

1.1 ..... moves to amend H.F. No. 823 as follows:

1.2 Page 2, line 30, reinstate the stricken language and after "living" insert "or adult day"

1.3 Page 5, delete section 3 and insert:

1.4 "Sec. .... Minnesota Statutes 2016, section 256B.0915, subdivision 3a, is amended to read:

1.5 Subd. 3a. **Elderly waiver cost limits.** (a) Effective on ~~the first day of the state fiscal~~  
1.6 ~~year in which the resident assessment system as described in section 256B.438 for nursing~~  
1.7 ~~home rate determination is implemented~~ and the first day of each subsequent state fiscal  
1.8 year, the monthly limit for the cost of waived services to an individual elderly waiver  
1.9 client shall be the monthly limit of the case mix resident class to which the waiver client  
1.10 would be assigned under Minnesota Rules, parts 9549.0051 to 9549.0059, in effect on the  
1.11 last day of the previous state fiscal year, adjusted by any legislatively adopted home and  
1.12 community-based services percentage rate adjustment. If a legislatively authorized increase  
1.13 is service specific, the monthly cost limit shall be adjusted based on the overall average  
1.14 increase to the affected program.

1.15 (b) The monthly limit for the cost of waived services under paragraph (a) to an  
1.16 individual elderly waiver client assigned to a case mix classification A with:

1.17 (1) no dependencies in activities of daily living; or

1.18 (2) up to two dependencies in bathing, dressing, grooming, walking, and eating when  
1.19 the dependency score in eating is three or greater as determined by an assessment performed  
1.20 under section 256B.0911 shall be \$1,750 per month effective on July 1, 2011, for all new  
1.21 participants enrolled in the program on or after July 1, 2011. This monthly limit shall be  
1.22 applied to all other participants who meet this criteria at reassessment. This monthly limit  
1.23 shall be increased annually as described in paragraphs (a) and (e).

1.24 (c) If extended medical supplies and equipment or environmental modifications are or  
1.25 will be purchased for an elderly waiver client, the costs may be prorated for up to 12

2.1 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's  
 2.2 waived services exceeds the monthly limit established in paragraph (a), (b), (d), or (e),  
 2.3 the annual cost of all waived services shall be determined. In this event, the annual cost  
 2.4 of all waived services shall not exceed 12 times the monthly limit of waived services  
 2.5 as described in paragraph (a), (b), (d), or (e).

2.6 (d) ~~Effective July 1, 2013,~~ The monthly cost limit of waiver services, including any  
 2.7 necessary home care services described in section 256B.0651, subdivision 2, for individuals  
 2.8 who meet the criteria as ventilator-dependent given in section 256B.0651, subdivision 1,  
 2.9 paragraph (g), shall be the average of the monthly medical assistance amount established  
 2.10 for home care services as described in section 256B.0652, subdivision 7, and the annual  
 2.11 average contracted amount established by the commissioner for nursing facility services  
 2.12 for ventilator-dependent individuals. This monthly limit shall be increased annually as  
 2.13 described in paragraphs (a) and (e).

2.14 (e) ~~Effective July 1, 2016~~ January 1, 2018, and each ~~July~~ January 1 thereafter, the monthly  
 2.15 cost limits for elderly waiver services in effect on the previous ~~June 30~~ December 31 shall  
 2.16 be increased by the difference between any legislatively adopted home and community-based  
 2.17 provider rate increases effective on ~~July~~ January 1 or since the previous ~~July~~ January 1 and  
 2.18 the average statewide percentage increase in nursing facility operating payment rates under  
 2.19 ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective the previous January  
 2.20 1. This paragraph shall only apply if the average statewide percentage increase in nursing  
 2.21 facility operating payment rates is greater than any legislatively adopted home and  
 2.22 community-based provider rate increases effective on ~~July~~ January 1, or occurring since  
 2.23 the previous ~~July~~ January 1."

