

1.1 moves to amend H.F. No. 1233, the delete everything amendment
1.2 (A13-0408), as follows:

1.3 Page 109, delete article 3 and insert:

1.4 "ARTICLE 3

1.5 HOME AND COMMUNITY-BASED SERVICES DISABILITY RATE SETTING

1.6 Section 1. Minnesota Statutes 2012, section 256B.4912, subdivision 2, is amended to
1.7 read:

1.8 Subd. 2. **Payment methodologies.** (a) The commissioner shall establish, as defined
1.9 under section 256B.4914, statewide payment methodologies that meet federal waiver
1.10 requirements for home and community-based waiver services for individuals with
1.11 disabilities. The payment methodologies must abide by the principles of transparency
1.12 and equitability across the state. The methodologies must involve a uniform process of
1.13 structuring rates for each service and must promote quality and participant choice.

1.14 (b) As of January 1, 2012, counties shall not implement changes to established
1.15 processes for rate-setting methodologies for individuals using components of or data
1.16 from research rates.

1.17 Sec. 2. Minnesota Statutes 2012, section 256B.4912, subdivision 3, is amended to read:

1.18 Subd. 3. **Payment requirements.** The payment methodologies established under
1.19 this section shall accommodate:

- 1.20 (1) supervision costs;
- 1.21 (2) ~~staffing patterns~~ staff compensation;
- 1.22 (3) staffing and supervisory patterns;
- 1.23 ~~(3)~~ (4) program-related expenses;
- 1.24 ~~(4)~~ (5) general and administrative expenses; and
- 1.25 ~~(5)~~ (6) consideration of recipient intensity.

2.1 Sec. 3. Minnesota Statutes 2012, section 256B.4913, is amended by adding a
2.2 subdivision to read:

2.3 Subd. 4a. **Rate stabilization adjustment.** (a) The commissioner of human services
2.4 shall adjust individual reimbursement rates by no more than 1.0 percent per year effective
2.5 January 1, 2014. Rates must be adjusted using the new payment methodology so that
2.6 the unit rate varies no more than 1.0 percent per year from the rate effective December
2.7 1 of the prior calendar year. This adjustment is made annually for three calendar years
2.8 from the date of implementation.

2.9 (b) Rate stabilization adjustment applies to services that are authorized in a
2.10 recipient's service plan prior to January 1, 2014.

2.11 (c) Exemptions shall be made only when there is a significant change in the
2.12 recipient's assessed needs which results in a service authorization change. Exemption
2.13 adjustments shall be limited to the difference in the authorized framework rate specific to
2.14 change in assessed need. Exemptions shall be managed within lead agencies' budgets per
2.15 existing allocation procedures.

2.16 (d) This subdivision expires January 1, 2017.

2.17 Sec. 4. Minnesota Statutes 2012, section 256B.4913, subdivision 5, is amended to read:

2.18 Subd. 5. **Stakeholder consultation.** The commissioner shall continue consultation
2.19 on regular intervals with the existing stakeholder group established as part of the
2.20 rate-setting methodology process ~~and others~~, to gather input, concerns, and data, ~~and~~
2.21 ~~exchange ideas for the legislative proposals for~~ to assist in the full implementation of
2.22 the new rate payment system ~~and to~~ make pertinent information available to the public
2.23 through the department's Web site.

2.24 Sec. 5. Minnesota Statutes 2012, section 256B.4913, subdivision 6, is amended to read:

2.25 Subd. 6. **Implementation.** (a) The commissioner ~~may~~ shall implement changes
2.26 ~~no sooner than~~ on January 1, 2014, to payment rates for individuals receiving home and
2.27 community-based waived services after the enactment of legislation that establishes
2.28 specific payment methodology frameworks, processes for rate calculations, and specific
2.29 values to populate the ~~payment methodology frameworks~~ disability waiver rates system.

