for deaf and hard-of-hearing language
 19.30 accessibility under subdivision 12, add the customization rate provided in subdivision 12
 19.31 to the result of clause (3);

19.32 (5) multiply the number of direct staff hours by the appropriate staff wage;

20.1 (6) multiply the number of direct staff hours by the product of the service-appropriate
 20.2 supervision span of control ratio ~~in subdivision 5, paragraph (f), clause (2)~~; and the
 20.3 appropriate ~~supervision~~ supervisory staff wage ~~in subdivision 5, paragraph (a), clause (21)~~;

20.4 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
 20.5 service-appropriate employee vacation, sick, and training allowance ratio ~~in subdivision 5,~~
 20.6 ~~paragraph (f), clause (3)~~. This is defined as the direct staffing rate;

20.7 (8) for program plan support, multiply the result of clause (7) by one plus the
 20.8 service-appropriate program plan supports ratio ~~in subdivision 5, paragraph (f), clause (5)~~;

20.9 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
 20.10 service-appropriate employee-related cost ratio ~~in subdivision 5, paragraph (f), clause (4)~~;

20.11 (10) for client programming and supports, multiply the result of clause (9) by one plus
 20.12 the service-appropriate client programming and ~~supports~~ support ratio ~~in subdivision 5,~~
 20.13 ~~paragraph (f), clause (6)~~;

20.14 (11) this is the subtotal rate;

20.15 (12) sum the ~~standard~~ service-appropriate general ~~and~~ administrative rate, the support
 20.16 ratio, program-related expense ratio, and ~~the~~ absence and utilization ~~factor~~ ratio;

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

20.19 (14) for employment exploration services provided in a shared manner, divide the total
 20.20 payment amount in clause (13) by the number of service recipients, not to exceed five. For
 20.21 employment support services provided in a shared manner, divide the total payment amount
 20.22 in clause (13) by the number of service recipients, not to exceed six. For independent living
 20.23 skills training, individualized home supports with training, and individualized home supports
 20.24 with family training provided in a shared manner, divide the total payment amount in clause
 20.25 (13) by the number of service recipients, not to exceed two; and

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

20.28 **Subd. 9. Payments for unit-based services without programming.** Payments for
 20.29 unit-based services without programming, including individualized home supports, night
 20.30 supervision, personal support, ~~respite~~, and companion care provided to an individual outside
 20.31 of any day or residential service plan must be calculated as follows unless the services are
 20.32 authorized separately under ~~subdivision~~ subdivisions 6 or 7:

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

21.3 (2) personnel hourly wage rates must be based on the ~~2009 Bureau of Labor Statistics~~
 21.4 ~~Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5~~
 21.5 base wage index;

21.6 (3) ~~except for subdivision 5, paragraph (a), clauses (4) and (21) to (23)~~ the hourly wage
 21.7 for supervisory staff, registered nurse staff, and licensed practical nurse staff, multiply the
 21.8 result of clause (2) by the product of one plus the service-appropriate competitive workforce
 21.9 factor ~~in subdivision 5, paragraph (g), clause (1)~~;

21.10 (4) for a recipient requiring customization for deaf and hard-of-hearing language
 21.11 accessibility under subdivision 12, add the customization rate provided in subdivision 12
 21.12 to the result of clause (3);

21.13 (5) multiply the number of direct staff hours by the appropriate staff wage;

21.14 (6) multiply the number of direct staff hours by the product of the service-appropriate
 21.15 supervision span of control ratio ~~in subdivision 5, paragraph (g), clause (2)~~, and the
 21.16 appropriate ~~supervision~~ supervisory staff wage ~~in subdivision 5, paragraph (a), clause (21)~~;

21.17 (7) combine the results of clauses (5) and (6), and multiply the result by one plus the
 21.18 service-appropriate employee vacation, sick, and training allowance ratio ~~in subdivision 5,~~
 21.19 ~~paragraph (g), clause (3)~~. This is defined as the direct staffing rate;

