

1.1 A bill for an act
1.2 relating to human services; modifying the disability waiver rate system; amending
1.3 Minnesota Statutes 2016, sections 256B.4913, subdivision 4a, by adding a
1.4 subdivision; 256B.4914, subdivisions 2, 4, 5, 6, 7, 8, 9, 10, 14, by adding
1.5 subdivisions; proposing coding for new law in Minnesota Statutes, chapter 256B.

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

1.7 Section 1. Minnesota Statutes 2016, section 256B.4913, subdivision 4a, is amended to
1.8 read:

1.9 Subd. 4a. **Rate stabilization adjustment.** (a) For purposes of this subdivision,
1.10 "implementation period" means the period beginning January 1, 2014, and ending on the
1.11 last day of the month in which the rate management system is populated with the data
1.12 necessary to calculate rates for substantially all individuals receiving home and
1.13 community-based waiver services under sections 256B.092 and 256B.49. For the purposes
1.14 of this subdivision and subdivision 4b, "banding period" means the time period beginning
1.15 on January 1, 2014, and ending upon the expiration of the 12-month period defined in
1.16 paragraph (c), clause ~~(5)~~ (6).

1.17 (b) For purposes of this subdivision and subdivision 4b, the historical rate for all service
1.18 recipients means the individual reimbursement rate for a recipient in effect on December
1.19 1, 2013, except that:

1.20 (1) for a day service recipient who was not authorized to receive these waiver services
1.21 prior to January 1, 2014; added a new service or services on or after January 1, 2014; or
1.22 changed providers on or after January 1, 2014, the historical rate must be the authorized
1.23 rate for the provider in the county of service, effective December 1, 2013; or

2.1 (2) for a unit-based service with programming or a unit-based service without
2.2 programming recipient who was not authorized to receive these waiver services prior to
2.3 January 1, 2014; added a new service or services on or after January 1, 2014; or changed
2.4 providers on or after January 1, 2014, the historical rate must be the weighted average
2.5 authorized rate for each provider number in the county of service, effective December 1,
2.6 2013; or

2.7 (3) for residential service recipients who change providers on or after January 1, 2014,
2.8 the historical rate must be set by each lead agency within their county aggregate budget
2.9 using their respective methodology for residential services effective December 1, 2013, for
2.10 determining the provider rate for a similarly situated recipient being served by that provider.

2.11 (c) The commissioner shall adjust individual reimbursement rates determined under this
2.12 section so that the unit rate is no higher or lower than:

2.13 (1) 0.5 percent from the historical rate for the implementation period;

2.14 (2) 0.5 percent from the rate in effect in clause (1), for the 12-month period immediately
2.15 following the time period of clause (1);

2.16 (3) 0.5 percent from the rate in effect in clause (2), for the 12-month period immediately
2.17 following the time period of clause (2);

2.18 (4) 1.0 percent from the rate in effect in clause (3), for the 12-month period immediately
2.19 following the time period of clause (3);

2.20 (5) 1.0 percent from the rate in effect in clause (4), for the 12-month period immediately
2.21 following the time period of clause (4); and

2.22 (6) no adjustment to the rate in effect in clause (5) for the 12-month period immediately
2.23 following the time period of clause (5). During this banding ~~rate~~ period, the commissioner
2.24 shall not enforce any rate decrease or increase that would otherwise result from the end of
2.25 the banding period. The commissioner shall, upon enactment, seek federal approval for the
2.26 addition of this banding period.

2.27 (d) The commissioner shall review all changes to rates that were in effect on December
2.28 1, 2013, to verify that the rates in effect produce the equivalent level of spending and service
2.29 unit utilization on an annual basis as those in effect on October 31, 2013.

2.30 (e) By December 31, 2014, the commissioner shall complete the review in paragraph
2.31 (d), adjust rates to provide equivalent annual spending, and make appropriate adjustments.

3.1 (f) During the banding period, the Medicaid Management Information System (MMIS)
3.2 service agreement rate must be adjusted to account for change in an individual's need. The
3.3 commissioner shall adjust the Medicaid Management Information System (MMIS) service
3.4 agreement rate by:

3.5 (1) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the
3.6 individual with variables reflecting the level of service in effect on December 1, 2013;

3.7 (2) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the
3.8 individual with variables reflecting the updated level of service at the time of application;
3.9 and

3.10 (3) adding to or subtracting from the Medicaid Management Information System (MMIS)
3.11 service agreement rate, the difference between the values in clauses (1) and (2).

3.12 (g) This subdivision must not apply to rates for recipients served by providers new to a
3.13 given county after January 1, 2014. Providers of personal supports services who also acted
3.14 as fiscal support entities must be treated as new providers as of January 1, 2014.

3.15 Sec. 2. Minnesota Statutes 2016, section 256B.4913, is amended by adding a subdivision
3.16 to read:

3.17 Subd. 4b. **Disability waiver rate system phase-in.** Effective the day following the end
3.18 of the banding period, the commissioner must phase in individual reimbursement rates for
3.19 recipients of day services or supported employment services who were receiving a historical
3.20 rate on July 1, 2017, and whose rates on the day following the end of the banding period
3.21 would otherwise be reduced by more than one percent. The commissioner shall phase in
3.22 rates by annually reducing individual reimbursement rates by no more than one percent
3.23 from the rate in effect on the last day of the banding period until the recipient's rate is equal
3.24 to the rate the recipient would receive under section 256B.4914 or the rate the recipient
3.25 would receive for employment services, whichever is applicable. The commissioner shall
3.26 continue to phase in a recipient's individual reimbursement rate as long as the recipient
3.27 receives the same or comparable services as the recipient received on December 31, 2018,
3.28 notwithstanding a change in the classification of a service, the definition of a service, or the
3.29 license under which the service is provided.

3.30 Sec. 3. Minnesota Statutes 2016, section 256B.4914, subdivision 2, is amended to read:

3.31 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
3.32 meanings given them, unless the context clearly indicates otherwise.

4.1 (b) "Commissioner" means the commissioner of human services.

4.2 (c) "Component value" means underlying factors that are part of the cost of providing
4.3 services that are built into the waiver rates methodology to calculate service rates.

4.4 (d) "Customized living tool" means a methodology for setting service rates that delineates
4.5 and documents the amount of each component service included in a recipient's customized
4.6 living service plan.