2.30 (b) On January 1, 2014, all new service authorizations must use the disability waiver
2.31 rates system. Beginning January 1, 2014, all renewing individual service plans must use the
2.32 disability waiver rates system as reassessment and reauthorization occurs. By December
2.33 31, 2014, data for all recipients must be entered into the disability waiver rates system.

3.1 Sec. 6. **[256B.4914] HOME AND COMMUNITY-BASED SERVICES WAIVERS;**
3.2 **RATE SETTING.**

3.3 Subdivision 1. **Application.** The payment methodologies in this section apply to
3.4 home and community-based services waivers under sections 256B.092 and 256B.49. This
3.5 section does not change existing waiver policies and procedures.

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

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

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

3.11 (d) "Customized living tool" means a methodology for setting service rates which
3.12 delineates and documents the amount of each component service included in a recipient's
3.13 customized living service plan.

3.14 (e) "Disability Waiver Rates System" means a statewide system which establishes
3.15 rates that are based on uniform processes and captures the individualized nature of waiver
3.16 services and recipient needs.

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

3.19 (g) "Median" means the amount that divides distribution into two equal groups, half
3.20 above the median and half below the median.

3.21 (h) "Payment or rate" means reimbursement to an eligible provider for services
3.22 provided to a qualified individual based on an approved service authorization.

3.23 (i) "Rates management system" means a web-based software application that uses
3.24 a framework and component values, as determined by the commissioner, to establish
3.25 service rates.

3.26 (j) "Recipient" means a person receiving home and community- based services
3.27 funded under any of the disability waivers.

3.28 Subd. 3. **Applicable services.** Applicable services are those authorized under the
3.29 state's home and community-based services waivers under sections 256B.092 and 256B.49
3.30 including, as defined in the federally approved home and community-based services plan:

3.31 (1) 24 hour customized living;

3.32 (2) adult day care;

3.33 (3) adult day care bath;

3.34 (4) behavioral programming;

3.35 (5) companion services;

3.36 (6) customized living;

- 4.1 (7) day training and habilitation;
 4.2 (8) housing access coordination;
 4.3 (9) independent living skills;
 4.4 (10) in-home family support;
 4.5 (11) night supervision;
 4.6 (12) personal support;
 4.7 (13) prevocational services;
 4.8 (14) residential care services;
 4.9 (15) residential support services;
 4.10 (16) respite services;
 4.11 (17) structured day services;
 4.12 (18) supported employment services;
 4.13 (19) supported living services;
 4.14 (20) transportation services; and
 4.15 (21) other services as approved by the federal government in the state home and
 4.16 community-based services plan.

4.17 Subd. 4. **Data collection for rate determination.** (a) Rates for all applicable home
 4.18 and community-based waived services, including rate exceptions under subdivision 12
 4.19 are set via the rates management system.

4.20 (b) Only data and information in the rates management system may be used to
 4.21 calculate an individual's rate.

4.22 (c) Service providers, with information from the community support plan, shall enter
 4.23 values and information needed to calculate an individual's rate into the rates management
 4.24 system. These values and information include:

- 4.25 (1) shared staffing hours;
 4.26 (2) individual staffing hours;
 4.27 (3) staffing ratios;
 4.28 (4) information to document variable levels of service qualification for variable
 4.29 levels of reimbursement in each framework;
 4.30 (5) shared or individualized arrangements for unit-based services, including the
 4.31 staffing ratio; and;
 4.32 (6) number of trips and miles for transportation services.

4.33 (d) Updates to individual data shall include:

- 4.34 (1) data for each individual that is updated annually when renewing service plans; and
 4.35 (2) requests by individuals or lead agencies to update a rate whenever there is a
 4.36 change in an individual's service needs, with accompanying documentation.

5.1 (e) Lead agencies shall review and approve values to calculate the final payment rate
5.2 for each individual. Lead agencies must notify the individual and the service provider
5.3 of the final agreed upon values and rate. If a value used was mistakenly or erroneously
5.4 entered and used to calculate a rate, a provider may petition lead agencies to correct it.
5.5 Lead agencies must respond to these requests.