2.24 Page 7, line 32, after the stricken "(h)" insert "(l)" and reinstate the stricken "Effective"  
 2.25 and after the stricken "2016" insert "January 1, 2018" and reinstate the stricken ", and" and  
 2.26 delete "(l)" and strike "July" and insert "January" and reinstate the stricken "thereafter"

2.27 Page 8, lines 2 and 7, strike "July" and insert "January"

2.28 Page 8, after line 7, insert:

2.29 "Sec. .... Minnesota Statutes 2016, section 256B.0915, subdivision 3h, is amended to read:

2.30 Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment  
 2.31 rate for 24-hour customized living services is a monthly rate authorized by the lead agency  
 2.32 within the parameters established by the commissioner of human services. The payment  
 2.33 agreement must delineate the amount of each component service included in each recipient's  
 2.34 customized living service plan. The lead agency, with input from the provider of customized

3.1 living services, shall ensure that there is a documented need within the parameters established  
3.2 by the commissioner for all component customized living services authorized. The lead  
3.3 agency shall not authorize 24-hour customized living services unless there is a documented  
3.4 need for 24-hour supervision.

3.5 (b) For purposes of this section, "24-hour supervision" means that the recipient requires  
3.6 assistance due to needs related to one or more of the following:

3.7 (1) intermittent assistance with toileting, positioning, or transferring;

3.8 (2) cognitive or behavioral issues;

3.9 (3) a medical condition that requires clinical monitoring; or

3.10 (4) for all new participants enrolled in the program on or after July 1, 2011, and all other  
3.11 participants at their first reassessment after July 1, 2011, dependency in at least three of the  
3.12 following activities of daily living as determined by assessment under section 256B.0911:  
3.13 bathing; dressing; grooming; walking; or eating when the dependency score in eating is  
3.14 three or greater; and needs medication management and at least 50 hours of service per  
3.15 month. The lead agency shall ensure that the frequency and mode of supervision of the  
3.16 recipient and the qualifications of staff providing supervision are described and meet the  
3.17 needs of the recipient.

3.18 (c) The payment rate for 24-hour customized living services must be based on the amount  
3.19 of component services to be provided utilizing component rates established by the  
3.20 commissioner. Counties and tribes will use tools issued by the commissioner to develop  
3.21 and document customized living plans and authorize rates.

3.22 (d) Component service rates must not exceed payment rates for comparable elderly  
3.23 waiver or medical assistance services and must reflect economies of scale.

3.24 (e) The individually authorized 24-hour customized living payments, in combination  
3.25 with the payment for other elderly waiver services, including case management, must not  
3.26 exceed the recipient's community budget cap specified in subdivision 3a. Customized living  
3.27 services must not include rent or raw food costs.

3.28 (f) The individually authorized 24-hour customized living payment rates shall not exceed  
3.29 the 95 percentile of statewide monthly authorizations for 24-hour customized living services  
3.30 in effect and in the Medicaid management information systems on March 31, 2009, for each  
3.31 case mix resident class under Minnesota Rules, parts 9549.0051 to 9549.0059, to which  
3.32 elderly waiver service clients are assigned. When there are fewer than 50 authorizations in  
3.33 effect in the case mix resident class, the commissioner shall multiply the calculated service

4.1 payment rate maximum for the A classification by the standard weight for that classification  
4.2 under Minnesota Rules, parts 9549.0051 to 9549.0059, to determine the applicable payment  
4.3 rate maximum. Service payment rate maximums shall be updated annually based on  
4.4 legislatively adopted changes to all service rates for home and community-based service  
4.5 providers.

4.6 (g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may  
4.7 establish alternative payment rate systems for 24-hour customized living services in housing  
4.8 with services establishments which are freestanding buildings with a capacity of 16 or fewer,  
4.9 by applying a single hourly rate for covered component services provided in either:

4.10 (1) licensed corporate adult foster homes; or

4.11 (2) specialized dementia care units which meet the requirements of section 144D.065  
4.12 and in which:

4.13 (i) each resident is offered the option of having their own apartment; or

4.14 (ii) the units are licensed as board and lodge establishments with maximum capacity of  
4.15 eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205,  
4.16 subparts 1, 2, 3, and 4, item A.