4.7 (e) "Disability waiver rates system" means a statewide system that establishes rates that
4.8 are based on uniform processes and captures the individualized nature of waiver services
4.9 and recipient needs.

4.10 (f) "Individual staffing" means the time spent as a one-to-one interaction specific to an
4.11 individual recipient by staff to provide direct support and assistance with activities of daily
4.12 living, instrumental activities of daily living, and training to participants, and is based on
4.13 the requirements in each individual's coordinated service and support plan under section
4.14 245D.02, subdivision 4b; any coordinated service and support plan addendum under section
4.15 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
4.16 needs must also be considered.

4.17 (g) "Lead agency" means a county, partnership of counties, or tribal agency charged
4.18 with administering waived services under sections 256B.092 and 256B.49.

4.19 (h) "Licensing fee" means a direct charge or cost assessed by the commissioner to an
4.20 applicant or license holder to provide disability waiver services. Licensing fees include
4.21 charges to apply for or renew a license granted by the commissioner or, when applicable,
4.22 a county. Licensing fees do not include fines or penalties assessed for noncompliance with
4.23 law or additional charges required to process untimely applications.

4.24 ~~(h)~~ (i) "Median" means the amount that divides distribution into two equal groups,
4.25 one-half above the median and one-half below the median.

4.26 ~~(i)~~ (j) "Payment or rate" means reimbursement to an eligible provider for services
4.27 provided to a qualified individual based on an approved service authorization.

4.28 ~~(j)~~ (k) "Rates management system" means a Web-based software application that uses
4.29 a framework and component values, as determined by the commissioner, to establish service
4.30 rates.

4.31 ~~(k)~~ (l) "Recipient" means a person receiving home and community-based services funded
4.32 under any of the disability waivers.

5.1 ~~(h)~~ (m) "Shared staffing" means time spent by employees, not defined under paragraph
5.2 (f), providing or available to provide more than one individual with direct support and
5.3 assistance with activities of daily living as defined under section 256B.0659, subdivision
5.4 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659,
5.5 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and
5.6 training to participants, and is based on the requirements in each individual's coordinated
5.7 service and support plan under section 245D.02, subdivision 4b; any coordinated service
5.8 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and
5.9 provider observation of an individual's service need. Total shared staffing hours are divided
5.10 proportionally by the number of individuals who receive the shared service provisions.

5.11 ~~(m)~~ (n) "Staffing ratio" means the number of recipients a service provider employee
5.12 supports during a unit of service based on a uniform assessment tool, provider observation,
5.13 case history, and the recipient's services of choice, and not based on the staffing ratios under
5.14 section 245D.31.

5.15 ~~(n)~~ (o) "Unit of service" means the following:

5.16 (1) for residential support services under subdivision 6, a unit of service is a day. Any
5.17 portion of any calendar day, within allowable Medicaid rules, where an individual spends
5.18 time in a residential setting is billable as a day;

5.19 (2) for day services under subdivision 7:

5.20 (i) for day training and habilitation services, a unit of service is either:

5.21 (A) a day unit of service is defined as six or more hours of time spent providing direct
5.22 services and transportation; or

5.23 (B) a partial day unit of service is defined as fewer than six hours of time spent providing
5.24 direct services and transportation; and

5.25 (C) for new day service recipients after January 1, 2014, 15 minute units of service must
5.26 be used for fewer than six hours of time spent providing direct services and transportation;

5.27 (ii) for adult day and structured day services, a unit of service is a day or 15 minutes. A
5.28 day unit of service is six or more hours of time spent providing direct services;

5.29 (iii) for prevocational services, a unit of service is a day or an hour. A day unit of service
5.30 is six or more hours of time spent providing direct service;

5.31 (3) for unit-based services with programming under subdivision 8:

6.1 (i) for supported living services, a unit of service is a day or 15 minutes. When a day
6.2 rate is authorized, any portion of a calendar day where an individual receives services is
6.3 billable as a day; and

6.4 (ii) for all other services, a unit of service is 15 minutes; and

6.5 (4) for unit-based services without programming under subdivision 9:

6.6 (i) for respite services, a unit of service is a day or 15 minutes. When a day rate is
6.7 authorized, any portion of a calendar day when an individual receives services is billable
6.8 as a day; and

6.9 (ii) for all other services, a unit of service is 15 minutes.

6.10 Sec. 4. Minnesota Statutes 2016, section 256B.4914, subdivision 4, is amended to read:

6.11 Subd. 4. **Data collection for rate determination.** (a) Rates for applicable home and
6.12 community-based waived services, including rate exceptions under subdivision 12, are
6.13 set by the rates management system.

6.14 (b) Data for services under section 256B.4913, subdivision 4a, shall be collected in a
6.15 manner prescribed by the commissioner.

6.16 (c) Data and information in the rates management system may be used to calculate an
6.17 individual's rate.

6.18 (d) Service providers, with information from the community support plan and oversight
6.19 by lead agencies, shall provide values and information needed to calculate an individual's
6.20 rate into the rates management system. The determination of service levels must be part of
6.21 a discussion with members of the support team as defined in section 245D.02, subdivision
6.22 34. This discussion must occur prior to the final establishment of each individual's rate. The
6.23 values and information include:

6.24 (1) shared staffing hours;

6.25 (2) individual staffing hours;

6.26 (3) direct registered nurse hours;

6.27 (4) direct licensed practical nurse hours;

6.28 (5) staffing ratios;

6.29 (6) information to document variable levels of service qualification for variable levels
6.30 of reimbursement in each framework;

7.1 (7) shared or individualized arrangements for unit-based services, including the staffing
7.2 ratio;

7.3 (8) number of trips and miles for transportation services; and

7.4 (9) service hours provided through monitoring technology.

7.5 (e) Updates to individual data must include:

7.6 (1) data for each individual that is updated annually when renewing service plans; and

7.7 (2) requests by individuals or lead agencies to update a rate whenever there is a change
7.8 in an individual's service needs, with accompanying documentation.