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

5.13 (1) for residential direct care basic staff, 50 percent of the median wage for personal
5.14 and home health aide (SOC code 39-9021); 30 percent of the median wage for nursing
5.15 aide (SOC code 31-1012); and 20 percent of the median wage for social and human
5.16 services aide (SOC code 21-1093);

5.17 (2) for residential direct care intensive staff, 20 percent of the median wage for home
5.18 health aide (SOC code 31-1011); 20 percent of the median wage for personal and home
5.19 health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code
5.20 21-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053);
5.21 and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

5.22 (3) for day services, 20 percent of the median wage for nursing aide (SOC Code
5.23 31-1012); 20 percent of the median wage for psychiatric technician (SOC Code 29-2053);
5.24 and 60 percent of the median wage for social and human services code (SOC Code
5.25 21-1093);

5.26 (4) for residential asleep overnight staff, the wage will be \$7.66 per hour, except
5.27 in a family foster care setting the wage is \$2.80 per hour;

5.28 (5) for behavior program analyst staff: 100 percent of the median wage for mental
5.29 health counselors (SOC code 21-1014);

5.30 (6) for behavior program professional staff: 100 percent of the median wage for
5.31 clinical counseling and school psychologist (SOC code 19-3031);

5.32 (7) for behavior program specialist staff: 100 percent of the median wage for
5.33 psychiatric technicians (SOC code 29-2053);

5.34 (8) for supportive living services staff: 20 percent of the median wage for nursing
5.35 aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC

6.1 code 29-2053); and 60 percent of the median wage for social and human services aide
6.2 (SOC code 21-1093);

6.3 (9) for housing access coordination staff: 50 percent of the median wage for
6.4 community and social services specialist (SOC code 21-1099); and 50 percent of the
6.5 median wage for social and human services aide (SOC code 21-1093);

6.6 (10) for in-home family support staff: 20 percent of the median wage for nursing
6.7 aide (SOC code 31-1012); 30 percent of community social service specialist (SOC code
6.8 21-1099); 40 percent of the median wage for social and human services aide (SOC code
6.9 21-1093); and 10 percent of the median wage for psychiatric technician (SOC code
6.10 29-2053);

6.11 (11) for independent living skills staff: 40 percent of the median wage for
6.12 community social service specialist (SOC code 21-1099); 50 percent of the median wage
6.13 for social and human services aide (SOC code 21-1093); and 10 percent of the median
6.14 wage for psychiatric technician (SOC code 29-2053);

6.15 (12) for supported employment staff: 20 percent of the median wage for nursing
6.16 aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC
6.17 code 29-2053); and 60 percent of the median wage for social and human services aide
6.18 (SOC code 21-1093);

6.19 (13) for adult companion staff: 50 percent of the median wage for personal and
6.20 home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides,
6.21 orderlies, and attendants (SOC code 31-1012);

6.22 (14) for night supervision staff: 20 percent of the median wage for home health aide
6.23 (SOC code 31-1011); 20 percent of the median wage for personal and home health aide
6.24 (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012);
6.25 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20
6.26 percent of the median wage for social and human services aide (SOC code 21-1093);

6.27 (15) for respite staff: 50 percent of the median wage for personal and home care aide
6.28 (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and
6.29 attendants (SOC code 31-1012);

6.30 (16) for personal support staff: 50 percent of the median wage for personal and
6.31 home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing
6.32 aides, orderlies, and attendants (SOC code 31-1012); and

6.33 (17) For supervisory staff: the basic wage is \$17.43 per hour with exception of the
6.34 supervisor of behavior analyst and behavior specialists which shall be \$30.75 per hour.

