

1.1 moves to amend H.F. No. 179 as follows:

1.2 Page 1, after line 4, insert:

1.3 "Section 1. Minnesota Statutes 2018, section 256B.4913, subdivision 4a, is amended to
1.4 read:

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

1.12 (b) For purposes of this subdivision, the historical rate for all service recipients means
1.13 the individual reimbursement rate for a recipient in effect on December 1, 2013, except
1.14 that:

1.15 (1) for a day service recipient who was not authorized to receive these waiver services
1.16 prior to January 1, 2014; added a new service or services on or after January 1, 2014; or
1.17 changed providers on or after January 1, 2014, the historical rate must be the weighted
1.18 average authorized rate for the provider number in the county of service, effective December
1.19 1, 2013; or

1.20 (2) for a unit-based service with programming or a unit-based service without
1.21 programming recipient who was not authorized to receive these waiver services prior to
1.22 January 1, 2014; added a new service or services on or after January 1, 2014; or changed
1.23 providers on or after January 1, 2014, the historical rate must be the weighted average

2.1 authorized rate for each provider number in the county of service, effective December 1,
2.2 2013; or

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

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

2.9 (1) 0.5 percent from the historical rate for the implementation period;

2.10 (2) 0.5 percent from the rate in effect in clause (1), for the 12-month period immediately
2.11 following the time period of clause (1);

2.12 (3) 0.5 percent from the rate in effect in clause (2), for the 12-month period immediately
2.13 following the time period of clause (2);

2.14 (4) 1.0 percent from the rate in effect in clause (3), for the 12-month period immediately
2.15 following the time period of clause (3);

2.16 (5) 1.0 percent from the rate in effect in clause (4), for the 12-month period immediately
2.17 following the time period of clause (4); and

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

2.23 ~~(7) one percent from the rate in effect in clause (6) for the 12-month period immediately~~
2.24 ~~following the time period of clause (6).~~

2.25 (d) The commissioner shall review all changes to rates that were in effect on December
2.26 1, 2013, to verify that the rates in effect produce the equivalent level of spending and service
2.27 unit utilization on an annual basis as those in effect on October 31, 2013.

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

2.30 (f) During the banding period, the Medicaid Management Information System (MMIS)
2.31 service agreement rate must be adjusted to account for change in an individual's need. The

3.1 commissioner shall adjust the Medicaid Management Information System (MMIS) service
3.2 agreement rate by:

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

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

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

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

3.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.14 Sec. 2. Minnesota Statutes 2018, section 256B.4913, subdivision 5, is amended to read:

3.15 Subd. 5. **Stakeholder consultation and county training.** (a) The commissioner shall
3.16 continue consultation on regular intervals with the existing stakeholder group established
3.17 as part of the rate-setting methodology process and others, to gather input, concerns, and
3.18 data, to assist in the ~~full implementation~~ ongoing administration of the new rate payment
3.19 system and to make pertinent information available to the public through the department's
3.20 website.

3.21 (b) The commissioner shall offer training at least annually for county personnel
3.22 responsible for administering the rate-setting framework in a manner consistent with this
3.23 section and section 256B.4914.

3.24 (c) The commissioner shall maintain an online instruction manual explaining the
3.25 rate-setting framework. The manual shall be consistent with this section and section
3.26 256B.4914, and shall be accessible to all stakeholders including recipients, representatives
3.27 of recipients, county or tribal agencies, and license holders.

3.28 (d) The commissioner shall not defer to the county or tribal agency on matters of technical
3.29 application of the rate-setting framework, and a county or tribal agency shall not set rates
3.30 in a manner that conflicts with this section or section 256B.4914.

3.31 **EFFECTIVE DATE.** This section is effective January 1, 2020."

