

1.1 moves to amend H.F. No. 1020, the delete everything amendment
1.2 (H1020DE2-1), as follows:

1.3 Page 9, after line 8, insert:

1.4 "Sec. 11. Minnesota Statutes 2010, section 256B.0911, subdivision 3a, is amended to
1.5 read:

1.6 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment,
1.7 services planning, or other assistance intended to support community-based living,
1.8 including persons who need assessment in order to determine waiver or alternative care
1.9 program eligibility, must be visited by a long-term care consultation team within 15
1.10 calendar days after the date on which an assessment was requested or recommended. After
1.11 January 1, 2011, these requirements also apply to personal care assistance services, private
1.12 duty nursing, and home health agency services, on timelines established in subdivision 5.
1.13 Face-to-face assessments must be conducted according to paragraphs (b) to (i).

1.14 (b) The county may utilize a team of either the social worker or public health nurse,
1.15 or both. After January 1, 2011, lead agencies shall use certified assessors to conduct the
1.16 assessment in a face-to-face interview. The consultation team members must confer
1.17 regarding the most appropriate care for each individual screened or assessed.

1.18 (c) The assessment must be comprehensive and include a person-centered
1.19 assessment of the health, psychological, functional, environmental, and social needs of
1.20 referred individuals and provide information necessary to develop a support plan that
1.21 meets the consumers needs, using an assessment form provided by the commissioner.

1.22 (d) The assessment must be conducted in a face-to-face interview with the person
1.23 being assessed and the person's legal representative, as required by legally executed
1.24 documents, and other individuals as requested by the person, who can provide information
1.25 on the needs, strengths, and preferences of the person necessary to develop a support plan
1.26 that ensures the person's health and safety, but who is not a provider of service or has any
1.27 financial interest in the provision of services. For persons who are to be assessed for

2.1 elderly waiver customized living services under section 256B.0915, with the permission
2.2 of the person being assessed or the person's designated or legal representative, the client's
2.3 current or proposed provider of services may submit a copy of the provider's nursing
2.4 assessment or written report outlining their recommendations regarding the client's care
2.5 needs. The person conducting the assessment will notify the provider of the date by which
2.6 this information is to be submitted. This information shall be provided to the person
2.7 conducting the assessment prior to the assessment.

2.8 (e) The person, or the person's legal representative, must be provided with written
2.9 recommendations for community-based services, including consumer-directed options,
2.10 or institutional care that include documentation that the most cost-effective alternatives
2.11 available were offered to the individual. For purposes of this requirement, "cost-effective
2.12 alternatives" means community services and living arrangements that cost the same as or
2.13 less than institutional care.

2.14 (f) If the person chooses to use community-based services, the person or the person's
2.15 legal representative must be provided with a written community support plan, regardless
2.16 of whether the individual is eligible for Minnesota health care programs. A person may
2.17 request assistance in identifying community supports without participating in a complete
2.18 assessment. Upon a request for assistance identifying community support, the person must
2.19 be transferred or referred to the services available under sections 256.975, subdivision 7,
2.20 and 256.01, subdivision 24, for telephone assistance and follow up.

2.21 (g) The person has the right to make the final decision between institutional
2.22 placement and community placement after the recommendations have been provided,
2.23 except as provided in subdivision 4a, paragraph (c).

2.24 (h) The team must give the person receiving assessment or support planning, or
2.25 the person's legal representative, materials, and forms supplied by the commissioner
2.26 containing the following information:

2.27 (1) the need for and purpose of preadmission screening if the person selects nursing
2.28 facility placement;

2.29 (2) the role of the long-term care consultation assessment and support planning in
2.30 waiver and alternative care program eligibility determination;

2.31 (3) information about Minnesota health care programs;

2.32 (4) the person's freedom to accept or reject the recommendations of the team;

2.33 (5) the person's right to confidentiality under the Minnesota Government Data
2.34 Practices Act, chapter 13;

3.1 (6) the long-term care consultant's decision regarding the person's need for
3.2 institutional level of care as determined under criteria established in section 144.0724,
3.3 subdivision 11, or 256B.092; and

3.4 (7) the person's right to appeal the decision regarding the need for nursing facility
3.5 level of care or the county's final decisions regarding public programs eligibility according
3.6 to section 256.045, subdivision 3.

3.7 (i) Face-to-face assessment completed as part of eligibility determination for
3.8 the alternative care, elderly waiver, community alternatives for disabled individuals,
3.9 community alternative care, and traumatic brain injury waiver programs under sections
3.10 256B.0915, 256B.0917, and 256B.49 is valid to establish service eligibility for no more
3.11 than 60 calendar days after the date of assessment. The effective eligibility start date
3.12 for these programs can never be prior to the date of assessment. If an assessment was
3.13 completed more than 60 days before the effective waiver or alternative care program
3.14 eligibility start date, assessment and support plan information must be updated in a
3.15 face-to-face visit and documented in the department's Medicaid Management Information
3.16 System (MMIS). The effective date of program eligibility in this case cannot be prior to
3.17 the date the updated assessment is completed.