6.35 (b) Component values for residential support services, excluding family foster
6.36 care, are:

- 7.1 (1) supervisory span of control ratio: 11 percent;
- 7.2 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 7.3 (3) employee-related cost ratio: 23.6 percent;
- 7.4 (4) general administrative support ratio: 13.25 percent;
- 7.5 (5) program-related expense ratio: 1.3 percent; and
- 7.6 (6) absence and utilization factor ratio: 3.9 percent.
- 7.7 (c) Component values for family foster care are:
- 7.8 (1) supervisory span of control ratio: 11 percent;
- 7.9 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 7.10 (3) employee-related cost ratio: 23.6 percent;
- 7.11 (4) general administrative support ratio: 3.3 percent; and
- 7.12 (5) program-related expense ratio: 1.3 percent.
- 7.13 (d) Component values for day services for all services are:
- 7.14 (1) supervisory span of control ratio: 11 percent;
- 7.15 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 7.16 (3) employee-related cost ratio: 23.6 percent;
- 7.17 (4) program plan support ratio: 5.6 percent;
- 7.18 (5) client programming and support ratio: 10 percent;
- 7.19 (6) general administrative support ratio: 13.25 percent;
- 7.20 (7) program-related expense ratio: 1.8 percent; and
- 7.21 (8) absence and utilization factor ratio: 3.9 percent.
- 7.22 (e) Component values for unit-based with program services are:
- 7.23 (1) supervisory span of control ratio: 11 percent;
- 7.24 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 7.25 (3) employee-related cost ratio: 23.6 percent;
- 7.26 (4) program plan supports ratio: 3.1 percent;
- 7.27 (5) client programming and supports ratio: 8.6 percent;
- 7.28 (6) general administrative support ratio: 13.25 percent;
- 7.29 (7) program-related expense ratio: 6.1 percent; and
- 7.30 (8) absence and utilization factor ratio: 3.9 percent.
- 7.31 (f) Component values for unit-based services without programming except respite
- 7.32 are:
- 7.33 (1) supervisory span of control ratio: 11 percent;
- 7.34 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- 7.35 (3) employee-related cost ratio: 23.6 percent;
- 7.36 (4) program plan support ratio: 3.1 percent;

- 8.1 (5) client programming and support ratio: 8.6 percent;
8.2 (6) general administrative support ratio: 13.25 percent;
8.3 (7) program-related expense ratio: 6.1 percent; and
8.4 (8) absence and utilization factor ratio: 3.9 percent.
8.5 (g) Component values for unit-based services without programming for respite are:
8.6 (1) supervisory span of control ratio: 11 percent;
8.7 (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
8.8 (3) employee-related cost ratio: 23.6 percent;
8.9 (4) general administrative support ratio: 13.25 percent;
8.10 (5) program-related expense ratio: 6.1 percent; and
8.11 (6) absence and utilization factor ratio: 3.9 percent.
8.12 (h) The commissioner shall revise the wage rates in the manner provided in
8.13 subdivision 10.

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

- 8.17 (1) determine the number of units of service to meet a recipient's needs;
8.18 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
8.19 national and Minnesota-specific rates or rates derived by the commissioner as provided in
8.20 subdivision 5. This is defined as the direct care rate;
8.21 (3) for a recipient requiring customization for deaf and hard-of-hearing language
8.22 accessibility under subdivision 12, add the customization rate provided in subdivision 12
8.23 to the result of clause (2). This is defined as the customized direct care rate;
8.24 (4) multiply the number of residential services direct staff hours by the appropriate
8.25 staff wage in subdivision 5, paragraph (a) or the customized direct care rate;
8.26 (5) multiply the number of direct staff hours by the product of the supervision span
8.27 of control ratio in subdivision 5, paragraph (b) clause (1), and the appropriate supervision
8.28 wage in subdivision 5 paragraph (a) clause (17);
8.29 (6) combine the results of clauses (4) and (5), and multiply the result by one plus
8.30 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b),
8.31 clause (2). This is defined as the direct staffing cost;
8.32 (7) for employee-related expenses, multiply the direct staffing cost by one plus the
8.33 employee-related cost ratio in subdivision 5, paragraph (b), clause (3);
8.34 (8) for client programming and supports, the commissioner shall add \$2,179; and
8.35 (9) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if
8.36 customized for adapted transport per year.

