

**Subject** Nursing facility, elderly waiver, and customized living payment rates

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## Overview

This bill modifies nursing facility payment rates by: (1) moving certain employee labor costs out of other operating costs and into other care-related costs; and (2) adding an inflationary factor to the calculation of: (i) direct care cost per standardized day; (ii) other care-related costs per resident day; (iii) other operating costs per day; and (iv) certain external fixed costs. The bill modifies elderly waiver payment rates by: (1) requiring the commissioner to annually update base wages and the payroll taxes and benefits factor; and (2) repealing the phase-in of elderly waiver rates and disability waiver customized living rates. The bill also appropriates money to nursing facilities.

The MA nursing facility payment rate is made up of five components, each of which reflects a different portion of a facility's costs. The total payment rate is the sum of all of the facility's rate components. The five rate components are: (1) the direct care rate; (2) the other care-related rate; (3) the other operating rate; (4) the external fixed rate; and (5) the property rate.

MA elderly waiver payment rates are currently a blend of a new rate methodology (18.8 percent of the rate) and a rate methodology that was in effect on June 30, 2017 (81.2 percent of the rate).

## Summary

Section	Description
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1	<b>Dietary costs.</b>
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	Amends § 256R.02, subd. 16. Modifies the definition of "dietary costs" under the chapter of statutes governing nursing facility payment rates by removing the costs for the salaries and wages of various dietary, kitchen, and dining room staff and associated fringe benefits and payroll taxes.
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Section	Description
	Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
2	<p><b>Dietary labor costs.</b></p> <p>Amends § 256R.02, by adding subd. 16a. Defines “dietary labor costs” under the chapter of statutes governing nursing facility payment rates (the language removed in subd. 16 is moved here).</p> <p>Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
3	<p><b>Housekeeping costs.</b></p> <p>Amends § 256R.02, subd. 24. Modifies the definition of “housekeeping costs” in the chapter of statutes governing nursing facility payment rates by removing the costs for the salaries and wages of certain housekeeping and cleaning employees and associated fringe benefits and payroll taxes.</p> <p>Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
4	<p><b>Housekeeping labor costs.</b></p> <p>Amends § 256R.02, by adding subd. 24a. Defines “housekeeping labor costs” in the chapter of statutes governing nursing facility payment rates (the language removed in subd. 24 is moved here).</p> <p>Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
5	<p><b>Known cost change factor.</b></p> <p>Amends § 256R.02, by adding subd. 25b. Defines “known cost change factor” in the chapter of statutes governing nursing facility payment rates.</p> <p>Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
6	<p><b>Laundry costs.</b></p> <p>Amends § 256R.02, subd. 26. Modifies the definition of “laundry costs” in the chapter of statutes governing nursing facility payment rates by removing the costs for the</p>

Section	Description
	salaries and wages of laundry employees and associated fringe benefits and payroll taxes.
	Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
7	<b>Laundry labor costs.</b> Amends § 256R.02, by adding subd. 26a. Defines “laundry labor costs” in the chapter of statutes governing nursing facility payment rates (the language removed in subd. 26 is moved here).  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
8	<b>Maintenance and plant operations costs.</b> Amends § 256R.02, subd. 29. Modifies the definition of “maintenance and plant operations costs” in the chapter of statutes governing nursing facility payment rates by removing the costs for the salaries and wages of maintenance employees and engineers and associated fringe benefits and payroll taxes.  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
9	<b>Maintenance and plant operations labor costs.</b> Amends § 256R.02, by adding subd. 29a. Defines “maintenance and plant operations labor costs” in the chapter of statutes governing nursing facility payment rates (the language removed in subd. 29 is moved here).  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
10	<b>Other care-related costs.</b> Amends § 256R.02, subd. 34. Modifies the definition of “other care-related costs” in the chapter of statutes governing nursing facility payment rates by including dietary labor costs, housekeeping labor costs, laundry labor costs, and maintenance and plant operations labor costs (currently these costs are included in other operating costs).

