

## S.F. No. 7 – Caregivers Stabilization Act of 2023

**Author:** Senator John A. Hoffman

**Prepared by:** Liam Monahan, Legislative Analyst (651/296-1791)

**Date:** January 9, 2023

---

### Article 1 – Title

**Article 1** provides a title for the bill.

### Article 2 – Disability Waivers

**Article 2** contains six proposed changes to the rates and policies under the four medical assistance home and community-based disability waivers.

#### **Homemaker service –**

Section 1 (**256B.4912, subdivision 16**) requires the commissioner to establish rates for various homemaker services that are equal to the corresponding homemaker service rates established under the elderly waiver rate framework as amended in Article 3.

#### **Respite services –**

Sections 2 (**256B.4914, subdivision 3**), 5 (**256B.4914, subdivision 5a, clause (18)**), and 22 (**Repealer**) remove respite services from the disability waiver rate system, thereby authorizing the commissioner to pay a market rate for respite services. Sections 3, 6, 13, 14, 16, and 17 contain conforming changes.

#### **Employment exploration services –**

Section 5 (**245B.4914, subdivision 5a, clause (14)**) modifies the base wage for employment exploration services to equal the base wage for employment support services.

#### **DWRS framework adjustments –**

Sections 4, 6 through 10, and 15 modify the existing dates and data used for scheduled updates to the base wages and the component values and establish scheduled updates to the competitive workforce factor.

Section 4 (**256B.4914, subdivision 5**) modifies the timing of future scheduled updates to the disability waiver rate setting framework's base wage index. The next scheduled update is moved forward ten months to January 1, 2024. Subsequent updates will be every two years.

Section 6 (**256B.4914, subdivision 5b**) modifies the timing of future scheduled inflation adjustments to select component values of the disability waiver rate setting framework. The next scheduled adjustment is moved forward ten months to January 1, 2024. Subsequent updates will be every two years.

Section 7 (**256B.4914, subdivision 5c**) makes a conforming change.

Section 8 (**256B.4914, subdivision 5d**) makes a conforming change.

Section 9 (**256B.subdivision 5e**) modifies the existing spending requirements for providers receiving rate increases determined by the disability waiver rate setting framework by removing the limitation that the spending requirements apply only to revenue increases realized before April 1, 2024. Under existing law, the requirement to spend at least 80 percent of increased revenue resulting from rate increases on compensation-related costs expires on March 31, 2024.

Section 10 [**256B.4914, subdivision 5f**] establishes a new biennial update to the disability waiver rate setting framework's competitive workforce factor, beginning on January 1, 2024. This section also restricts the size of any biennial decrease in the CWF and ensures that the CWF is never negative.

Section 15 (**256B.4914, subdivision 10c**) modifies the existing requirement that the commissioner of human services submit a biennial report on the CWF to the legislature by removing the requirement that the report contain recommendations concerning updating the CWF.

**Customized living rates under the BI and CADI waivers –**

Section 18 (**256S.2101, subdivision 1**) modifies the phase-in of new rates for customized living provided under the brain injury (BI) and community access for disability inclusion (CADI) waivers. The rates for customized living under these waivers are determined according to the elderly waiver (EW) methodology, not the disability waiver rate setting methodology. Current EW rates are a blend of a recently enacted elderly waiver framework rate and the older commissioner-established rates. The amendments in this section mirror the amendments in Article 3 related to elderly waiver customized living and, if both provisions were enacted, would align the rates for all customized living services.

**Shared services –**

Sections 11 (**256B.4914, subdivision 8, paragraph (d), clause (14), item (iii)**) and 12 (**256B.4914, subdivision 9, paragraph (d), clause (14), item (iii)**) increase from two to three the number of recipients who may share individualized home supports with training, individualized home supports with family training, or individualized home support without training.

Section 19 (**Direction to the commissioner**) requires the commissioner to establish rates for shared homemaker and chore services provided under the disability waivers.

Section 20 (**Direction to the commissioner**) requires the commissioner to seek federal approval to expand the permissible use of shared services under the disability waivers and to disseminate additional guidance consistent with the federal approvals.

**Life-sharing services –**

Section 21 (**Direction to the commissioner**) requires the commissioner to develop recommendations for establishing life-sharing as a covered medical assistance disability waiver service.