4.17 (h) Twenty-four-hour customized living services are delivered by a provider licensed  
4.18 by the Department of Health as a class A or class F home care provider and provided in a  
4.19 building that is registered as a housing with services establishment under chapter 144D.  
4.20 Licensed home care providers are subject to section 256B.0651, subdivision 14.

4.21 (i) A provider may not bill or otherwise charge an elderly waiver participant or their  
4.22 family for additional units of any allowable component service beyond those available under  
4.23 the service rate limits described in paragraph (e), nor for additional units of any allowable  
4.24 component service beyond those approved in the service plan by the lead agency.

4.25 (j) Effective ~~July 1, 2016~~ January 1, 2018, and each ~~July~~ January 1 thereafter,  
4.26 individualized service rate limits for 24-hour customized living services under this  
4.27 subdivision shall be increased by the difference between any legislatively adopted home  
4.28 and community-based provider rate increases effective on ~~July~~ January 1 or since the previous  
4.29 ~~July~~ January 1 and the average statewide percentage increase in nursing facility operating  
4.30 payment rates under ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective  
4.31 the previous January 1. This paragraph shall only apply if the average statewide percentage  
4.32 increase in nursing facility operating payment rates is greater than any legislatively adopted

5.1 home and community-based provider rate increases effective on ~~July~~ January 1, or occurring  
5.2 since the previous ~~July~~ January 1."

5.3 Page 8, lines 18 to 20 and 24, reinstate the stricken language

5.4 Page 8, line 21, reinstate the stricken language and delete the new language

5.5 Page 8, lines 22 and 23, delete the new language

5.6 Page 8, line 29, delete "can" and insert "may"

5.7 Page 9, line 2, delete everything after the first period

5.8 Page 9, line 7, delete "and" and insert "essential community supports under section  
5.9 256B.0922, "

5.10 Page 9, line 8, after "living" insert ", brain injury customized living, and elderly waiver  
5.11 foster care and residential care"

5.12 Page 9, line 13, delete the comma and insert "and"

5.13 Page 9, line 14, delete everything after "report"

5.14 Page 9, line 15, delete everything before "to" and after "establish" insert "rates and" and  
5.15 delete "July" and insert "January"

5.16 Page 9, line 17, after the first "the" insert "rates and"

5.17 Page 9, line 18, after "each" insert "component" and after "service" insert "and value"  
5.18 and delete "additional rates for"

5.19 Page 9, line 23, after "worker" insert "supervision"

5.20 Page 9, line 26, delete "the"

5.21 Page 9, line 27, delete "following" and insert "customized living, foster care, and  
5.22 residential care component"

5.23 Page 10, lines 7, 12, and 30, delete "35-2021" and insert "31-1014"

5.24 Page 10, line 12, after the semicolon insert "and"

5.25 Page 10, line 17, delete the semicolon and insert a period

5.26 Page 10, after line 17, insert:

5.27 "(b) Base wages are calculated for the following services as follows:"

5.28 Page 10, line 18, delete "(5)" and insert "(1)" and delete "50" and insert "100"

5.29 Page 10, line 19, delete everything after "for"

- 6.1 Page 10, delete line 20
- 6.2 Page 10, line 21, delete everything before "landscaping"
- 6.3 Page 10, line 22, delete "(6)" and insert "(2)"
- 6.4 Page 10, line 26, delete "(7)" and insert "(3)"
- 6.5 Page 10, line 32, delete "(8)" and insert "(4)"
- 6.6 Page 11, lines 1, 7, 13, and 19, delete "35-2021" and insert "31-1014"
- 6.7 Page 11, line 4, delete "(9)" and insert "(5)"
- 6.8 Page 11, line 10, delete "(10)" and insert "(6)"
- 6.9 Page 11, line 15, after the semicolon insert "and"
- 6.10 Page 11, line 16, delete "(11)" and insert "(7)"
- 6.11 Page 11, line 21, delete the semicolon and insert a period
- 6.12 Page 11, after line 21, insert:
- 6.13 "(c) Base wages are calculated for the following values as follows:"
- 6.14 Page 11, line 22, delete "(12)" and insert "(1)"
- 6.15 Page 11, line 25, delete "(13)" and insert "(2)"
- 6.16 Page 11, line 28, delete "(b)" and insert "(d)"
- 6.17 Page 12, lines 12 and 13, delete "component rate" and insert "value"
- 6.18 Page 12, line 13, after the first "worker" insert "supervision"
- 6.19 Page 12, line 26, after "services" insert "component"
- 6.20 Page 12, line 27, after "transportation" insert "component rates"
- 6.21 Page 12, line 28, after "The" insert "15-minute unit"
- 6.22 Page 13, line 1, after "The" insert "15-minute unit"
- 6.23 Page 13, lines 7, 12, 13, and 18, after "15-minute" insert "unit"
- 6.24 Page 13, after line 18, insert:
- 6.25 "(k) The individual community living support rate is calculated as follows:"
- 6.26 (1) sum the adjusted base wage for the home care aide rate in subdivision 13, paragraph
- 6.27 (a), clause (2), and the social worker factor; and
- 6.28 (2) divide the result of clause (1) by four."

