

1.1 moves to amend H.F. No. 3191 as follows:

1.2 Page 1, after line 5, insert:

1.3 "Section 1. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 2, is
1.4 amended to read:

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

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

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

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

1.13 (e) "Direct care staff" means employees providing direct service provision to people
1.14 receiving services under this section. Direct care staff does not include executive, managerial,
1.15 and administrative staff.

1.16 (f) "Disability waiver rates system" means a statewide system that establishes rates that
1.17 are based on uniform processes and captures the individualized nature of waiver services
1.18 and recipient needs.

1.19 (g) "Individual staffing" means the time spent as a one-to-one interaction specific to
1.20 an individual recipient by staff to provide direct support and assistance with activities of
1.21 daily living, instrumental activities of daily living, and training to participants, and is based
1.22 on the requirements in each individual's coordinated service and support plan under section
1.23 245D.02, subdivision 4b; any coordinated service and support plan addendum under section

2.1 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's
2.2 needs must also be considered.

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

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

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

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

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

2.14 ~~(l)~~ (m) "Shared staffing" means time spent by employees, not defined under paragraph
2.15 ~~(f)~~ (g), providing or available to provide more than one individual with direct support and
2.16 assistance with activities of daily living as defined under section 256B.0659, subdivision
2.17 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659,
2.18 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and
2.19 training to participants, and is based on the requirements in each individual's coordinated
2.20 service and support plan under section 245D.02, subdivision 4b; any coordinated service
2.21 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and
2.22 provider observation of an individual's service need. Total shared staffing hours are divided
2.23 proportionally by the number of individuals who receive the shared service provisions.

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

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

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

2.32 (2) for day services under subdivision 7:

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

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

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

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

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

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

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

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

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

3.17 (4) for unit-based services without programming under subdivision 9, a unit of service
3.18 is 15 minutes.

3.19 Sec. 2. Minnesota Statutes 2016, section 256B.4914, subdivision 4, is amended to read:

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

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

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

3.27 (d) Service providers, with information from the community support plan and oversight
3.28 by lead agencies, shall provide values and information needed to calculate an individual's
3.29 rate into the rates management system. The determination of service levels must be part of
3.30 a discussion with members of the support team as defined in section 245D.02, subdivision

4.1 34. This discussion must occur prior to the final establishment of each individual's rate. The
4.2 values and information include:

4.3 (1) shared staffing hours;

4.4 (2) individual staffing hours;

4.5 (3) direct registered nurse hours;

4.6 (4) direct licensed practical nurse hours;

4.7 (5) staffing ratios;

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

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

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

4.13 (9) service hours provided through monitoring technology.

4.14 (e) Updates to individual data must include:

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

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

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

4.26 (1) meeting the health and welfare needs of the individual or individuals receiving
4.27 services by service site, identified in their coordinated service and support plan under section
4.28 245D.02, subdivision 4b, and any addendum under section 245D.02, subdivision 4c;

4.29 (2) meeting the requirements for staffing under subdivision 2, paragraphs ~~(f)~~ (g), ~~(i)~~ (m),
4.30 and ~~(m)~~ (n); and meeting or exceeding the licensing standards for staffing required under
4.31 section 245D.09, subdivision 1; and

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

5.3 Page 1, lines 11 and 12, delete the new language

5.4 Page 6, after line 23, insert:

5.5 "(k) The commissioner shall increase the updated base wage index in paragraph (h) with
5.6 a competitive workforce factor of 8.35 percent."

5.7 Page 6, line 24, after "2022" insert ", except the amendment to paragraph (k), which is
5.8 effective July 1, 2018, or upon federal approval. The commissioner shall inform the revisor
5.9 of statutes when federal approval is obtained"

5.10 Page 14, delete sections 6 and 7 and insert:

5.11 "Sec. 8. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 10, is
5.12 amended to read:

5.13 Subd. 10. **Updating payment values and additional information.** (a) From January
5.14 1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform
5.15 procedures to refine terms and adjust values used to calculate payment rates in this section.

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

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

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

5.23 (3) the distinct underlying costs for services provided by a license holder under sections
5.24 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided
5.25 by a license holder certified under section 245D.33.

