

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 401

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DATE	D-PG	OFFICIAL STATUS
01/21/2025	129	Introduction and first reading Referred to Human Services

1.1A bill for an act

1.2relating to human services; modifying policies related to establishing rates for

1.3home and community-based waiver services; increasing room and board rates for

1.4certain individuals receiving home and community-based services; amending

1.5Minnesota Statutes 2024, sections 256B.4914, subdivisions 4, 14, 17; 256I.05,

1.6subdivision 1c.

1.7BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8Section 1. Minnesota Statutes 2024, section 256B.4914, subdivision 4, is amended to read:

1.9Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and

1.10community-based waived services, including customized rates under subdivision 12, are

1.11set by the rates management system.

1.12(b) Data and information in the rates management system must be used to calculate an

1.13individual's rate.

1.14(c) Service providers, with information from the support plan and oversight by lead

1.15agencies, shall provide values and information needed to calculate an individual's rate in

1.16the rates management system. Lead agencies must use forms provided by the commissioner

1.17to collect this information. The determination of service levels must be part of a discussion

1.18with members of the support team as defined in section 245D.02, subdivision 34. This

1.19discussion must occur prior to the final establishment of each individual's rate. The values

1.20and information include:

1.21(1) shared staffing hours;

1.22(2) individual staffing hours;

1.23(3) direct registered nurse hours;

- 2.1 (4) direct licensed practical nurse hours;
- 2.2 (5) staffing ratios;
- 2.3 (6) information to document variable levels of service qualification for variable levels
- 2.4 of reimbursement in each framework;
- 2.5 (7) shared or individualized arrangements for unit-based services, including the staffing
- 2.6 ratio;
- 2.7 (8) number of trips and miles for transportation services; and
- 2.8 (9) service hours provided through monitoring technology.
- 2.9 (d) Updates to individual data must include:
- 2.10 (1) data for each individual that is updated annually when renewing service plans; and
- 2.11 (2) requests by individuals or lead agencies to update a rate whenever there is a change
- 2.12 in an individual's service needs, with accompanying documentation.
- 2.13 (e) Within 30 business days of receiving from a service provider the values and
- 2.14 information specified in paragraph (c), lead agencies shall review and approve (1) all services
- 2.15 reflecting each individual's needs; and (2) the values to calculate the final payment rate for
- 2.16 services with variables under subdivisions 6 to 9 for each individual. If the lead agency fails
- 2.17 to approve a final payment rate for services within 30 business days of receiving the values
- 2.18 and information specified in paragraph (c), the lead agency must pay a late payment penalty
- 2.19 from the lead agency's own sources of revenue. The late payment penalty is equal to ten
- 2.20 percent of the total final payment rate for the service prorated as necessary from the end of
- 2.21 the 30-business-day service authorization approval period to the date the service provider
- 2.22 is notified of the final payment rate for the approved services.
- 2.23 (f) Lead agencies must notify the individual and the service provider of the final
- 2.24 agreed-upon values and rate, and provide information that is identical to what was entered
- 2.25 into the rates management system. If a value used was mistakenly or erroneously entered
- 2.26 and used to calculate a rate, a provider may petition lead agencies to correct it. Lead agencies
- 2.27 must respond to these requests. When responding to the request, the lead agency must
- 2.28 consider:
- 2.29 (1) meeting the health and welfare needs of the individual or individuals receiving
- 2.30 services by service site, identified in their support plan under section 245D.02, subdivision
- 2.31 4b, and any addendum under section 245D.02, subdivision 4c;

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

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

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 2. Minnesota Statutes 2024, section 256B.4914, subdivision 14, is amended to read:

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

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

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

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

(2) an individual's rate determined under subdivisions 6 to 9 is so insufficient that it has resulted in an individual receiving a notice of discharge from the individual's provider; or

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

(d) Exception requests must include the following information:

(1) the service needs required by each individual that are not accounted for in subdivisions 6 to 9;

(2) the service rate requested and the difference from the rate determined in subdivisions 6 to 9;

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

4.1 (4) any contingencies for approval.

