March 10, 2025

Senator John Hoffman, Chair

Senate Human Services Committee
Minnesota Senate Bldg., Room 2111
95 University Avenue W.
St. Paul, MN 55155

RE: Support for S.F. 2168 (Fateh), as amended

Dear Chair Hoffman and committee members,

We write to you as a collective of Minnesota home and community-based services (HCBS) provider associations that provide services under the Disability Waiver Rate System (DWRS) in support of S.F. 2168.

In 2023, the Legislature passed a compensation threshold requirement for DWRS that went into effect on January 1, 2025. Beginning Jan. 1, 2025, the law requires HCBS providers to dedicate specific percentages of their DWRS revenues for direct care staff compensation. As we understand it, this was an attempt to ensure that resources are being dedicated to the staff providing the hands-on care for our clients. While providers can appreciate the intent behind this change, we believe it relies on data collected by the Minnesota Department of Human Services through the DWRS rate frameworks. We have concerns that the methodology that will be used to determine the thresholds will rely on the provider cost reporting system, which has been plagued by confusion and inconsistencies, as well as the general lack of broad-based stakeholder engagement when this concept showed up just before committee deadlines in 2023. As such, we believe there are genuine questions as to whether many providers will be able to meet the statutory requirements and certain programs, particularly those who are unable to access other public resources for things like room and board costs, will be disproportionately impacted.

In addition to conventional HCBS providers licensed under Chapter 245D and providing DWRS services reimbursed under Chapter 256B, the minimum compensation requirements also apply to assisted living providers licensed under Chapter 144G who provide customized living services reimbursed under Chapter 256S. This is despite the fact that none of the DWRS cost reporting takes into account the unique licensing costs of an assisted living provider, including the staffing requirements such as a Licensed Assisted Living Director, Certified Food Protection Manager (CFPM), etc. whose wages may not count toward the residential requirement. This is why one component of S.F. 2168 is to clarify that assisted livings providing customized living services are outside of the scope of any DWRS-based direct staff requirement.

S.F. 2168, as amended, would also delay the effective date of the requirement from January 1, 2025 to January 1, 2029 to allow for significant administrative and legislative engagement as to the impact of this requirement on HCBS providers. Additionally, the bill establishes a multi-year process for clarifying and re-examining the thresholds outlined in the 2023 statute.

Cost reporting is something the provider community has traditionally advocated for because the medical assistance (MA) reimbursement rates have been historically low and have not accounted for the increased cost of providing care. The cost reporting process is intended to inform the DWRS rate framework so that the Legislature knows how much it costs to provide care and set rates appropriately. Unfortunately, the cost reporting process is complicated, inconsistent across providers, and therefore inaccurate in encapsulating the true cost of providing services. Further, the use of cost reporting data to dictate spending will only further the risk of inconsistent cost reporting going forward.

In surveying similar efforts across other states, many legislative bodies have sought to direct that a portion of Medicaid dollars be allocated to staff compensation. However, in most states, that has come in the form of a pass-through requirement tied just to funds included in a significant rate increase. Minnesota appears to be the only state that has sought to encumber the entirety of the Medicaid rate, making it an outlier.

Therefore, as amended, S.F. 2168 would:

- Direct the Minnesota Department of Human Services (DHS) to consult with stakeholders and make recommendations to the legislature in **February 2026** as to how to clarify cost reporting to promote more uniform and meaningful data collection;
- Allow for the new cost-reporting data collection standards to go into effect for **calendar year 2026;**
- Require DHS to collect 2026 cost-report data and consult with stakeholders regarding the data collected during the **2027 collection process** and the potential impact of a rate encumbrance on providers; and
- Require DHS to make recommendations to the legislature in **February 2028** for new or revised direct care staff requirement that could go into effect on January 1, 2029.

This bill ensures that no one provider type is disproportionately impacted as well as promotes collaboration with stakeholders, clarification of cost reporting, and accurate data collection. We firmly believe that this can be a fruitful process that ensures the stability and viability of residential providers who serve aging Minnesotans and Minnesotans with disabilities.

Sincerely,

Residential Providers Association of Minnesota (RPAMN)

Association of Residential Resources in Minnesota (ARRM)

Minnesota Organization for Habilitation and Rehabilitation (MOHR)

Long-Term Care Imperative

Community Providers Association