7.9 (f) Lead agencies shall review and approve all services reflecting each individual's needs,
7.10 and the values to calculate the final payment rate for services with variables under
7.11 subdivisions 6, 7, 8, and 9 for each individual. Lead agencies must notify the individual and
7.12 the service provider of the final agreed-upon values and rate, and provide information that
7.13 is identical to what was entered into the rates management system. If a value used was
7.14 mistakenly or erroneously entered and used to calculate a rate, a provider may petition lead
7.15 agencies to correct it. Lead agencies must respond to these requests. When responding to
7.16 the request, the lead agency must consider:

7.17 (1) meeting the health and welfare needs of the individual or individuals receiving
7.18 services by service site, identified in their coordinated service and support plan under section
7.19 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

7.20 (2) meeting the requirements for staffing under subdivision 2, paragraphs (f), ~~(i)~~ (j), and
7.21 ~~(m)~~ (n); and meeting or exceeding the licensing standards for staffing required under section
7.22 245D.09, subdivision 1; and

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

7.25 Sec. 5. Minnesota Statutes 2016, section 256B.4914, subdivision 5, is amended to read:

7.26 Subd. 5. **Base wage index and standard component values.** (a) The base wage index
7.27 is established to determine staffing costs associated with providing services to individuals
7.28 receiving home and community-based services. For purposes of developing and calculating
7.29 the proposed base wage, Minnesota-specific wages taken from job descriptions and standard
7.30 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in
7.31 the most recent edition of the Occupational Handbook must be used. The base wage index
7.32 must be calculated as follows:

8.1 (1) for residential direct care staff, the sum of:

8.2 (i) 15 percent of the subtotal of 50 percent of the median wage for personal and home
8.3 health aide (SOC code 39-9021); 30 percent of the median wage for ~~nursing aide~~ orderlies
8.4 (SOC code ~~31-1012~~ 31-1015); and 20 percent of the median wage for social and human
8.5 services aide (SOC code 21-1093); and

8.6 (ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide
8.7 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
8.8 (SOC code 39-9021); 20 percent of the median wage for ~~nursing aide~~ orderlies (SOC code
8.9 ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric technician (SOC code
8.10 29-2053); and 20 percent of the median wage for social and human services aide (SOC code
8.11 21-1093);

8.12 (2) for day services, 20 percent of the median wage for ~~nursing aide~~ orderlies (SOC code
8.13 ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric technician (SOC code
8.14 29-2053); and 60 percent of the median wage for social and human services aide (SOC code
8.15 21-1093);

8.16 (3) for residential asleep-overnight staff, the wage ~~will be \$7.66 per hour~~ is the minimum
8.17 wage in Minnesota for large employers, except in a family foster care setting, the wage is
8.18 ~~\$2.80 per hour~~ 36 percent of the minimum wage in Minnesota for large employers;

8.19 (4) for behavior program analyst staff, 100 percent of the median wage for mental health
8.20 counselors (SOC code 21-1014);

8.21 (5) for behavior program professional staff, 100 percent of the median wage for clinical
8.22 counseling and school psychologist (SOC code 19-3031);

8.23 (6) for behavior program specialist staff, 100 percent of the median wage for psychiatric
8.24 technicians (SOC code 29-2053);

8.25 (7) for supportive living services staff, 20 percent of the median wage for ~~nursing aide~~
8.26 orderlies (SOC code ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric
8.27 technician (SOC code 29-2053); and 60 percent of the median wage for social and human
8.28 services aide (SOC code 21-1093);

8.29 (8) for housing access coordination staff, ~~50~~ 100 percent of the median wage for
8.30 community and social services specialist (SOC code 21-1099); ~~and 50 percent of the median~~
8.31 ~~wage for social and human services aide (SOC code 21-1093);~~

8.32 (9) for in-home family support staff, 20 percent of the median wage for ~~nursing aide~~
8.33 orderlies (SOC code ~~31-1012~~ 31-1015); 30 percent of the median wage for community

9.1 social service specialist (SOC code 21-1099); 40 percent of the median wage for social and
 9.2 human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric
 9.3 technician (SOC code 29-2053);

9.4 (10) for independent living skills staff, ~~40~~ 50 percent of the median wage for community
 9.5 social service specialist (SOC code 21-1099); 50 percent of the median wage for ~~social and~~
 9.6 ~~human services aide~~ rehabilitation counselor (SOC code ~~21-1093~~ 21-1015); and ten percent
 9.7 of the median wage for ~~psychiatric technician~~ (SOC code ~~29-2053~~);

9.8 (11) for ~~supported~~ employment supports staff, ~~20~~ 50 percent of the median wage for
 9.9 ~~nursing aide~~ rehabilitation counselor (SOC code ~~31-1012~~ 21-1015); ~~20 percent of the median~~
 9.10 ~~wage for psychiatric technician~~ (SOC code ~~29-2053~~); and ~~60~~ 50 percent of the median wage
 9.11 for community and social and human services aide specialist (SOC code ~~21-1093~~ 21-1099);

9.12 (12) for employment exploration services staff, 50 percent of the median wage for
 9.13 rehabilitation counselor (SOC code 21-1013); and 50 percent of the median wage for
 9.14 community and social services specialist (SOC code 21-1099);

9.15 (13) for employment development services staff, 50 percent of the median wage for
 9.16 education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent
 9.17 of the median wage for community and social services specialist (SOC code 21-1099);

9.18 ~~(12)~~ (14) for adult companion staff, 50 percent of the median wage for personal and
 9.19 home care aide (SOC code 39-9021); and 50 percent of the median wage for ~~nursing aides,~~
 9.20 ~~orderlies, and attendants~~ (SOC code ~~31-1012~~ 31-1015);

9.21 ~~(13)~~ (15) for night supervision staff, 20 percent of the median wage for home health
 9.22 aide (SOC code 31-1011); 20 percent of the median wage for personal and home health
 9.23 aide (SOC code 39-9021); 20 percent of the median wage for ~~nursing aide~~ orderlies (SOC
 9.24 code ~~31-1012~~ 31-1015); 20 percent of the median wage for psychiatric technician (SOC
 9.25 code 29-2053); and 20 percent of the median wage for social and human services aide (SOC
 9.26 code 21-1093);

9.27 ~~(14)~~ (16) for respite staff, 50 percent of the median wage for personal and home care
 9.28 aide (SOC code 39-9021); and 50 percent of the median wage for ~~nursing aides,~~ orderlies,
 9.29 ~~and attendants~~ (SOC code ~~31-1012~~ 31-1015);