5.26 (c) Beginning January 1, 2014, through December 31, 2018, using a statistically valid
5.27 set of rates management system data, the commissioner, in consultation with stakeholders,
5.28 shall analyze for each service the average difference in the rate on December 31, 2013, and
5.29 the framework rate at the individual, provider, lead agency, and state levels. The
5.30 commissioner shall issue semiannual reports to the stakeholders on the difference in rates
5.31 by service and by county during the banding period under section 256B.4913, subdivision
5.32 4a. The commissioner shall issue the first report by October 1, 2014, and the final report
5.33 shall be issued by December 31, 2018.

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

6.4 (1) values for transportation rates;

6.5 (2) values for services where monitoring technology replaces staff time;

6.6 (3) values for indirect services;

6.7 (4) values for nursing;

6.8 (5) values for the facility use rate in day services, and the weightings used in the day
6.9 service ratios and adjustments to those weightings;

6.10 (6) values for workers' compensation as part of employee-related expenses;

6.11 (7) values for unemployment insurance as part of employee-related expenses;

6.12 (8) any changes in state or federal law with a direct impact on the underlying cost of
6.13 providing home and community-based services; ~~and~~

6.14 (9) direct care staff labor market measures; and

6.15 (10) outcome measures, determined by the commissioner, for home and community-based
6.16 services rates determined under this section.

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

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

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

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

6.25 (4) January 15, 2020, with another full report, and a full report once every four years
6.26 thereafter.

6.27 (f) The commissioner shall implement a regional adjustment factor to all rate calculations
6.28 in subdivisions 6 to 9, effective no later than January 1, 2015. Beginning July 1, 2017, the
6.29 commissioner shall renew analysis and implement changes to the regional adjustment factors
6.30 when adjustments required under subdivision 5, paragraph (h), occur. Prior to

7.1 implementation, the commissioner shall consult with stakeholders on the methodology to
7.2 calculate the adjustment.

7.3 (g) The commissioner shall provide a public notice via LISTSERV in October of each
7.4 year beginning October 1, 2014, containing information detailing legislatively approved
7.5 changes in:

7.6 (1) calculation values including derived wage rates and related employee and
7.7 administrative factors;

7.8 (2) service utilization;

7.9 (3) county and tribal allocation changes; and

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

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

7.13 (h) When the available shared staffing hours in a residential setting are insufficient to
7.14 meet the needs of an individual who enrolled in residential services after January 1, 2014,
7.15 or insufficient to meet the needs of an individual with a service agreement adjustment
7.16 described in section 256B.4913, subdivision 4a, paragraph (f), then individual staffing hours
7.17 shall be used.

7.18 (i) The commissioner shall study the underlying cost of absence and utilization for day
7.19 services. Based on the commissioner's evaluation of the data collected under this paragraph,
7.20 the commissioner shall make recommendations to the legislature by January 15, 2018, for
7.21 changes, if any, to the absence and utilization factor ratio component value for day services.

7.22 (j) Beginning July 1, 2017, the commissioner shall collect transportation and trip
7.23 information for all day services through the rates management system.

7.24 Sec. 9. Minnesota Statutes 2017 Supplement, section 256B.4914, subdivision 10a, is
7.25 amended to read:

7.26 Subd. 10a. **Reporting and analysis of cost data.** (a) The commissioner must ensure
7.27 that wage values and component values in subdivisions 5 to 9 reflect the cost to provide the
7.28 service. As determined by the commissioner, in consultation with stakeholders identified
7.29 in section 256B.4913, subdivision 5, a provider enrolled to provide services with rates
7.30 determined under this section must submit requested cost data to the commissioner to support
7.31 research on the cost of providing services that have rates determined by the disability waiver
7.32 rates system. Requested cost data may include, but is not limited to:

- 8.1 (1) worker wage costs;
- 8.2 (2) benefits paid;
- 8.3 (3) supervisor wage costs;
- 8.4 (4) executive wage costs;
- 8.5 (5) vacation, sick, and training time paid;
- 8.6 (6) taxes, workers' compensation, and unemployment insurance costs paid;
- 8.7 (7) administrative costs paid;
- 8.8 (8) program costs paid;
- 8.9 (9) transportation costs paid;
- 8.10 (10) vacancy rates; and
- 8.11 (11) other data relating to costs required to provide services requested by the
- 8.12 commissioner.