9.1 (b) The total rate shall be calculated using the following steps:

9.2 (1) subtotal paragraph (a), clauses (7) to (9);

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

9.5 (3) divide the result of clause (1) by one minus the result of clause (2). This is
9.6 the total payment amount.

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

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

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

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

9.16 (4) multiply the number of day program direct staff hours by the appropriate staff
9.17 wage in subdivision 5 paragraph (a) or the customized direct care rate;

9.18 (5) multiply the number of day direct staff hours by the product of the supervision
9.19 span of control ratio in subdivision 5, paragraph (d), clause (1), and the appropriate
9.20 supervision wage in paragraph subdivision 5 paragraph (a) clause (17);

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

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

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

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

9.30 (10) for program facility costs, add \$8.30 per week with consideration of staffing
9.31 ratios to meet individual needs;

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

9.33 (12) this is the subtotal rate;

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

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

10.3 (15) for transportation provided as part of day training and habilitation for an
10.4 individual who does not require a lift, add:

10.5 (i) \$10.50 for a trip between zero and ten miles for a non-shared ride in a vehicle
10.6 without a lift, \$8.83 for a shared ride in a vehicle without a lift and \$9.25 for a shared
10.7 ride in a vehicle with a lift;

10.8 (ii) \$15.75 for a trip between 11 and 20 miles for a non-shared ride in a vehicle
10.9 without a lift, \$10.58 for a shared ride in a vehicle without a lift and \$11.88 for a shared
10.10 ride in a vehicle with a lift;

10.11 (iii) \$25.75 for a trip between 21 and 50 miles for a non-shared ride in a vehicle
10.12 without a lift, \$13.92 for a shared ride in a vehicle without a lift and \$16.88 for a shared
10.13 ride in a vehicle with a lift; or

10.14 (iv) \$33.50 for a trip of 51 miles or more for a non-shared ride in a vehicle without
10.15 a lift, \$16.50 for a shared ride in a vehicle without a lift and \$20.75 for a shared ride
10.16 in a vehicle with a lift.;

10.17 (16) for transportation provide as part of day training and habilitation for an
10.18 individual who does require a lift, add:

10.19 (i) \$19.05 for a trip between zero and ten miles for a non-shared ride in a vehicle
10.20 with a lift, and \$15.05 for a shared ride in a vehicle with a lift;

10.21 (ii) \$32.16 for a trip between 11 and 20 miles for a non-shared ride in a vehicle with
10.22 a lift, and \$28.16 for a shared ride in a vehicle with a lift;

10.23 (iii) \$58.76 for a trip between 21 and 50 miles for a non-shared ride in a vehicle with
10.24 a lift, and \$58.76 for a shared ride in a vehicle with a lift; or

10.25 (iv) \$80.93 for a trip of 51 miles or more for a non-shared ride in a vehicle with a
10.26 lift, and \$80.93 for a shared ride in a vehicle with a lift.

10.27 Subd. 8. **Payments for unit-based services with programming.** Payments for
10.28 unit-based with program services, including behavior programming, housing access
10.29 coordination, in-home family support, independent living skills training, hourly supported
10.30 living services, and supported employment provided to an individual outside of any day or
10.31 residential service plan must be calculated as follows, unless the services are authorized
10.32 separately under subdivision 6 or subdivision 7:

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

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

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

11.4 (4) multiply the number of direct staff hours by the appropriate staff wage in
11.5 subdivision 5 paragraph (a) or the customized direct care rate;

11.6 (5) multiply the number of direct staff hours by the product of the supervision span
11.7 of control ratio in subdivision 5 paragraph (e) clause (1) and the appropriate supervision
11.8 wage in subdivision 5 paragraph (a), clause (17);

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

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

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

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

11.18 (10) this is the subtotal rate;

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

11.21 (12) divide the result of clause (10) by one minus the result of clause (11). This is
11.22 the total payment amount.