21.20 (8) for program plan support, multiply the result of clause (7) by one plus the
 21.21 service-appropriate program plan support ratio ~~in subdivision 5, paragraph (g), clause (5)~~;

21.22 (9) for employee-related expenses, multiply the result of clause (8) by one plus the
 21.23 service-appropriate employee-related cost ratio ~~in subdivision 5, paragraph (g), clause (4)~~;

21.24 (10) for client programming and supports, multiply the result of clause (9) by one plus
 21.25 the service-appropriate client programming and support ratio ~~in subdivision 5, paragraph~~
 21.26 ~~(g), clause (6)~~;

21.27 (11) this is the subtotal rate;

21.28 (12) sum the ~~standard~~ service-appropriate general and administrative rate, ~~the~~ support
 21.29 ratio, program-related expense ratio, and ~~the~~ absence and utilization ~~factor~~ ratio;

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

- 22.1 ~~(14) for respite services, determine the number of day units of service to meet an~~
22.2 ~~individual's needs;~~
- 22.3 ~~(15) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics~~
22.4 ~~Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;~~
- 22.5 ~~(16) except for subdivision 5, paragraph (a), clauses (4) and (21) to (23), multiply the~~
22.6 ~~result of clause (15) by the product of one plus the competitive workforce factor in~~
22.7 ~~subdivision 5, paragraph (h), clause (1);~~
- 22.8 ~~(17) for a recipient requiring deaf and hard-of-hearing customization under subdivision~~
22.9 ~~12, add the customization rate provided in subdivision 12 to the result of clause (16);~~
- 22.10 ~~(18) multiply the number of direct staff hours by the appropriate staff wage;~~
- 22.11 ~~(19) multiply the number of direct staff hours by the product of the supervisory span of~~
22.12 ~~control ratio in subdivision 5, paragraph (h), clause (2), and the appropriate supervision~~
22.13 ~~wage in subdivision 5, paragraph (a), clause (21);~~
- 22.14 ~~(20) combine the results of clauses (18) and (19), and multiply the result by one plus~~
22.15 ~~the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (h),~~
22.16 ~~clause (3). This is defined as the direct staffing rate;~~
- 22.17 ~~(21) for employee-related expenses, multiply the result of clause (20) by one plus the~~
22.18 ~~employee-related cost ratio in subdivision 5, paragraph (h), clause (4);~~
- 22.19 ~~(22) this is the subtotal rate;~~
- 22.20 ~~(23) sum the standard general and administrative rate, the program-related expense ratio,~~
22.21 ~~and the absence and utilization factor ratio;~~
- 22.22 ~~(24) divide the result of clause (22) by one minus the result of clause (23). This is the~~
22.23 ~~total payment amount;~~
- 22.24 ~~(25) (14) for individualized home supports provided in a shared manner, divide the total~~
22.25 ~~payment amount in clause (13) by the number of service recipients, not to exceed two; and~~
- 22.26 ~~(26) for respite care services provided in a shared manner, divide the total payment~~
22.27 ~~amount in clause (24) by the number of service recipients, not to exceed three; and~~
- 22.28 ~~(27) (15) adjust the result of clauses (13), (25), and (26) clause (14) by a factor to be~~
22.29 ~~determined by the commissioner to adjust for regional differences in the cost of providing~~
22.30 ~~services.~~

23.1 Subd. 10. **Updating payment values and additional information.** (a) The commissioner
 23.2 shall, within available resources, conduct research and gather data and information from
 23.3 existing state systems or other outside sources on the following items:

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

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

23.8 (3) the distinct underlying costs for services provided by a license holder under sections
 23.9 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
 23.10 by a license holder certified under section 245D.33.