## Article 3 – Elderly Waiver

**Article 3** contains six proposed changes to the rates and policy under the elderly waiver and alternative care.

### **CDCS alignment –**

Sections 1 through 5 and 18 eliminate the different treatment of the service limits and budget caps for elderly waiver recipients who do and do not utilize the consumer directed community support option.

Section 1 (**256B.0913, subdivision 4**) specifies the monthly service limit for individuals participating in consumer-directed community supports (CDCS) under alternative care.

Section 2 (**256B.0913, subdivision 5**) makes a conforming change related to the monthly service limits for individuals participating in CDCS under alternative care.

Section 3 (**256S.15, subdivision 2**) makes a conforming cross-reference change.

Section 4 [**256S.18, subdivision 3a**] modifies case mix budget caps for CDCS under the elderly waiver payment methodology.

Section 5 (**256S.19, subdivision 3**) conforms the methodology for determining a conversion budget cap for individuals participating in CDCS under the elderly waiver to the methodology for individuals not participating in CDCS.

Section 18 (**Repealer**) repeals section 256S.19, subdivision 4, which is an alternative methodology for determining a monthly conversion budget cap for individuals participating in CDCS.

### **EW rate floor for disproportionate share facilities –**

Section 6 (**256S.205, subdivision 3**) lowers the threshold for qualifying as a disproportionate share facility.

Section 7 (**256S.205, subdivision 5**) increases the customized living rate floor for elderly waiver participants in a disproportionate share facility by \$20 per resident day.

### **Elderly waiver rate framework implementation –**

Section 8 (**256S.2101, subdivision 1**) increases the phase-in proportion of the elderly waiver framework enacted in 2017. For the elderly waiver the proportion is increased by 2.8 percentage points. NOTE: The underlying framework is also amended in this bill.

Section 9 [**256S.2101, subdivision 3**] requires elderly waiver service providers to use 80 percent of their increased revenue resulting from the implementation of the modifications to rates in this Article, as well as future modifications, to increase their compensation related costs.

Section 10 [**256S.2101, subdivision 4**] establishes an alternative phase-in proportion for home-delivered meals under elderly waiver, alternative care, and essential community supports.

### **Homemaker services –**

Section 11 [**256S.2101, subdivision 5**] exempts elderly waiver homemaker rates from the elderly waiver framework implementation phase-in, thereby setting homemaker rates at the framework rates, as amended in this bill.

Section 17 (**Revisor Instruction**) requires the Revisor of Statutes to modify statutory terminology related to homemaker services.

### **Elderly waiver rate framework modifications –**

Sections 12 through 15 and 18 modify the elderly waiver rate framework. The modifications in these sections are based in part on recommendations from a 2019 DHS report ([DHS-7850-ENG 01-19](#)).

Section 12 (**256S.212**) modifies base wage calculations for various positions and establishes a base wage calculation for adult day services under the elderly waiver payment rate methodology.

[**subdivision 1a, paragraph (a)**] establishes a method for automatic biennial updates to the base wage index, and **paragraph (b)** applies the newly established method for automatic updates to homemaker services only.

Section 13 (**256B.213**) modifies the elderly waiver rate framework by: modifying the general and administrative factor; modifying the program plan support factor; modifying terminology regarding the supervision factors; establishing a facility and equipment factor; establishing a food, supplies, and transportation factor for adult day services; establishing a supplies and transportation factor; and establishing an absence factor.

Section 14 (**256S.214**) modifies the adjusted base wage calculation under the elderly waiver payment rate methodology.

Section 15 (**256S.215**) modifies various component rate calculations under the elderly waiver payment rate methodology.

**Shared services –**

Section 16 (**Direction to the commissioner**) requires the commissioner to establish rates for shared homemaker and chore services provided under the elderly waiver.

#### **Article 4 – Home Care**

**Article 4** contains five proposed rate and policy modifications to various home care services.

**PCA driving –**

Section 1 (**256B.0659, subdivision 1, paragraph (i)**) allows a PCA to bill medical assistance for the time the PCA spends driving a recipient. Current law allows a PCA to bill medical assistance for the time the PCA spending traveling with a recipient, but not if the PCA is driving the recipient.

Section 2 (**256B.0659, subdivision 12, paragraph (c), clause (10)**) establishes new PCA time sheet documentation requirements related to a PCA traveling with or driving a recipient of personal care assistance services.