Section	Description
	Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
11	<b>Calculation of direct care cost per standardized day.</b> Amends § 256R.23, subd. 2. Modifies the calculation of nursing facility direct care cost per standardized day by adding an inflationary factor.  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
12	<b>Calculation of other care-related cost per resident day.</b> Amends § 256R.23, subd. 3. Modifies the calculation of other nursing facility care-related costs per resident day by adding an inflationary factor.  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
13	<b>Determination of other operating cost per day.</b> Amends § 256R.02, subd. 1. Modifies the nursing facility determination of other operating costs per day by adding an inflationary factor.  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
14	<b>External fixed costs payment rate.</b> Amends § 256R.25. Modifies the nursing facility external fixed costs payment rate by adding an inflationary factor to the portion related to employer health insurance costs.  Makes this section effective for the rate year beginning January 1, 2024, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
15	<b>Customized living service rates.</b> Amends § 256S.201, subd. 3. Makes a technical change.

Section	Description
	Makes this section effective for the rate year beginning January 1, 2023, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.
16	<p><b>Rate setting; application.</b></p> <p>Amends § 256S.21. Makes a conforming cross-reference change related to the repeal of § 256S.2101.</p> <p>Makes this section effective for the rate year beginning January 1, 2023, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
17	<p><b>Updating base wages.</b></p> <p>Amends § 256S.211, by adding subd. 1a. Requires the commissioner to update base wages under the elderly waiver based on the most recently available Twin Cities metro average wage data from the Bureau of Labor Statistics each January 1.</p> <p>Makes this section effective for the rate year beginning January 1, 2023, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
18	<p><b>Payroll taxes and benefits factor.</b></p> <p>Amends § 256S.213, subd. 1. Requires the commissioner to update the payroll taxes and benefits factor each January 1.</p> <p>Makes this section effective for the rate year beginning January 1, 2023, or upon federal approval, whichever occurs later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.</p>
19	<p><b>Direction to the commissioner of human services; partial year rate adjustments.</b></p> <p>Paragraph (a) requires the commissioner, on July 1, 2022, to update the elderly waiver base wage indices based on the most recently available Twin Cities metro average wage data from the Bureau of Labor Statistics.</p> <p>Paragraph (b) requires the commissioner, on July 1, 2022, to update the elderly waiver payroll taxes and benefits factor based on the most recently available nursing facility cost report data.</p>
20	<p><b>Appropriation; nursing facility funding.</b></p> <p>Paragraph (a) appropriates blank amounts in fiscal years 2022 and 2023 from the general fund to the commissioner of human services for payments to nursing facilities in an unspecified amount per bed per quarter. Requires the commissioner to</p>

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make payments for each quarter of calendar years 2022 and 2023. Sets the general fund base for this appropriation for fiscal years 2024 and 2025.

Paragraph (b) specifies the requirements nursing facilities must meet in order to be eligible to receive a payment under this section and lists the items included in compensation-related costs.

Paragraph (c) requires nursing facilities that receive payments under this section to prepare and submit to the commissioner upon request a distribution plan that specifies the total amount of money the facility expects to receive and how that money will be distributed to increase compensation-related costs for employees. Requires nursing facilities to post their distribution plans and to leave it posted for a specified period of time in an area of the facility to which all employees have access.

Paragraph (d) prohibits the commissioner from treating payments received under this section as an applicable credit for the purposes of setting total payment rates under the chapter of statutes governing nursing facility payment rates.

Provides an immediate effective date.

**21 Repealer.**

Repeals Minn. Stat. § 256S.2101 (phase-in for elderly waiver rates and disability waiver customized living rates).

Makes this section effective July 1, 2022, or upon federal approval, whichever is later. Requires the commissioner of human services to inform the revisor of statutes when federal approval is obtained.



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