9.30 ~~(15)~~ (17) for personal support staff, 50 percent of the median wage for personal and
 9.31 home care aide (SOC code 39-9021); and 50 percent of the median wage for ~~nursing aides,~~
 9.32 ~~orderlies, and attendants~~ (SOC code ~~31-1012~~ 31-1015);

10.1 ~~(16)~~ (18) for supervisory staff, ~~the basic wage is \$17.43 per hour~~ 100 percent of the
10.2 median wage for community and social services specialist (SOC code 21-1099), with the
10.3 exception of the supervisor of behavior professional, behavior analyst, and behavior
10.4 specialists, which ~~must be \$30.75 per hour~~ is 100 percent of the median wage for clinical
10.5 counseling and school psychologist (SOC code 19-3031);

10.6 ~~(17)~~ (19) for registered nurse staff, ~~the basic wage is \$30.82 per hour~~ 100 percent of the
10.7 median wage for registered nurses (SOC code 29-1141); and

10.8 ~~(18)~~ (20) for licensed practical nurse staff, ~~the basic wage is \$18.64 per hour~~ 100 percent
10.9 of the median wage for licensed practical nurses (SOC code 29-2061).

10.10 (b) Component values for residential support services are:

10.11 (1) supervisory span of control ratio: 11 percent;

10.12 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;

10.13 (3) employee-related cost ratio: 23.6 percent;

10.14 (4) general administrative support ratio: 13.25 percent;

10.15 (5) program-related expense ratio: 1.3 percent; and

10.16 (6) absence and utilization factor ratio: 3.9 percent.

10.17 (c) Component values for family foster care are:

10.18 (1) supervisory span of control ratio: 11 percent;

10.19 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;

10.20 (3) employee-related cost ratio: 23.6 percent;

10.21 (4) general administrative support ratio: 3.3 percent;

10.22 (5) program-related expense ratio: 1.3 percent; and

10.23 (6) absence factor: 1.7 percent.

10.24 (d) Component values for day services for all services are:

10.25 (1) supervisory span of control ratio: 11 percent;

10.26 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;

10.27 (3) employee-related cost ratio: 23.6 percent;

10.28 (4) program plan support ratio: 5.6 percent;

10.29 (5) client programming and support ratio: ten percent;

- 11.1 (6) general administrative support ratio: 13.25 percent;
- 11.2 (7) program-related expense ratio: 1.8 percent; ~~and~~
- 11.3 (8) absence and utilization factor ratio: ~~3.9~~ 9.4 percent; and
- 11.4 (9) recipient fixed cost factor to calculate the payment rate for each staffing ratio: 0.1951.
- 11.5 (e) Component values for unit-based services with programming are:
- 11.6 (1) supervisory span of control ratio: 11 percent;
- 11.7 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.8 (3) employee-related cost ratio: 23.6 percent;
- 11.9 (4) program plan supports ratio: 3.1 percent;
- 11.10 (5) client programming and supports ratio: 8.6 percent;
- 11.11 (6) general administrative support ratio: 13.25 percent;
- 11.12 (7) program-related expense ratio: 6.1 percent; and
- 11.13 (8) absence and utilization factor ratio: 3.9 percent.
- 11.14 (f) Component values for unit-based services without programming except respite are:
- 11.15 (1) supervisory span of control ratio: 11 percent;
- 11.16 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.17 (3) employee-related cost ratio: 23.6 percent;
- 11.18 (4) program plan support ratio: 3.1 percent;
- 11.19 (5) client programming and support ratio: 8.6 percent;
- 11.20 (6) general administrative support ratio: 13.25 percent;
- 11.21 (7) program-related expense ratio: 6.1 percent; and
- 11.22 (8) absence and utilization factor ratio: 3.9 percent.
- 11.23 (g) Component values for unit-based services without programming for respite are:
- 11.24 (1) supervisory span of control ratio: 11 percent;
- 11.25 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 11.26 (3) employee-related cost ratio: 23.6 percent;
- 11.27 (4) general administrative support ratio: 13.25 percent;

12.1 (5) program-related expense ratio: 6.1 percent; and

12.2 (6) absence and utilization factor ratio: 3.9 percent.

12.3 (h) On July 1, 2017, the commissioner shall update the base wage index in paragraph
12.4 (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor
12.5 Statistics available on December 31, 2016. The commissioner shall publish these updated
12.6 values and load them into the rate management system. This adjustment occurs every ~~five~~
12.7 two years. For adjustments ~~in 2021~~ on July 1, 2019, and beyond, the commissioner shall
12.8 use the data available on December 31 of the prior calendar year ~~five years prior~~.

12.9 (i) On July 1, 2017, the commissioner shall update the framework components in
12.10 paragraphs (b) to (g); subdivision 6, clauses (8) and (9); and subdivision 7, clauses (16) and
12.11 (17), for changes in the Consumer Price Index. The commissioner will adjust these values
12.12 higher or lower by the percentage change in the Consumer Price Index-All Items, United
12.13 States city average (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner
12.14 shall publish these updated values and load them into the rate management system. This
12.15 adjustment occurs every ~~five~~ two years. For adjustments ~~in 2021~~ on July 1, 2019, and
12.16 beyond, the commissioner shall use the data available on January 1 of the calendar year
12.17 ~~four~~ two years prior and January 1 of the current calendar year.

12.18 Sec. 6. Minnesota Statutes 2016, section 256B.4914, subdivision 6, is amended to read:

12.19 Subd. 6. **Payments for residential support services.** (a) Payments for residential support
12.20 services, as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22,
12.21 must be calculated as follows:

12.22 (1) determine the number of shared staffing and individual direct staff hours to meet a
12.23 recipient's needs provided on site or through monitoring technology;

12.24 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
12.25 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
12.26 5. This is defined as the direct-care rate;

12.27 (3) for a recipient requiring customization for deaf and hard-of-hearing language
12.28 accessibility under subdivision 12, add the customization rate provided in subdivision 12
12.29 to the result of clause (2). This is defined as the customized direct-care rate;

12.30 (4) multiply the number of shared and individual direct staff hours provided on site or
12.31 through monitoring technology and nursing hours by the appropriate staff wages in
12.32 subdivision 5, paragraph (a), or the customized direct-care rate;

13.1 (5) multiply the number of shared and individual direct staff hours provided on site or
13.2 through monitoring technology and nursing hours by the product of the supervision span
13.3 of control ratio in subdivision 5, paragraph (b), clause (1), and the appropriate supervision
13.4 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