Section 4 (**256B.0659, subdivision 19, paragraph (a), clause (8)**) specifies that under the PCA Choice program, the recipient must ensure that a PCA who is driving the recipient has a valid driver license and that the car being driven has valid insurance.

Section 5 (**256b.0659, subdivision 24, clause (17)**) specifies that under the traditional PCA program, the provider agency must ensure that the PCA who is driving a recipient has a valid driver's license and that the car being driven has valid insurance.

**Increased enhanced PCA and enhanced CFSS rates –**

Section 3 (**256B.0659, subdivision 17a**) increases the enhanced PCA rate from 107.5 percent of the standard PCA rate to 143 percent.

Section 8 (**256B.85, subdivision 7a**) increases the enhanced CFSS rate from 107.5 percent of the standard CFSS rate to 143 percent.

Section 11 (**PCA enhanced rate for persons using CDCS**) modifies the annual budgets of CDCS users to accommodate the increase in the rate adjustment for enhanced PCA.

**Personal assistance services provided by parents and spouses under the CDCS option and CFSS services provided by parents and spouses –**

Section 6 [256B.4911, subdivision 6] increases the total number of hours in a week for which parents of a minor or a spouse may be paid to provide personal assistance services under CDCS from 40 total hours to 80 hours when more than one parent is providing service (provided no single parent provides more than 40 hours), 60 hours when only one parent is providing service, and 60 hours for a spouse.

Section 7 (256B.85, subdivision 7) makes a conforming change.

Section 9 [256B.85, subdivision 7b] increases the total number of hours in a week for which parents of a minor or a spouse may be paid to provide community first services and supports from 40 total hours to 80 hours when more than one parent is providing service (provided no single parent provides more than 40 hours), 60 hours when only one parent is providing service, and 60 hours for a spouse.

**PCA and CFSS rate modifications –**

Section 10 (256B.851, subdivision 5) modifies PCA and CFSS rates by an unspecified amount.

**Rate increases for certain home care services –**

Section 12 (Rate increase for certain home care services) increases rates for home health agency services and home care nursing and requires providers to use at least 80 percent of their increased revenue resulting from the rate increase on compensation-related costs.

**Article 5 – Nursing Facilities**

**Article 5** contains three proposals related to nursing facility rates.

**Recategorize certain labor costs –**

Sections 1 through 4 and 6 through 10 recategorize certain labor costs from other operating costs to other care-related costs. The effect of this recategorization is that the labor costs associated with food service, housekeeping services, laundry services, and maintenance are reimbursed at cost unless the facility's total care related costs exceed the facility's care-related limit.

**Establishing a known cost change factor –**

Sections 5 and 11 through 14 establish a known cost change factor designed to account for the change in facility costs between the time a cost is incurred by the facility and the time the facility is reimbursed for that expenditure through its reimbursement rate. The known cost change factor is equal to the estimated change in the CPI-U index between July 1 of the year in which the facility incurs a cost and July 1 of the year in which the facility is reimbursed for the previously incurred cost.

**Temporary rate add-on –**

Section 15 establishes an immediate temporary rate add-on to nursing facility rates equal to \$28.65 per resident day.

**Article 6 – Intermediate Care Facilities**

**Article 6** contains two proposals related to rates for ICF/DDs.

**ICF/DD rate increases –** Section 1 increases rates for ICF/DDs.

**ICF/DD rate floor –** Sections 2 and 4 establish, after the application of the rate increases in section 1, rate floors for each type of ICF/DD.

## **Article 7 – Emergency and Nonemergency Medical Transportation**

**Article 7** contains two proposals related to emergency and nonemergency medical transportation.

**NEMT rate increases** – Section 1 increases rates for certain forms of nonemergency medical transportation.

**NEMT and ambulance service fuel adjustments** – Sections 1 and 2 establish a monthly fuel adjustor for NEMT and ambulance service payment rates.

## **Article 8 – Residential Setting Closure Prevention Grants**

**Article 8** establishes a residential setting closure prevention grant program.

## **Article 9 – Expansion of the Emergency Staffing Pool**

**Article 9** expands who is eligible to seeks assistance from the emergency staffing pool to include providers of and certain recipients of home and community-based services.

## **Article 10 – Family Assets for Independence**

**Article 10** makes various policy changes to the family assets for independence program.