3.18 Sec. 12. Minnesota Statutes 2010, section 256B.0915, subdivision 3e, is amended to
3.19 read:

3.20 Subd. 3e. **Customized living service rate.** (a) Payment for customized living
3.21 services shall be a monthly rate authorized by the lead agency within the parameters
3.22 established by the commissioner. The payment agreement must delineate the amount of
3.23 each component service included in the recipient's customized living service plan. The
3.24 lead agency, with input from the provider of customized living services, shall ensure that
3.25 there is a documented need within the parameters established by the commissioner for all
3.26 component customized living services authorized.

3.27 (b) The payment rate must be based on the amount of component services to be
3.28 provided utilizing component rates established by the commissioner. Counties and tribes
3.29 shall use tools issued by the commissioner to develop and document customized living
3.30 service plans and rates.

3.31 (c) Component service rates must not exceed payment rates for comparable elderly
3.32 waiver or medical assistance services and must reflect economies of scale. Customized
3.33 living services must not include rent or raw food costs.

3.34 (d) The individualized monthly authorized payment for the customized living
3.35 service plan shall not exceed 50 percent of the greater of either the statewide or any

4.1 of the geographic groups' weighted average monthly nursing facility rate of the case
4.2 mix resident class to which the elderly waiver eligible client would be assigned under
4.3 Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance
4.4 as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in
4.5 which the resident assessment system as described in section 256B.438 for nursing
4.6 home rate determination is implemented. Effective on July 1 of the state fiscal year in
4.7 which the resident assessment system as described in section 256B.438 for nursing
4.8 home rate determination is implemented and July 1 of each subsequent state fiscal year,
4.9 the individualized monthly authorized payment for the services described in this clause
4.10 shall not exceed the limit which was in effect on June 30 of the previous state fiscal year
4.11 updated annually based on legislatively adopted changes to all service rate maximums for
4.12 home and community-based service providers.

4.13 (e) Customized living services are delivered by a provider licensed by the
4.14 Department of Health as a class A or class F home care provider and provided in a
4.15 building that is registered as a housing with services establishment under chapter 144D.

4.16 Sec. 13. Minnesota Statutes 2010, section 256B.0915, subdivision 3h, is amended to
4.17 read:

4.18 Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The
4.19 payment rate for 24-hour customized living services is a monthly rate authorized by the
4.20 lead agency within the parameters established by the commissioner of human services.
4.21 The payment agreement must delineate the amount of each component service included
4.22 in each recipient's customized living service plan. The lead agency, with input from
4.23 the provider of customized living services, shall ensure that there is a documented need
4.24 within the parameters established by the commissioner for all component customized
4.25 living services authorized. The lead agency shall not authorize 24-hour customized living
4.26 services unless there is a documented need for 24-hour supervision.

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

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

4.30 (2) cognitive or behavioral issues;

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

4.32 (4) for all new participants enrolled in the program on or after January 1, 2011,
4.33 and all other participants at their first reassessment after January 1, 2011, dependency
4.34 in at least two of the following activities of daily living as determined by assessment
4.35 under section 256B.0911: bathing; dressing; grooming; walking; or eating; and needs

5.1 medication management and at least 50 hours of service per month. The lead agency shall
5.2 ensure that the frequency and mode of supervision of the recipient and the qualifications
5.3 of staff providing supervision are described and meet the needs of the recipient.

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

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

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

5.14 (f) The individually authorized 24-hour customized living payment rates shall not
5.15 exceed the 95 percentile of statewide monthly authorizations for 24-hour customized
5.16 living services in effect and in the Medicaid management information systems on March
5.17 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0050
5.18 to 9549.0059, to which elderly waiver service clients are assigned. When there are
5.19 fewer than 50 authorizations in effect in the case mix resident class, the commissioner
5.20 shall multiply the calculated service payment rate maximum for the A classification by
5.21 the standard weight for that classification under Minnesota Rules, parts 9549.0050 to
5.22 9549.0059, to determine the applicable payment rate maximum. Service payment rate
5.23 maximums shall be updated annually based on legislatively adopted changes to all service
5.24 rates for home and community-based service providers.

5.25 (g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner
5.26 may establish alternative payment rate systems for 24-hour customized living services in
5.27 housing with services establishments which are freestanding buildings with a capacity of
5.28 16 or fewer, by applying a single hourly rate for covered component services provided
5.29 in either:

5.30 (1) licensed corporate adult foster homes; or

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

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

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

6.1 Sec. 14. Minnesota Statutes 2010, section 256B.0915, subdivision 6, is amended to
6.2 read:

6.3 Subd. 6. **Implementation of care plan.** Each elderly waiver client, and the
6.4 client's provider of services, shall be provided a copy of a written care plan that meets
6.5 the requirements outlined in section 256B.0913, subdivision 8. The care plan must be
6.6 implemented by the county of service when it is different than the county of financial
6.7 responsibility. The county of service administering waived services must notify the
6.8 county of financial responsibility of the approved care plan."

6.9 Renumber the sections in sequence and correct the internal references

6.10 Amend the title accordingly