8.13 (b) At least once in any five-year period, a provider must submit cost data for a fiscal

8.14 year that ended not more than 18 months prior to the submission date. The commissioner

8.15 shall provide each provider a 90-day notice prior to its submission due date. If a provider

8.16 fails to submit required reporting data, the commissioner shall provide notice to providers

8.17 that have not provided required data 30 days after the required submission date, and a second

8.18 notice for providers who have not provided required data 60 days after the required

8.19 submission date. The commissioner shall temporarily suspend payments to the provider if

8.20 cost data is not received 90 days after the required submission date. Withheld payments

8.21 shall be made once data is received by the commissioner.

8.22 (c) The commissioner shall conduct a random validation of data submitted under

8.23 paragraph (a) to ensure data accuracy. The commissioner shall analyze cost documentation

8.24 in paragraph (a) and provide recommendations for adjustments to cost components.

8.25 (d) The commissioner shall analyze cost documentation in paragraph (a) and, in

8.26 consultation with stakeholders identified in section 256B.4913, subdivision 5, may submit

8.27 recommendations on component values and inflationary factor adjustments to the chairs

8.28 and ranking minority members of the legislative committees with jurisdiction over human

8.29 services every four years beginning January 1, 2020. The commissioner shall make

8.30 recommendations in conjunction with reports submitted to the legislature according to

8.31 subdivision 10, paragraph (e). The commissioner shall release cost data in an aggregate

9.1 form, and cost data from individual providers shall not be released except as provided for
9.2 in current law.

9.3 (e) The commissioner, in consultation with stakeholders identified in section 256B.4913,
9.4 subdivision 5, shall develop and implement a process for providing training and technical
9.5 assistance necessary to support provider submission of cost documentation required under
9.6 paragraph (a).

9.7 (f) Beginning January 1, 2019, providers enrolled to provide services with rates
9.8 determined under this section shall submit labor market data to the commissioner annually.

9.9 (g) Beginning January 15, 2020, the commissioner shall publish annual reports on
9.10 provider and state-level labor market data, including, but not limited to:

9.11 (1) number of direct care staff;

9.12 (2) wages of direct care staff;

9.13 (3) benefits provided to direct care staff;

9.14 (4) direct care staff job vacancies; and

9.15 (5) direct care staff retention rates.

9.16 Sec. 10. Laws 2014, chapter 312, article 27, section 76, is amended to read:

9.17 Sec. 76. **DISABILITY WAIVER REIMBURSEMENT RATE ADJUSTMENTS.**

9.18 ~~Subdivision 1. **Historical rate.** The commissioner of human services shall adjust the~~
9.19 ~~historical rates calculated in Minnesota Statutes, section 256B.4913, subdivision 4a,~~
9.20 ~~paragraph (b), in effect during the banding period under Minnesota Statutes, section~~
9.21 ~~256B.4913, subdivision 4a, paragraph (a), for the reimbursement rate increases effective~~
9.22 ~~April 1, 2014, and any rate modification enacted during the 2014 legislative session.~~

9.23 ~~Subd. 2. **Residential support services.** The commissioner of human services shall adjust~~
9.24 ~~the rates calculated in Minnesota Statutes, section 256B.4914, subdivision 6, paragraphs~~
9.25 ~~(b), clause (4), and (c), for the reimbursement rate increases effective April 1, 2014, and~~
9.26 ~~any rate modification enacted during the 2014 legislative session.~~

9.27 ~~Subd. 3. **Day programs.** The commissioner of human services shall adjust the rates~~
9.28 ~~calculated in Minnesota Statutes, section 256B.4914, subdivision 7, paragraph (a), clauses~~
9.29 ~~(15) to (17), for the reimbursement rate increases effective April 1, 2014, and any rate~~
9.30 ~~modification enacted during the 2014 legislative session.~~

10.1 ~~Subd. 4. **Unit-based services with programming.** The commissioner of human services~~
10.2 ~~shall adjust the rate calculated in Minnesota Statutes, section 256B.4914, subdivision 8,~~
10.3 ~~paragraph (a), clause (14), for the reimbursement rate increases effective April 1, 2014, and~~
10.4 ~~any rate modification enacted during the 2014 legislative session.~~

10.5 ~~Subd. 5. **Unit-based services without programming.** The commissioner of human~~
10.6 ~~services shall adjust the rate calculated in Minnesota Statutes, section 256B.4914, subdivision~~
10.7 ~~9, paragraph (a), clause (23), for the reimbursement rate increases effective April 1, 2014,~~
10.8 ~~and any rate modification enacted during the 2014 legislative session."~~

10.9 Renumber the sections in sequence and correct internal references

10.10 Correct the title numbers accordingly