

1.1 A bill for an act

1.2 relating to human services; eliminating the customized living rate cap; amending  
1.3 Minnesota Statutes 2008, section 256B.0915, subdivision 3e.

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

1.5 Section 1. Minnesota Statutes 2008, section 256B.0915, subdivision 3e, is amended to  
1.6 read:

1.7 Subd. 3e. **Customized living service rate.** (a) Payment for customized living  
1.8 services shall be a monthly rate negotiated and authorized by the lead agency within the  
1.9 parameters established by the commissioner. The payment agreement must delineate the  
1.10 services that have been customized for each recipient and specify the amount of each  
1.11 service to be provided. The lead agency shall ensure that there is a documented need for  
1.12 all services authorized. Customized living services must not include rent or raw food  
1.13 costs. The negotiated payment rate must be based on services to be provided. Negotiated  
1.14 rates must not exceed payment rates for comparable elderly waiver or medical assistance  
1.15 services and must reflect economies of scale.

1.16 (b) The individualized monthly negotiated payment for customized living services  
1.17 shall not exceed ~~the nonfederal share, in effect on July 1 of the state fiscal year for~~  
1.18 ~~which the rate limit is being calculated, of the greater of either the statewide or any~~  
1.19 ~~of the geographic groups' weighted average monthly nursing facility rate of the case~~  
1.20 ~~mix resident class to which the elderly waiver eligible client would be assigned under~~  
1.21 ~~Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance~~  
1.22 ~~as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in~~  
1.23 ~~which the resident assessment system as described in section 256B.438 for nursing~~  
1.24 ~~home rate determination is implemented. Effective on July 1 of the state fiscal year in~~

2.1 ~~which the resident assessment system as described in section 256B.438 for nursing~~  
2.2 ~~home rate determination is implemented and July 1 of each subsequent state fiscal year,~~  
2.3 ~~the individualized monthly negotiated payment for the services described in this clause~~  
2.4 ~~shall not exceed the limit described in this clause which was in effect on June 30 of the~~  
2.5 ~~previous state fiscal year and which has been adjusted by the greater of any legislatively~~  
2.6 ~~adopted home and community-based services cost-of-living percentage increase or any~~  
2.7 ~~legislatively adopted statewide percent rate increase for nursing facilities. the elderly~~  
2.8 waiver cost limits described in subdivision 3a. The individualized monthly negotiated  
2.9 payment for customized services must be determined by the lead agency based on the  
2.10 needs of the client as determined by the long-term care consultation assessment and the  
2.11 resulting authorized services. The individually negotiated customized living payments,  
2.12 in combination with the payment for other elderly waiver services, including case  
2.13 management, must not exceed the elderly waiver cost limits described in subdivision 3a.

2.14 (c) Subject to the requirements of this section, customized living services and  
2.15 24-hour customized living services include incidental nursing services that are provided  
2.16 directly by a licensed nurse under a class A or class F home care license issued under  
2.17 Minnesota Rules, chapter 4668, and that are not eligible to be covered by Medicare. For  
2.18 purposes of this paragraph, "incidental nursing services" means medication set-ups, the  
2.19 drawing up of insulin, injections, diabetic foot care, catheter insertion, monitoring of blood  
2.20 tests for therapeutic treatments, and any other service identified by the commissioner  
2.21 of human services. If the commissioner determines that incidental nursing services, as  
2.22 defined, are not permitted under the terms of the federally approved elderly home and  
2.23 community-based services waiver, the commissioner shall apply to amend the waiver to  
2.24 permit coverage of the services within customized living and 24-hour customized living.

2.25 (d) Customized living services are delivered by a provider licensed by the  
2.26 Department of Health as a class A or class F home care provider and provided in a  
2.27 building that is registered as a housing with services establishment under chapter 144D.