



**DATE:** February 6, 2017

**TO:** Representative Matt Dean, Chair, House Health & Human Services Finance  
Representative Joe Schomacker, Chair, House Health & Human Services Reform  
Senator Michelle Benson, Chair, Senate Health & Human Services Finance & Policy  
Senator Jim Abeler, Chair, Human Services Reform Finance & Policy

**FROM:** Claire Wilson, Assistant Commissioner, Community Supports

**SUBJECT:** Disability Waiver Rate System Rate Floors

2016 Laws of MN, Chapter 163, Sec. 2 require the Governor consider rate floors for service rates calculated using the Disability Waiver Rate System (DWRS) authorized under Minnesota Statutes 256B.4914. DWRS calculates rates for services provided in the disability waiver programs. The legislative requirement follows:

**INSTRUCTION TO THE COMMISSIONER; DISABILITY WAIVER RATE SYSTEM RATE FLOOR PROPOSAL.**

The governor shall consider including in his budget for the Department of Human Services for the 2018-2019 biennium a proposal for establishing under Minnesota Statutes, section 256B.4914, rate floors for home and community-based waiver services after the end of the banding period as defined under Minnesota Statutes, section 256B.4913, subdivision 4a.

DHS does not recommend the establishment of rate floors for the DWRS. Rate floors would reimburse service providers at higher rates than others for providing the same service. Inequity in payment rates may limit competition in the marketplace, limit individual choice, and limit individual opportunity. Rate floors would not comply with CMS waiver requirements for a transparent, statewide rate setting methodology. Non-compliance could jeopardize federal funding for waiver services.

**Rate floors are at odds with federal requirements**

Establishment of rate floors would effectively “grand-parent” rates for service providers who delivered services prior to the January 1, 2014 implementation of DWRS. The federal Centers for Medicare and Medicaid services placed Minnesota under a corrective action plan, which required a statewide rate setting methodology which was transparent and fair. Authorizing language passed by the Legislature in

2013 was careful to allow a five-year “banding” period for service providers, lead agencies, and the state to adjust to the new payment methodology.

**Rate floors would undermine a system that accounts for individuals’ needs**

Establishment of rate floors would result in a payment system, which is not based on individual service needs. Rates calculated by the DWRS take individuals’ service needs into consideration and reimburse at rates accordingly. Rates established prior to the new system were often based on average costs rather than individual acuity.

**Analysis does not point to a cost not represented in DWRS frameworks**

DHS has conducted extensive and complex analysis on the new rate mythology and the costs required to provide home and community-based services in Minnesota since system implementation in 2014. Based on DHS analysis, some changes to the rate setting frameworks may be appropriate, but these changes should be applied at the service level rather than the provider level. Analysis has not identified costs that cannot be accommodated by current rate setting formulas or by the current exception approval process.

**Rate adjustments should be applied within the DWRS frameworks**

Rate floors would compromise the integrity of the frameworks. Establishment of rate floors would require the application of factors which are not attributed to provider costs. Implementation of rate floors would require the application of after-model adjustments, outside of the frameworks, for a subset of providers. To maintain the intent of DWRS, rate increases should be directly tied to provider costs and applied to factors within the frameworks.

**Research will continue**

The DWRS will not be fully implemented until 2019 or 2020. During the remaining two or (pending CMS approval) three years of banding protection, DHS will continue analysis to ensure that components and the rates generated by DWRS accurately reflect the cost of providing services, recipients continue to have access to the quality services they need, and DWRS is implemented fairly and consistently throughout the state. If provider costs which are not represented in the DWRS frameworks are identified in the future, DHS will recommend component changes to the Legislature or to the federal government to reimburse the costs.