23.11 (b) No later than July 1, 2014, the commissioner, in consultation with stakeholders, shall
 23.12 begin the review and evaluation of the following values already in subdivisions ~~6~~ 5 to 9, or
 23.13 issues that impact all services, including, but not limited to:

23.14 (1) values for transportation rates;

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

23.16 (3) values for indirect services;

23.17 (4) values for nursing;

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

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

23.21 (7) values for unemployment insurance as part of employee-related expenses;

23.22 (8) direct care workforce labor market measures;

23.23 (9) any changes in state or federal law with a direct impact on the underlying cost of
 23.24 providing home and community-based services;

23.25 (10) outcome measures, determined by the commissioner, for home and community-based
 23.26 services rates determined under this section; and

23.27 (11) different competitive workforce factors by service, ~~as determined under subdivision~~
 23.28 ~~5, paragraph (j).~~

23.29 (c) The commissioner shall report to the chairs and the ranking minority members of
 23.30 the legislative committees and divisions with jurisdiction over health and human services

24.1 policy and finance with the information and data gathered under paragraphs (a) and (b) on
24.2 January 15, 2021, with a full report, and a full report once every four years thereafter.

24.3 (d) Beginning July 1, 2022, the commissioner shall renew analysis and implement
24.4 changes to the regional adjustment factors once every six years. Prior to implementation,
24.5 the commissioner shall consult with stakeholders on the methodology to calculate the
24.6 adjustment.

24.7 (e) The commissioner shall provide a public notice via LISTSERV in October of each
24.8 year containing information detailing legislatively approved changes in:

24.9 (1) calculation values including derived wage rates and related employee and
24.10 administrative factors;

24.11 (2) service utilization;

24.12 (3) county and tribal allocation changes; and

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

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

24.16 (f) When the available shared staffing hours in a residential setting are insufficient to
24.17 meet the needs of an individual who enrolled in residential services after January 1, 2014,
24.18 then individual staffing hours shall be used.

24.19 (g) The commissioner shall collect transportation and trip information for all day services
24.20 through the rates management system.

24.21 (h) The commissioner, in consultation with stakeholders, shall study value-based models
24.22 and outcome-based payment strategies for fee-for-service home and community-based
24.23 services and report to the legislative committees with jurisdiction over the disability waiver
24.24 rate system by October 1, 2020, with recommended strategies to: (1) promote new models
24.25 of care, services, and reimbursement structures that require more efficient use of public
24.26 dollars while improving the outcomes most valued by the individuals served; (2) assist
24.27 clients and their families in evaluating options and stretching individual budget funds; (3)
24.28 support individualized, person-centered planning and individual budget choices; and (4)
24.29 create a broader range of client options geographically or targeted at culturally competent
24.30 models for racial and ethnic minority groups.

24.31 Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure
24.32 that wage values and component values in subdivisions 5 to 9 reflect the cost to provide the

25.1 service. As determined by the commissioner, in consultation with stakeholders identified
25.2 in subdivision 17, a provider enrolled to provide services with rates determined under this
25.3 section must submit requested cost data to the commissioner to support research on the cost
25.4 of providing services that have rates determined by the disability waiver rates system.

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

25.6 (1) worker wage costs;

25.7 (2) benefits paid;

25.8 (3) supervisor wage costs;

25.9 (4) executive wage costs;

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

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

25.12 (7) administrative costs paid;

25.13 (8) program costs paid;

25.14 (9) transportation costs paid;

25.15 (10) vacancy rates; and

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

25.18 (b) At least once in any five-year period, a provider must submit cost data for a fiscal
25.19 year that ended not more than 18 months prior to the submission date. The commissioner
25.20 shall provide each provider a 90-day notice prior to its submission due date. If a provider
25.21 fails to submit required reporting data, the commissioner shall provide notice to providers
25.22 that have not provided required data 30 days after the required submission date, and a second
25.23 notice for providers who have not provided required data 60 days after the required
25.24 submission date. The commissioner shall temporarily suspend payments to the provider if
25.25 cost data is not received 90 days after the required submission date. Withheld payments
25.26 shall be made once data is received by the commissioner.