11.23 **Subd. 9. Payments for unit-based services without programming.** Payments
11.24 for unit-based without program services including night supervision, personal support,
11.25 respite, and companion care provided to an individual outside of any day or residential
11.26 service plan must be calculated as follows unless the services are authorized separately
11.27 under subdivision 6 or subdivision 7:

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

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

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

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

12.1 (5) multiply the number of direct staff hours by the product of the supervision span
12.2 of control ratio in subdivision 5 paragraph (f) clause (1) and the appropriate supervision
12.3 wage in subdivision 5 paragraph (a) clause (17);

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

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

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

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

12.13 (10) this is the subtotal rate;

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

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

12.18 (13) for respite services, determine the number of daily units of service to meet an
12.19 individual's needs;

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

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

12.25 (16) multiply the number of direct staff hours by the appropriate staff wage in
12.26 subdivision 5 paragraph (a);

12.27 (17) multiply the number of direct staff hours by the product of the supervisory span
12.28 of control ratio in subdivision 5 paragraph (g) clause (1) and the appropriate supervision
12.29 wage in subdivision 5 paragraph (a) clause (17);

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

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

12.35 (20) this is the subtotal rate;

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

13.3 (22) divide the result of clause (20) by one minus the result of clause (21). This is
13.4 the total payment amount.

13.5 Subd. 10. **Updating payment values and additional information.** (a) The
13.6 commissioner shall develop and implement uniform procedures to refine terms and update
13.7 or adjust values used to calculate payment rates in this section. For calendar year 2014,
13.8 the commissioner shall use the values, terms, and procedures provided in this section.

13.9 (b) The commissioner shall work with stakeholders to assess efficacy of values
13.10 and payment rates. The commissioner shall report back to the legislature with proposed
13.11 changes for component values and recommendations for revisions on the schedule
13.12 provided in paragraphs (c) and (d).

13.13 (c) The commissioner shall work with stakeholders to continue refining a
13.14 subset of component values, which are to be referred to as interim values, and report
13.15 recommendations to the legislature by February 15, 2014. Interim component values are:
13.16 transportation rates for day training and habilitation; transportation for adult day, structured
13.17 day, and prevocational services; geographic difference factor; day program facility rate;
13.18 services where monitoring technology replaces staff time; shared services for independent
13.19 living skills training; and supported employment and billing for indirect services.

13.20 (d) The commissioner shall report and make recommendations to the legislature on:
13.21 February 15, 2015, February 15, 2017, February 15, 2019, and February 15, 2021. After
13.22 2021, reports shall be provided on a four-year cycle.

13.23 (e) The commissioner shall provide a public notice via list serve in October of each
13.24 year beginning October 1, 2014. The notice shall contain information detailing legislatively
13.25 approved changes in: calculation values including derived wage rates and related employee
13.26 and administrative factors; services utilization; county and tribal allocation changes
13.27 and; information on adjustments to be made to calculation values and timing of those
13.28 adjustments. Information in this notice shall be effective January 1 of the following year.

13.29 Subd. 11. **Payment implementation.** Upon implementation of the payment
13.30 methodologies under this section, those payment rates supersede rates established in county
13.31 contracts for recipients receiving waiver services under sections 256B.092 or 256B.49.

13.32 Subd. 12. **Customization of rates for individuals.** (a) For persons determined
13.33 to have higher needs based on being deaf/hard-of-hearing, the direct care costs must
13.34 be increased by an adjustment factor prior to calculating the rate under subdivisions 6,
13.35 7, 8 and 9. The customization rate with respect to deaf/hard-of-hearing persons shall be

14.1 \$2.50 per hour for waiver recipients who meet the respective criteria as determined by the
14.2 commissioner. (b) For the purposes of this section, "Deaf or Hard of Hearing" means:

14.3 (1)(i) the person has a developmental disability and an assessment score which
14.4 indicates a hearing impairment that is severe or that the person has no useful hearing;

14.5 (ii) the person has a developmental disability and an expressive communications
14.6 score that indicates the person uses single signs or gestures, uses an augmentative
14.7 communication aid, or does not have functional communication, or the person's expressive
14.8 communications is unknown; and