13.5 (6) combine the results of clauses (4) and (5), excluding any shared and individual direct
13.6 staff hours provided through monitoring technology, and multiply the result by one plus
13.7 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b),
13.8 clause (2). This is defined as the direct staffing cost;

13.9 (7) for employee-related expenses, multiply the direct staffing cost, excluding any shared
13.10 and individual direct staff hours provided through monitoring technology, by one plus the
13.11 employee-related cost ratio in subdivision 5, paragraph (b), clause (3);

13.12 (8) for client programming and supports, the commissioner shall add \$2,179; and

13.13 (9) for transportation, if provided, the commissioner shall ~~add \$1,680, or \$3,000~~ allocate
13.14 to each program's residential site \$6,720, or \$12,000 if customized for adapted transport,
13.15 based on the resident with the highest assessed need. The commissioner shall divide the
13.16 transportation allocation by the site's actual occupancy, and add that sum to the total rate.

13.17 (b) The total rate must be calculated using the following steps:

13.18 (1) subtotal paragraph (a), clauses (7) to (9), and the direct staffing cost of any shared
13.19 and individual direct staff hours provided through monitoring technology that was excluded
13.20 in clause (7);

13.21 (2) sum the standard general and administrative rate, the program-related expense ratio,
13.22 and the absence and utilization ratio;

13.23 (3) divide the result of clause (1) by one minus the result of clause (2). This is the total
13.24 payment amount; and

13.25 (4) adjust the result of clause (3) by a factor to be determined by the commissioner to
13.26 adjust for regional differences in the cost of providing services.

13.27 (c) The payment methodology for customized living, 24-hour customized living, and
13.28 residential care services must be the customized living tool. Revisions to the customized
13.29 living tool must be made to reflect the services and activities unique to disability-related
13.30 recipient needs.

13.31 (d) For individuals enrolled prior to January 1, 2014, the days of service authorized must
13.32 meet or exceed the days of service used to convert service agreements in effect on December

14.1 1, 2013, and must not result in a reduction in spending or service utilization due to conversion
14.2 during the implementation period under section 256B.4913, subdivision 4a. If during the
14.3 implementation period, an individual's historical rate, including adjustments required under
14.4 section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate
14.5 determined in this subdivision, the number of days authorized for the individual is 365.

14.6 (e) The number of days authorized for all individuals enrolling after January 1, 2014,
14.7 in residential services must include every day that services start and end.

14.8 Sec. 7. Minnesota Statutes 2016, section 256B.4914, subdivision 7, is amended to read:

14.9 Subd. 7. **Payments for day programs.** Payments for services with day programs
14.10 including adult day care, day treatment and habilitation, prevocational services, and structured
14.11 day services must be calculated as follows:

14.12 (1) determine the number of units of service and staffing ratio to meet a recipient's needs:

14.13 (i) the staffing ratios for the units of service provided to a recipient in a typical week
14.14 must be averaged to determine an individual's staffing ratio; and

14.15 (ii) the commissioner, in consultation with service providers, shall develop a uniform
14.16 staffing ratio worksheet to be used to determine staffing ratios under this subdivision;

14.17 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
14.18 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
14.19 5;

14.20 (3) for a recipient requiring customization for deaf and hard-of-hearing language
14.21 accessibility under subdivision 12, add the customization rate provided in subdivision 12
14.22 to the result of clause (2). This is defined as the customized direct-care rate;

14.23 (4) multiply the number of day program direct staff hours and nursing hours by the
14.24 appropriate staff wage in subdivision 5, paragraph (a), or the customized direct-care rate;

14.25 (5) multiply the number of day direct staff hours by the product of the supervision span
14.26 of control ratio in subdivision 5, paragraph (d), clause (1), and the appropriate supervision
14.27 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

14.28 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
14.29 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (d), clause
14.30 (2). This is defined as the direct staffing rate;

14.31 (7) for program plan support, multiply the result of clause (6) by one plus the program
14.32 plan support ratio in subdivision 5, paragraph (d), clause (4);

15.1 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
15.2 employee-related cost ratio in subdivision 5, paragraph (d), clause (3);

15.3 (9) for client programming and supports, multiply the result of clause (8) by one plus
15.4 the client programming and support ratio in subdivision 5, paragraph (d), clause (5);

15.5 (10) for program facility costs, add \$19.30 per week with consideration of staffing ratios
15.6 to meet individual needs;

15.7 (11) for adult day bath services, add \$7.01 per 15 minute unit;

15.8 (12) this is the subtotal rate;

15.9 (13) sum the standard general and administrative rate, the program-related expense ratio,
15.10 and the absence and utilization factor ratio;

15.11 (14) divide the result of clause (12) by one minus the result of clause (13). This is the
15.12 total payment amount;

15.13 (15) adjust the result of clause (14) by a factor to be determined by the commissioner
15.14 to adjust for regional differences in the cost of providing services;

15.15 (16) for transportation, if provided as part of, for day training and habilitation programs
15.16 for an individual who does not require a lift, add:

15.17 (i) \$10.50 for a trip between zero and ten miles for a nonshared ride in a vehicle without
15.18 a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a shared ride in a
15.19 vehicle with a lift;

15.20 (ii) \$15.75 for a trip between 11 and 20 miles for a nonshared ride in a vehicle without
15.21 a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88 for a shared ride in a
15.22 vehicle with a lift;

15.23 (iii) \$25.75 for a trip between 21 and 50 miles for a nonshared ride in a vehicle without
15.24 a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88 for a shared ride in a
15.25 vehicle with a lift; or

15.26 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
15.27 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
15.28 with a lift;

15.29 (17) for transportation, if provided as part of, for day training and habilitation programs
15.30 for an individual who ~~does require~~ requires a lift, add:

16.1 (i) \$19.05 for a trip between zero and ten miles for a nonshared ride in a vehicle with a
16.2 lift, and \$15.05 for a shared ride in a vehicle with a lift;

16.3 (ii) \$32.16 for a trip between 11 and 20 miles for a nonshared ride in a vehicle with a
16.4 lift, and \$28.16 for a shared ride in a vehicle with a lift;

16.5 (iii) \$58.76 for a trip between 21 and 50 miles for a nonshared ride in a vehicle with a
16.6 lift, and \$58.76 for a shared ride in a vehicle with a lift; or

16.7 (iv) \$80.93 for a trip of 51 miles or more for a nonshared ride in a vehicle with a lift,
16.8 and \$80.93 for a shared ride in a vehicle with a lift.