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

25.30 (d) The commissioner shall analyze cost documentation in paragraph (a) and, in
25.31 consultation with stakeholders identified in subdivision 17, may submit recommendations

26.1 on component values and inflationary factor adjustments to the chairs and ranking minority
26.2 members of the legislative committees with jurisdiction over human services every four
26.3 years beginning January 1, 2021. The commissioner shall make recommendations in
26.4 conjunction with reports submitted to the legislature according to subdivision 10, paragraph
26.5 (c). The commissioner shall release cost data in an aggregate form, and cost data from
26.6 individual providers shall not be released except as provided for in current law.

26.7 (e) The commissioner, in consultation with stakeholders identified in subdivision 17,
26.8 shall develop and implement a process for providing training and technical assistance
26.9 necessary to support provider submission of cost documentation required under paragraph
26.10 (a).

26.11 (f) By December 31, 2020, providers paid with rates calculated under subdivision 5,
26.12 ~~paragraph (b)~~ 5a, shall identify additional revenues from the competitive workforce factor
26.13 and prepare a written distribution plan for the revenues. A provider shall make the provider's
26.14 distribution plan available and accessible to all direct care staff for a minimum of one
26.15 calendar year. Upon request, a provider shall submit the written distribution plan to the
26.16 commissioner.

26.17 (g) Providers enrolled to provide services with rates determined under section 256B.4914,
26.18 subdivision 3, shall submit labor market data to the commissioner annually on or before
26.19 November 1, including but not limited to:

- 26.20 (1) number of direct care staff;
- 26.21 (2) wages of direct care staff;
- 26.22 (3) overtime wages of direct care staff;
- 26.23 (4) hours worked by direct care staff;
- 26.24 (5) overtime hours worked by direct care staff;
- 26.25 (6) benefits provided to direct care staff;
- 26.26 (7) direct care staff job vacancies; and
- 26.27 (8) direct care staff retention rates.

26.28 (h) The commissioner shall publish annual reports on provider and state-level labor
26.29 market data, including but not limited to the data obtained under paragraph (g).

26.30 (i) The commissioner may temporarily suspend payments to the provider if data requested
26.31 under paragraph (g) is not received 90 days after the required submission date. Withheld
26.32 payments shall be made once data is received by the commissioner.

27.1 (j) Providers who receive payment under this section for less than 25 percent of their
27.2 clients in the year prior to the report may attest to the commissioner in a manner determined
27.3 by the commissioner that they are declining to provide the data required under paragraph
27.4 (g) and will not be subject to the payment suspension in paragraph (i).

27.5 Subd. 11. **Payment implementation.** Upon implementation of the payment
27.6 methodologies under this section, those payment rates supersede rates established in county
27.7 contracts for recipients receiving waiver services under section 256B.092 or 256B.49.

27.8 Subd. 12. **Customization of rates for individuals.** (a) For persons determined to have
27.9 higher needs based on being deaf or hard-of-hearing, the direct-care costs must be increased
27.10 by an adjustment factor ~~prior to calculating the rate under subdivisions 6, 7, 8, and 9.~~ The
27.11 customization rate with respect to deaf or hard-of-hearing persons shall be \$2.50 per hour
27.12 for waiver recipients who meet the respective criteria as determined by the commissioner.

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

27.14 (1) the person has a developmental disability and an assessment score which indicates
27.15 a hearing impairment that is severe or that the person has no useful hearing;

27.16 (2) the person has a developmental disability and an expressive communications score
27.17 that indicates the person uses single signs or gestures, uses an augmentative communication
27.18 aid, or does not have functional communication, or the person's expressive communications
27.19 is unknown; and

27.20 (3) the person has a developmental disability and a communication score which indicates
27.21 the person comprehends signs, gestures, and modeling prompts or does not comprehend
27.22 verbal, visual, or gestural communication, or that the person's receptive communication
27.23 score is unknown; or

27.24 (4) the person receives long-term care services and has an assessment score that indicates
27.25 they hear only very loud sounds, have no useful hearing, or a determination cannot be made;
27.26 and the person receives long-term care services and has an assessment that indicates the
27.27 person communicates needs with sign language, symbol board, written messages, gestures,
27.28 or an interpreter; communicates with inappropriate content, makes garbled sounds or displays
27.29 echolalia, or does not communicate needs.