14.9 (iii) the person has a developmental disability and a communication score which
14.10 indicates the person comprehends signs, gestures and modeling prompts or does not
14.11 comprehend verbal, visual or gestural communication or that the person's receptive
14.12 communication score is unknown; or

14.13 (2)(i) the person receives long-term care services and has an assessment score which
14.14 indicates they hear only very loud sounds, have no useful hearing or a determination
14.15 cannot be made; and

14.16 (ii) the person receives long-term care services and has an assessment which
14.17 indicates the person communicates needs with sign language, symbol board, written
14.18 messages, gestures or an interpreter; communicates with inappropriate content, makes
14.19 garbled sounds or displays echolalia or does not communicate needs.

14.20 Subd. 13. **Transportation.** The commissioner shall require that the purchase
14.21 of transportation services be cost-effective and be limited to market rates where the
14.22 transportation mode is generally available and accessible.

14.23 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead
14.24 agencies must identify individuals with exceptional needs that cannot be met under the
14.25 disability waiver rate system. The commissioner shall use that information to evaluate
14.26 and, if necessary, approve an alternative payment rate for those individuals.

14.27 (b) Lead agencies must submit exceptions requests to the state.

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

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

14.31 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 results in an
14.32 individual being discharged.

14.33 (d) Exception requests will include the following information:

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

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

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

15.5 (4) the duration of the rate exception; and

15.6 (5) any contingencies for approval.

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

15.9 (f) Individual disability waiver recipients may request that a lead agency submit an
15.10 exceptions request. A lead agency that denies such a request shall notify the individual
15.11 waiver recipient of its decision and the reasons for denying the request in writing no later
15.12 than 30 days after the individual's request has been made.

15.13 (g) The commissioner shall determine whether to approve or deny an exception
15.14 request no more than 30 days after receiving the request. If the commissioner denies the
15.15 request, the commissioner shall notify the lead agency and the individual disability waiver
15.16 recipient in writing of the reasons for the denial.

15.17 (h) The individual disability waiver recipient may appeal any denial of an exception
15.18 request by either the lead agency or the commissioner, pursuant to Minnesota Statutes,
15.19 sections 256.045 and 256.0451. When the denial of an exception request results in the
15.20 proposed demission of a waiver recipient from a residential or day habilitation program, the
15.21 commissioner shall issue a temporary stay of demission, when requested by the disability
15.22 waiver recipient, consistent with the provisions of Minnesota Statutes, section 256.045,
15.23 subdivisions 4a and 6(c). The temporary stay shall remain in effect until the lead agency
15.24 can provide an informed choice of appropriate, alternative services to the disability waiver.

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

15.28 Subd. 15. **County or tribal allocations.** (a) Upon implementation of the Disability
15.29 Waiver Rates Management System on January 1, 2014, the commissioner shall establish
15.30 a method of tracking and reporting the fiscal impact of the Disability Waiver Rates
15.31 Management System on individual lead agencies.

15.32 (b) Beginning January 1, 2014, and continuing through full implementation on
15.33 December 31, 2017, the commissioner shall make annual adjustments to lead agencies'
15.34 home and community-based waived service budget allocations to adjust for rate
15.35 differences and the resulting impact on county allocations upon implementation of the
15.36 disability waiver rates system.

16.1 Subd. 16. **Budget neutrality adjustment.** The commissioner shall calculate the
16.2 total spending for all home and community-based waiver services under the payments as
16.3 defined in subdivisions 6, 7, 8, and 9 for all recipients as of July 1, 2013, and compare it to
16.4 spending for services defined for subdivisions 6, 7, 8, and 9 under current law. If spending
16.5 for services in one particular subdivision differs, there will be a percentage adjustment
16.6 to increase or decrease individual rates for the services defined in each subdivision so
16.7 aggregate spending matches projections under current law.

16.8 Sec. 7. **REPEALER.**

16.9 Minnesota Statutes 2012, section 256B.4913, subdivisions 1, 2, 3, and 4, is repealed."