16.9 Sec. 8. Minnesota Statutes 2016, section 256B.4914, subdivision 8, is amended to read:

16.10 Subd. 8. **Payments for unit-based services with programming.** (a) Payments for
16.11 unit-based services with programming, including behavior programming, housing access
16.12 coordination, in-home family support, independent living skills training, hourly supported
16.13 living services, and supported employment provided to an individual outside of any day or
16.14 residential service plan must be calculated as follows, unless the services are authorized
16.15 separately under subdivision 6 or 7:

16.16 (1) determine the number of units of service to meet a recipient's needs;

16.17 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
16.18 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
16.19 5;

16.20 (3) for a recipient requiring customization for deaf and hard-of-hearing language
16.21 accessibility under subdivision 12, add the customization rate provided in subdivision 12
16.22 to the result of clause (2). This is defined as the customized direct-care rate;

16.23 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
16.24 5, paragraph (a), or the customized direct-care rate;

16.25 (5) multiply the number of direct staff hours by the product of the supervision span of
16.26 control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision
16.27 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

16.28 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
16.29 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (e), clause
16.30 (2). This is defined as the direct staffing rate;

16.31 (7) for program plan support, multiply the result of clause (6) by one plus the program
16.32 plan supports ratio in subdivision 5, paragraph (e), clause (4);

17.1 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
17.2 employee-related cost ratio in subdivision 5, paragraph (e), clause (3);

17.3 (9) for client programming and supports, multiply the result of clause (8) by one plus
17.4 the client programming and supports ratio in subdivision 5, paragraph (e), clause (5);

17.5 (10) this is the subtotal rate;

17.6 (11) sum the standard general and administrative rate, the program-related expense ratio,
17.7 and the absence and utilization factor ratio;

17.8 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
17.9 total payment amount;

17.10 (13) for supported employment provided in a shared manner, divide the total payment
17.11 amount in clause (12) by the number of service recipients, not to exceed three. For
17.12 independent living skills training provided in a shared manner, divide the total payment
17.13 amount in clause (12) by the number of service recipients, not to exceed two; and

17.14 (14) adjust the result of clause (13) by a factor to be determined by the commissioner
17.15 to adjust for regional differences in the cost of providing services.

17.16 (b) All activities mandated in sections 245D.04, 245D.05, 245D.06, 245D.061, 245D.07,
17.17 245D.071, and 245D.081, and in Minnesota Rules, parts 9544.0040, 9544.0050, 9544.0110,
17.18 and 9544.0120, are billable services.

17.19 Sec. 9. Minnesota Statutes 2016, section 256B.4914, subdivision 9, is amended to read:

17.20 Subd. 9. **Payments for unit-based services without programming.** (a) Payments for
17.21 unit-based services without programming, including night supervision, personal support,
17.22 respite, and companion care provided to an individual outside of any day or residential
17.23 service plan must be calculated as follows unless the services are authorized separately
17.24 under subdivision 6 or 7:

17.25 (1) for all services except respite, determine the number of units of service to meet a
17.26 recipient's needs;

17.27 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
17.28 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

17.29 (3) for a recipient requiring customization for deaf and hard-of-hearing language
17.30 accessibility under subdivision 12, add the customization rate provided in subdivision 12
17.31 to the result of clause (2). This is defined as the customized direct care rate;

18.1 (4) multiply the number of direct staff hours by the appropriate staff wage in subdivision
18.2 5 or the customized direct care rate;

18.3 (5) multiply the number of direct staff hours by the product of the supervision span of
18.4 control ratio in subdivision 5, paragraph (f), clause (1), and the appropriate supervision
18.5 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

18.6 (6) combine the results of clauses (4) and (5), and multiply the result by one plus the
18.7 employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (f), clause
18.8 (2). This is defined as the direct staffing rate;

18.9 (7) for program plan support, multiply the result of clause (6) by one plus the program
18.10 plan support ratio in subdivision 5, paragraph (f), clause (4);

18.11 (8) for employee-related expenses, multiply the result of clause (7) by one plus the
18.12 employee-related cost ratio in subdivision 5, paragraph (f), clause (3);

18.13 (9) for client programming and supports, multiply the result of clause (8) by one plus
18.14 the client programming and support ratio in subdivision 5, paragraph (f), clause (5);

18.15 (10) this is the subtotal rate;

18.16 (11) sum the standard general and administrative rate, the program-related expense ratio,
18.17 and the absence and utilization factor ratio;

18.18 (12) divide the result of clause (10) by one minus the result of clause (11). This is the
18.19 total payment amount;

18.20 (13) for respite services, determine the number of day units of service to meet an
18.21 individual's needs;

18.22 (14) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
18.23 Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

18.24 (15) for a recipient requiring deaf and hard-of-hearing customization under subdivision
18.25 12, add the customization rate provided in subdivision 12 to the result of clause (14). This
18.26 is defined as the customized direct care rate;

18.27 (16) multiply the number of direct staff hours by the appropriate staff wage in subdivision
18.28 5, paragraph (a);

18.29 (17) multiply the number of direct staff hours by the product of the supervisory span of
18.30 control ratio in subdivision 5, paragraph (g), clause (1), and the appropriate supervision
18.31 wage in subdivision 5, paragraph (a), clause ~~(16)~~ (18);

19.1 (18) combine the results of clauses (16) and (17), and multiply the result by one plus
19.2 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (g),
19.3 clause (2). This is defined as the direct staffing rate;

19.4 (19) for employee-related expenses, multiply the result of clause (18) by one plus the
19.5 employee-related cost ratio in subdivision 5, paragraph (g), clause (3);

19.6 (20) this is the subtotal rate;

19.7 (21) sum the standard general and administrative rate, the program-related expense ratio,
19.8 and the absence and utilization factor ratio;

19.9 (22) divide the result of clause (20) by one minus the result of clause (21). This is the
19.10 total payment amount; and

19.11 (23) adjust the result of clauses (12) and (22) by a factor to be determined by the
19.12 commissioner to adjust for regional differences in the cost of providing services.