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

4.4 (f) Individual disability waiver recipients, an interested party, or the license holder that
4.5 would receive the rate exception increase may request that a lead agency submit an exception
4.6 request. A lead agency that denies such a request shall notify the individual waiver recipient,
4.7 interested party, or license holder of its decision and the reasons for denying the request in
4.8 writing no later than 30 days after the request has been made and shall submit its denial to
4.9 the commissioner in accordance with paragraph (b). The reasons for the denial must be
4.10 based on the failure to meet the criteria in paragraph (c).

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

4.15 (h) The individual disability waiver recipient may appeal any denial of an exception
4.16 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
4.17 256.0451. When the denial of an exception request results in the proposed demission of a
4.18 waiver recipient from a residential or day habilitation program, the commissioner shall issue
4.19 a temporary stay of demission, when requested by the disability waiver recipient, consistent
4.20 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
4.21 stay shall remain in effect until the lead agency can provide an informed choice of
4.22 appropriate, alternative services to the disability waiver.

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

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

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

4.32 (l) Approved rate exceptions remain in effect in all cases until an individual's needs
4.33 change as defined in paragraph (c). Notwithstanding a change in an individual's service

needs, an approved rate exception must remain in effect in all cases if the individual's interdisciplinary team as defined in Minnesota Rules, part 9525.0004, subpart 14, determines that removing the rate exception would have a negative impact on the individual's well-being.

(m) Rates determined under subdivision 19 are ineligible for rate exceptions.

EFFECTIVE DATE. This section is effective July 1, 2025, or upon federal approval, whichever is later. The commissioner of human services shall inform the revisor of statutes when federal approval is obtained.

Sec. 3. Minnesota Statutes 2024, section 256B.4914, subdivision 17, is amended to read:

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

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

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

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

(e) The commissioner must consult with existing stakeholder groups as required under this subdivision to periodically review, update, and revise the format by which initiators of rate exception requests and lead agencies collect and submit information about individuals with exceptional needs under subdivision 14.

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 4. Minnesota Statutes 2024, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing support above those in effect on June 30, 1993, except as provided in paragraphs (a) to ~~(f)~~ (g).

(a) An agency may increase the rates for room and board to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) An agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total housing support rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) An agency must increase the room and board rates each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) An agency may increase the rates for residents in facilities meeting substantial change criteria within the prior year. Substantial change criteria exist if the establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(e) Until June 30, 1994, an agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to 9549.0058.

(f) Notwithstanding the provisions of subdivision 1, an agency may increase the monthly room and board rates by \$50 per month for residents in settings under section 256I.04, subdivision 2a, paragraph (b), clause (2). Participants in the Minnesota supportive housing demonstration program under section 256I.04, subdivision 3, paragraph (a), clause (3), may not receive the increase under this paragraph.

(g) Notwithstanding subdivision 1, an agency must negotiate a single-occupancy monthly room and board rate add-on for any recipient of housing support who cannot live with others and is residing in a facility licensed under chapter 245A as a community residential setting. A single-occupancy monthly room and board rate add-on is in addition to the monthly room and board rate under subdivision 1. The single-occupancy monthly room and board rate add-on must not exceed \$1,000 per month plus an annual percentage adjustment to the allowable monthly add-on equal to the percentage change in the MSA equivalent rate resulting from the adjustment to the MSA equivalent rate specified under section 256I.03, subdivision 11a. To be eligible for a single-occupancy monthly room and board rate add-on, the determination that a recipient of housing support cannot live with others must be documented in the individual's support plan. For the purposes of this paragraph, "community residential setting" and "support plan" have the meanings giving in section 245D.02.

EFFECTIVE DATE. This section is effective July 1, 2025.

Sec. 5. DIRECTION TO COMMISSIONER; ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS COVERED SERVICE MODIFICATIONS.

By December 1, 2025, the commissioner of human services must submit to the federal Centers for Medicare and Medicaid Services all necessary amendments to home and community-based services waiver plans to include as a covered service under environmental accessibility adaptations the repair of property damage caused by an individual receiving services under the waivers.

EFFECTIVE DATE. This section is effective July 1, 2025.