27.30 Subd. 13. **Transportation.** The commissioner shall require that the purchase of
27.31 transportation services be cost-effective and be limited to market rates where the
27.32 transportation mode is generally available and accessible.

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

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

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

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

28.13 (2) an individual's rate determined under ~~subdivisions 6, 7, 8, and 9~~ this section is so
28.14 insufficient that it has resulted in an individual receiving a notice of discharge from the
28.15 individual's provider; or

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

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

28.20 (1) the service needs required by each individual that are not accounted for in ~~subdivisions~~
28.21 ~~6, 7, 8, and 9~~ this section;

28.22 (2) the service rate requested and the difference from the rate determined in ~~subdivisions~~
28.23 ~~6, 7, 8, and 9~~ under this section;

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

28.26 (4) any contingencies for approval.

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

28.29 (f) Individual disability waiver recipients, an interested party, or the license holder that
28.30 would receive the rate exception increase may request that a lead agency submit an exception
28.31 request. A lead agency that denies such a request shall notify the individual waiver recipient,
28.32 interested party, or license holder of its decision and the reasons for denying the request in

29.1 writing no later than 30 days after the request has been made and shall submit its denial to
29.2 the commissioner in accordance with paragraph (b). The reasons for the denial must be
29.3 based on the failure to meet the criteria in paragraph (c).

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

29.8 (h) The individual disability waiver recipient may appeal any denial of an exception
29.9 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
29.10 256.0451. When the denial of an exception request results in the proposed demission of a
29.11 waiver recipient from a residential or day habilitation program, the commissioner shall issue
29.12 a temporary stay of demission, when requested by the disability waiver recipient, consistent
29.13 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
29.14 stay shall remain in effect until the lead agency can provide an informed choice of
29.15 appropriate, alternative services to the disability waiver.

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

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

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

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

29.27 **Subd. 15. County or tribal allocations.** (a) The commissioner shall establish a method
29.28 of tracking and reporting the fiscal impact of the disability waiver rates management system
29.29 on individual lead agencies.

29.30 (b) The commissioner shall make annual adjustments to lead agencies' home and
29.31 community-based waived service budget allocations to adjust for rate differences and the
29.32 resulting impact on county allocations upon implementation of the disability waiver rates
29.33 system.

30.1 (c) Lead agencies exceeding their allocations shall be subject to the provisions under
30.2 sections 256B.0916, subdivision 11, and 256B.49, subdivision 26.

30.3 Subd. 17. **Stakeholder consultation and county training.** (a) The commissioner shall
30.4 continue consultation at regular intervals with the existing stakeholder group established
30.5 as part of the rate-setting methodology process and others, to gather input, concerns, and
30.6 data, to assist in the implementation of the rate payment system, and to make pertinent
30.7 information available to the public through the department's website.

30.8 (b) The commissioner shall offer training at least annually for county personnel
30.9 responsible for administering the rate-setting framework in a manner consistent with this
30.10 section.

30.11 (c) The commissioner shall maintain an online instruction manual explaining the
30.12 rate-setting framework. The manual shall be consistent with this section, and shall be
30.13 accessible to all stakeholders including recipients, representatives of recipients, county or
30.14 tribal agencies, and license holders.

30.15 (d) The commissioner shall not defer to the county or tribal agency on matters of technical
30.16 application of the rate-setting framework, and a county or tribal agency shall not set rates
30.17 in a manner that conflicts with this section.

30.18 **EFFECTIVE DATE.** This section is effective January 1, 2021, or upon federal approval,
30.19 whichever is later. The commissioner of human services must notify the revisor of statutes
30.20 when federal approval is obtained.