19.13 (b) All activities mandated in sections 245D.04, 245D.05, 245D.06, 245D.061, 245D.07,
19.14 245D.071, and 245D.081, and in Minnesota Rules, parts 9544.0040, 9544.0050, 9544.0110,
19.15 and 9544.0120, are billable services.

19.16 Sec. 10. Minnesota Statutes 2016, section 256B.4914, is amended by adding a subdivision
19.17 to read:

19.18 Subd. 9a. **Licensing fees.** The provider cost of all licensing fees, and any increases
19.19 thereto, shall be automatically added to the service rate as determined under subdivision 6,
19.20 7, 8, or 9. The commissioner shall add the cost of the licensing fees to each service recipient's
19.21 rate by allocating a portion of the licensing fee based on the revenue generated by the
19.22 services provided to the respective service recipient. The rate adjustment is retroactive to
19.23 the date the licensing fees are assessed.

19.24 Sec. 11. Minnesota Statutes 2016, section 256B.4914, subdivision 10, is amended to read:

19.25 Subd. 10. **Updating payment values and additional information.** (a) From January
19.26 1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform
19.27 procedures to refine terms and adjust values used to calculate payment rates in this section.

19.28 (b) No later than July 1, 2014, the commissioner shall, within available resources, begin
19.29 to conduct research and gather data and information from existing state systems or other
19.30 outside sources on the following items:

19.31 (1) differences in the underlying cost to provide services and care across the state; and

20.1 (2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and
20.2 units of transportation for all day services, which must be collected from providers using
20.3 the rate management worksheet and entered into the rates management system; and

20.4 (3) the distinct underlying costs for services provided by a license holder under sections
20.5 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
20.6 by a license holder certified under section 245D.33.

20.7 (c) Using a statistically valid set of rates management system data, the commissioner,
20.8 in consultation with stakeholders, shall analyze for each service the average difference in
20.9 the rate on December 31, 2013, and the framework rate at the individual, provider, lead
20.10 agency, and state levels. The commissioner shall issue semiannual reports to the stakeholders
20.11 on the difference in rates by service and by county during the banding period under section
20.12 256B.4913, subdivision 4a. The commissioner shall issue the first report by October 1,
20.13 2014.

20.14 (d) No later than July 1, 2014, the commissioner, in consultation with stakeholders, shall
20.15 begin the review and evaluation of the following values already in subdivisions 6 to 9, or
20.16 issues that impact all services, including, but not limited to:

20.17 (1) values for transportation rates for day services;

20.18 (2) values for transportation rates in residential services;

20.19 (3) values for services where monitoring technology replaces staff time;

20.20 (4) values for indirect services;

20.21 (5) values for nursing;

20.22 (6) component values for independent living skills;

20.23 (7) component values for family foster care that reflect licensing requirements;

20.24 (8) adjustments to other components to replace the budget neutrality factor;

20.25 (9) remote monitoring technology for nonresidential services;

20.26 (10) values for basic and intensive services in residential services;

20.27 (11) values for the facility use rate in day services, and the weightings used in the day
20.28 service ratios and adjustments to those weightings;

20.29 (12) values for workers' compensation as part of employee-related expenses;

20.30 (13) values for unemployment insurance as part of employee-related expenses;

21.1 (14) a component value to reflect costs for individuals with rates previously adjusted
21.2 for the inclusion of group residential housing rate 3 costs, only for any individual enrolled
21.3 as of December 31, 2013; and

21.4 (15) any changes in state or federal law with an impact on the underlying cost of providing
21.5 home and community-based services.

21.6 (e) The commissioner shall report to the chairs and the ranking minority members of
21.7 the legislative committees and divisions with jurisdiction over health and human services
21.8 policy and finance with the information and data gathered under paragraphs (b) to (d) on
21.9 the following dates:

21.10 (1) January 15, 2015, with preliminary results and data;

21.11 (2) January 15, 2016, with a status implementation update, and additional data and
21.12 summary information;

21.13 (3) January 15, 2017, with the full report; and

21.14 (4) January 15, 2019, with another full report, and a full report once every four years
21.15 thereafter.

21.16 (f) Based on the commissioner's evaluation of the information and data collected in
21.17 paragraphs (b) to (d), the commissioner shall make recommendations to the legislature by
21.18 January 15, 2015, to address any issues identified during the first year of implementation.
21.19 After January 15, 2015, the commissioner may make recommendations to the legislature
21.20 to address potential issues.

21.21 (g) The commissioner shall implement a regional adjustment factor to all rate calculations
21.22 in subdivisions 6 to 9, effective no later than January 1, 2015. Prior to implementation, the
21.23 commissioner shall consult with stakeholders on the methodology to calculate the adjustment.

21.24 (h) The commissioner shall provide a public notice via LISTSERV in October of each
21.25 year beginning October 1, 2014, containing information detailing legislatively approved
21.26 changes in:

21.27 (1) calculation values including derived wage rates and related employee and
21.28 administrative factors;

21.29 (2) service utilization;

21.30 (3) county and tribal allocation changes; and

21.31 (4) information on adjustments made to calculation values and the timing of those
21.32 adjustments.

22.1 The information in this notice must be effective January 1 of the following year.

22.2 (i) No later than July 1, 2016, the commissioner shall develop and implement, in
22.3 consultation with stakeholders, a methodology sufficient to determine the shared staffing
22.4 levels necessary to meet, at a minimum, health and welfare needs of individuals who will
22.5 be living together in shared residential settings, and the required shared staffing activities
22.6 described in subdivision 2, paragraph ~~(h)~~ (m). This determination methodology must ensure
22.7 staffing levels are adaptable to meet the needs and desired outcomes for current and
22.8 prospective residents in shared residential settings.

22.9 (j) When the available shared staffing hours in a residential setting are insufficient to
22.10 meet the needs of an individual who enrolled in residential services after January 1, 2014,
22.11 or insufficient to meet the needs of an individual with a service agreement adjustment
22.12 described in section 256B.4913, subdivision 4a, paragraph (f), then individual staffing hours
22.13 shall be used.