3.32 Page 5, strike lines 15 and 16

4.1 Reletter the paragraphs in sequence

4.2 Page 12, after line 24, insert:

4.3 "Sec. 7. Minnesota Statutes 2018, section 256B.4914, subdivision 6, is amended to read:

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

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

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

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

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

4.18 (5) multiply the number of shared and individual direct staff hours provided on site or
4.19 through monitoring technology and nursing hours by the product of the supervision span
4.20 of control ratio in subdivision 5, paragraph (b), clause (1), and the appropriate supervision
4.21 wage in subdivision 5, paragraph (a), clause (21);

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

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

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

4.30 (9) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if
4.31 customized for adapted transport, based on the resident with the highest assessed need.

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

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

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

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

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

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

5.15 ~~(d) For individuals enrolled prior to January 1, 2014, the days of service authorized must~~
5.16 ~~meet or exceed the days of service used to convert service agreements in effect on December~~
5.17 ~~1, 2013, and must not result in a reduction in spending or service utilization due to conversion~~
5.18 ~~during the implementation period under section 256B.4913, subdivision 4a. If during the~~
5.19 ~~implementation period, an individual's historical rate, including adjustments required under~~
5.20 ~~section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate~~
5.21 ~~determined in this subdivision, the number of days authorized for the individual is 365.~~

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

5.24 **EFFECTIVE DATE.** This section is effective January 1, 2020."

5.25 Page 13, strike lines 7 to 14

5.26 Reletter the paragraphs in sequence

5.27 Page 14, strike line 29

5.28 Page 14, line 30, strike everything before "then"

5.29 Page 17, after line 10, insert:

6.1 "Sec. 10. Minnesota Statutes 2018, section 256B.4914, subdivision 14, is amended to
6.2 read:

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

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

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

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

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

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

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

6.22 (1) the service needs required by each individual that are not accounted for in subdivisions
6.23 6, 7, 8, and 9;

6.24 (2) the service rate requested and the difference from the rate determined in subdivisions
6.25 6, 7, 8, and 9;

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

6.28 (4) any contingencies for approval.

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

6.31 (f) Individual disability waiver recipients, an interested party, or the license holder that
6.32 would receive the rate exception increase may request that a lead agency submit an exception

7.1 request. A lead agency that denies such a request shall notify the individual waiver recipient,
7.2 interested party, or license holder of its decision and the reasons for denying the request in
7.3 writing no later than 30 days after the request has been made and shall submit its denial to
7.4 the commissioner in accordance with paragraph (b). The reasons for the denial must be
7.5 based on the failure to meet the criteria in paragraph (c).

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

7.10 (h) The individual disability waiver recipient may appeal any denial of an exception
7.11 request by either the lead agency or the commissioner, pursuant to sections 256.045 and
7.12 256.0451. When the denial of an exception request results in the proposed demission of a
7.13 waiver recipient from a residential or day habilitation program, the commissioner shall issue
7.14 a temporary stay of demission, when requested by the disability waiver recipient, consistent
7.15 with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c). The temporary
7.16 stay shall remain in effect until the lead agency can provide an informed choice of
7.17 appropriate, alternative services to the disability waiver.

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

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

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

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

7.30 ~~(m) No later than July 1, 2016, the commissioner shall develop and implement, in~~
7.31 ~~consultation with stakeholders, a process to determine eligibility for rate exceptions for~~
7.32 ~~individuals with rates determined under the methodology in section 256B.4913, subdivision~~
7.33 ~~4a. Determination of eligibility for an exception will occur as annual service renewals are~~
7.34 ~~completed.~~

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

8.4 **EFFECTIVE DATE.** This section is effective January 1, 2020.

8.5 Sec. 11. **REVISOR INSTRUCTION.**

8.6 The revisor of statutes shall renumber Minnesota Statutes, section 256B.4913, subdivision
8.7 5, as a subdivision in Minnesota Statutes, section 256B.4914. The revisor shall also make
8.8 necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent
8.9 with the renumbering.

8.10 Sec. 12. **REPEALER.**

8.11 Minnesota Statutes 2018, section 256B.4913, subdivisions 4a, 6, and 7, are repealed
8.12 effective January 1, 2020."

8.13 Renumber the sections in sequence and correct the internal references

8.14 Amend the title accordingly