- 7.1 Page 13, line 19, delete "(k)" and insert "(l)"
- 7.2 Page 13, line 23, delete "(l)" and insert "(m)"
- 7.3 Page 13, line 24, delete "but" and insert "plus the additional factors in subdivision 14,
- 7.4 except that "
- 7.5 Page 13, delete line 25
- 7.6 Page 13, line 26, delete "caregiver." and delete "service" and delete the second "the"
- 7.7 and insert "0.25, to reflect a"
- 7.8 Page 13, line 27, after "ratio" insert "of one caregiver to four clients, " and after the first
- 7.9 "the" insert "15-minute"
- 7.10 Page 13, line 28, after the first "the" insert "15-minute" and after "per" insert "15-minute"
- 7.11 Page 13, line 29, delete everything after the period
- 7.12 Page 13, delete lines 30 to 32 and insert:
- 7.13 "(n) The adult day services bath 15-minute unit rate is the same as the calculation of the
- 7.14 adult day services 15-minute unit rate without the adjustment for staffing ratio.
- 7.15 (o) If a bath is authorized for an adult day services client, at least two 15-minute units
- 7.16 must be authorized to allow for adequate time to meet client needs. Adult day services may
- 7.17 be authorized for up to 48 units, or twelve hours, per day based on client and family caregiver
- 7.18 needs."
- 7.19 Page 14, line 9, delete "using the CoreQ questions"
- 7.20 Page 14, line 10, delete "questions" and insert "using a validated survey tool and set of
- 7.21 questions chosen by the commissioner in consultation with stakeholders"
- 7.22 Page 14, after line 22, insert:
- 7.23 "Sec. .... **DIRECTION TO COMMISSIONER; EVALUATION OF RATE**
- 7.24 **METHODOLOGY.**
- 7.25 (a) The commissioner of human services, in consultation with stakeholders, shall conduct
- 7.26 a study to evaluate the following:
- 7.27 (1) base wages in Minnesota Statutes, section 256B.0915, subdivision 13, to determine
- 7.28 if the standard occupational classification codes for each rate and component rate are an
- 7.29 appropriate representation of staff who deliver such services; and

8.1 (2) factors in Minnesota Statutes, section 256B.0915, subdivision 14, and adjusted base  
8.2 wage calculations in Minnesota Statutes, section 256B.0915, subdivision 15, to determine  
8.3 if the factors and calculations appropriately address non-wage provider costs.

8.4 (b) By January 1, 2019, the commissioner shall submit a report to the chairs and ranking  
8.5 minority members of the legislative committees with jurisdiction over human services policy  
8.6 and finance on the changes to the rate methodology in Minnesota Statutes, section 256B.0915,  
8.7 based on the results of the evaluation. Where feasible, the report shall address the impact  
8.8 of the new rates on the workforce situation and client access to services. The report must  
8.9 include any changes to the rate calculations that the commissioner recommends."

8.10 Page 14, line 25, delete "2017" and insert "2018"

8.11 Renumber the sections in sequence and correct the internal references

8.12 Amend the title accordingly