22.14 Sec. 12. Minnesota Statutes 2016, section 256B.4914, subdivision 14, is amended to read:

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

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

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

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

22.27 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 is so insufficient
22.28 that it has resulted in an individual receiving a notice of discharge from the individual's
22.29 provider; or

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

23.1 (d) Exception requests must include the following information:

23.2 (1) the service needs required by each individual that are not accounted for in subdivisions
23.3 6, 7, 8, and 9;

23.4 (2) the service rate requested and the difference from the rate determined in subdivisions
23.5 6, 7, 8, and 9;

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

23.8 (4) any contingencies for approval.

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

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

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

23.22 (h) The individual disability waiver recipient may appeal any denial of an exception
23.23 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
23.24 256.0451. When the denial of an exception request results in the proposed demission of a
23.25 waiver recipient from a residential or day habilitation program, the commissioner shall issue
23.26 a temporary stay of demission, when requested by the disability waiver recipient, consistent
23.27 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
23.28 stay shall remain in effect until the lead agency can provide an informed choice of
23.29 appropriate, alternative services to the disability waiver.

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

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

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

24.7 (l) ~~No later than January 15, 2016,~~ The commissioner shall provide research findings
24.8 on the estimated fiscal impact, the primary cost drivers, and common population
24.9 characteristics of recipients with needs that cannot be met by the framework rates.

24.10 (m) ~~No later than July 1, 2016,~~ The commissioner shall develop and implement, in
24.11 consultation with stakeholders, a process to determine eligibility for rate exceptions for
24.12 individuals with rates determined under the methodology in section 256B.4913, subdivision
24.13 4a. Determination of eligibility for an exception will occur as annual service renewals are
24.14 completed.

24.15 (n) Approved rate exceptions will be implemented at such time that the individual's rate
24.16 is no longer banded and remain in effect in all cases until an individual's needs change as
24.17 defined in paragraph (c).

24.18 (o) For all service recipients who were authorized to receive waiver services on December
24.19 1, 2013, and have continued to receive those services from the same provider, the
24.20 commissioner, as an exception, shall adjust individual reimbursement rates so that the unit
24.21 rate is no lower than 1.0 percent from the rate in effect in section 256B.4913, subdivision
24.22 4a, paragraph (c), clause (6), for the 12-month period immediately following the time period
24.23 of section 256B.4913, subdivision 4a, paragraph (c), clause (6). Each January 1, the individual
24.24 reimbursement rate for those service recipients shall be reduced by 1.0 percent until the
24.25 adjusted individual rate is equal to the service rate as determined under subdivision 6, 7, 8,
24.26 or 9.

24.27 (p) For a service recipient who receives a waiver service that has a service rate as
24.28 determined under subdivision 6, 7, 8, or 9 that is ten percent or more below the historical
24.29 rate as determined under section 256B.4913, the lead agency shall review whether the
24.30 service recipient's access to services is impacted by the reduced rate. The lead agency shall
24.31 meet with the service recipient, the service recipient's legal guardian or legal representative,
24.32 and relevant health care or service providers to review the service recipient's coordinated
24.33 service and support plan or addendum to determine if the recipient is able to continue to
24.34 access equivalent services in the same geographic area as the waiver services that triggered

25.1 the review. If it is determined that the recipient will likely be denied access to equivalent
25.2 services, the lead agency shall recommend, and the commissioner shall approve, as an
25.3 exception under this subdivision, an individual reimbursement rate for that service at an
25.4 increased level sufficient to provide continued access to the same or equivalent service in
25.5 the same geographic area.

25.6 **EFFECTIVE DATE.** Paragraphs (o) and (p) are effective January 1, 2020.

25.7 Sec. 13. Minnesota Statutes 2016, section 256B.4914, is amended by adding a subdivision
25.8 to read:

25.9 Subd. 17. **Prompt issuance of service agreement authorizations.** (a) After rates are
25.10 generated by the framework, any lead agency responsible for the processing of service
25.11 authorizations shall promptly and expeditiously transmit all approvals and information
25.12 necessary for the commissioner to issue the resulting service agreements.

25.13 (b) Service agreements shall be:

25.14 (1) sufficient to implement the services authorized and provided; and

25.15 (2) effective retroactively from the date the license holder initiated any newly authorized
25.16 service.

25.17 (c) The number of days authorized in any service agreement issued following the end
25.18 of the banding period provided under section 256B.4913 must include every day that services
25.19 start and end.

25.20 (d) To implement the disability waiver rate-setting framework, if a lead agency converted
25.21 any service agreement from a monthly rate or other unit of service that was not compatible
25.22 with the framework, that conversion must have achieved budget neutrality. A conversion
25.23 shall not result in a reduction of the funding or services previously available to the recipient
25.24 under the former service agreement.

25.25 (e) If a license holder has reason to believe that a lead agency set service agreement
25.26 authorizations in violation of paragraph (c) or (d), the license holder may petition the
25.27 commissioner for a corrective rate adjustment.

25.28 (f) If a lead agency fails to process service agreement authorizations according to this
25.29 subdivision, the commissioner may require the agency to submit a corrective action plan
25.30 or to relinquish to the commissioner its authority to process service agreements.

26.1 Sec. 14. [256B.4915] DISABILITY WAIVER REIMBURSEMENT RATE

26.2 ADJUSTMENTS.

26.3 Subdivision 1. **Historical rate.** The commissioner shall adjust the historical rates
26.4 calculated in section 256B.4913, subdivision 4a, paragraph (b), in effect during the banding
26.5 period defined in section 256B.4913, subdivision 4a, paragraph (a), for each reimbursement
26.6 rate increase effective after January 1, 2014.

26.7 Subd. 2. **Residential support services.** The commissioner shall adjust the rates calculated
26.8 in section 256B.4914, subdivision 6, paragraphs (b) and (c), for each reimbursement rate
26.9 increase effective between January 1, 2014, and June 30, 2017.

26.10 Subd. 3. **Day programs.** The commissioner shall adjust the rates calculated in section
26.11 256B.4914, subdivision 7, for each reimbursement rate increase effective between January
26.12 1, 2014, and June 30, 2017.

26.13 Subd. 4. **Unit-based services with programming.** The commissioner shall adjust the
26.14 rates calculated in section 256B.4914, subdivision 8, for each reimbursement rate increase
26.15 effective between January 1, 2014, and June 30, 2017.

26.16 Subd. 5. **Unit-based services without programming.** The commissioner shall adjust
26.17 the rates calculated in section 256B.4914, subdivision 9, for each reimbursement rate increase
26.18 effective between January 1, 2014, and June 30, 2017.