

574.26

ARTICLE 12

70.7

ARTICLE 2

574.27

CONTINUING CARE FOR OLDER ADULTS

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CONTINUING CARE FOR OLDER ADULTS

574.28 Section 1. Minnesota Statutes 2020, section 177.27, subdivision 4, is amended to read:

574.29 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an
574.30 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,
574.31 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.214
575.1 to 181.217, 181.275, subdivision 2a, 181.722, 181.79, and 181.939 to 181.943, or with any
575.2 rule promulgated under section 177.28 or 181.213. The commissioner shall issue an order
575.3 requiring an employer to comply with sections 177.41 to 177.435 if the violation is repeated.
575.4 For purposes of this subdivision only, a violation is repeated if at any time during the two
575.5 years that preceded the date of violation, the commissioner issued an order to the employer
575.6 for violation of sections 177.41 to 177.435 and the order is final or the commissioner and
575.7 the employer have entered into a settlement agreement that required the employer to pay
575.8 back wages that were required by sections 177.41 to 177.435. The department shall serve
575.9 the order upon the employer or the employer's authorized representative in person or by
575.10 certified mail at the employer's place of business. An employer who wishes to contest the
575.11 order must file written notice of objection to the order with the commissioner within 15
575.12 calendar days after being served with the order. A contested case proceeding must then be
575.13 held in accordance with sections 14.57 to 14.69. If, within 15 calendar days after being
575.14 served with the order, the employer fails to file a written notice of objection with the
575.15 commissioner, the order becomes a final order of the commissioner.

575.16 Sec. 2. Minnesota Statutes 2020, section 177.27, subdivision 7, is amended to read:

575.17 Subd. 7. **Employer liability.** If an employer is found by the commissioner to have
575.18 violated a section identified in subdivision 4, or any rule adopted under section 177.28 or
575.19 181.213, and the commissioner issues an order to comply, the commissioner shall order the
575.20 employer to cease and desist from engaging in the violative practice and to take such
575.21 affirmative steps that in the judgment of the commissioner will effectuate the purposes of
575.22 the section or rule violated. The commissioner shall order the employer to pay to the
575.23 aggrieved parties back pay, gratuities, and compensatory damages, less any amount actually
575.24 paid to the employee by the employer, and for an additional equal amount as liquidated
575.25 damages. Any employer who is found by the commissioner to have repeatedly or willfully
575.26 violated a section or sections identified in subdivision 4 shall be subject to a civil penalty
575.27 of up to \$1,000 for each violation for each employee. In determining the amount of a civil
575.28 penalty under this subdivision, the appropriateness of such penalty to the size of the
575.29 employer's business and the gravity of the violation shall be considered. In addition, the
575.30 commissioner may order the employer to reimburse the department and the attorney general
575.31 for all appropriate litigation and hearing costs expended in preparation for and in conducting
575.32 the contested case proceeding, unless payment of costs would impose extreme financial
575.33 hardship on the employer. If the employer is able to establish extreme financial hardship,
575.34 then the commissioner may order the employer to pay a percentage of the total costs that

575.35 will not cause extreme financial hardship. Costs include but are not limited to the costs of
576.1 services rendered by the attorney general, private attorneys if engaged by the department,
576.2 administrative law judges, court reporters, and expert witnesses as well as the cost of
576.3 transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's
576.4 order from the date the order is signed by the commissioner until it is paid, at an annual rate
576.5 provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish
576.6 escrow accounts for purposes of distributing damages.

576.7 Sec. 3. **[181.211] DEFINITIONS.**

576.8 Subdivision 1. **Application.** The terms defined in this section apply to sections 181.211
576.9 to 181.217.

576.10 Subd. 2. **Board.** "Board" means the Minnesota Nursing Home Workforce Standards
576.11 Board established under section 181.212.

576.12 Subd. 3. **Certified worker organization.** "Certified worker organization" means a
576.13 worker organization that is certified by the board to conduct nursing home worker trainings
576.14 under section 181.214.

576.15 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of labor and industry.

576.16 Subd. 5. **Employer organization.** "Employer organization" means:

576.17 (1) an organization that is exempt from federal income taxation under section 501(c)(6)
576.18 of the Internal Revenue Code and that represents nursing home employers; or

576.19 (2) an entity that employers, who together employ a majority of nursing home workers
576.20 in Minnesota, have selected as a representative.

576.21 Subd. 6. **Nursing home.** "Nursing home" means a nursing home licensed under chapter
576.22 144A, or a boarding care home licensed under sections 144.50 to 144.56.

576.23 Subd. 7. **Nursing home employer.** "Nursing home employer" means an employer of
576.24 nursing home workers.

576.25 Subd. 8. **Nursing home worker.** "Nursing home worker" means any worker who provides
576.26 services in a nursing home in Minnesota, including direct care staff, administrative staff,
576.27 and contractors.

576.28 Subd. 9. **Retaliatory personnel action.** "Retaliatory personnel action" means any form
576.29 of intimidation, threat, reprisal, harassment, discrimination, or adverse employment action,
576.30 including discipline, discharge, suspension, transfer, or reassignment to a lesser position in
576.31 terms of job classification, job security, or other condition of employment; reduction in pay
576.32 or hours or denial of additional hours; informing another employer that a nursing home
577.1 worker has engaged in activities protected under sections 181.211 to 181.217; or reporting
577.2 or threatening to report the actual or suspected citizenship or immigration status of a nursing

- 577.3 home worker, former nursing home worker, or family member of a nursing home worker
577.4 to a federal, state, or local agency.
- 577.5 Subd. 10. **Worker organization.** "Worker organization" means an organization that is
577.6 exempt from federal income taxation under section 501(c)(3), 501(c)(4), or 501(c)(5) of
577.7 the Internal Revenue Code, that is not dominated or controlled by any nursing home employer
577.8 within the meaning of United States Code, title 29, section 158a(2), and that has at least
577.9 five years of demonstrated experience engaging with and advocating for nursing home
577.10 workers.
- 577.11 Sec. 4. **[181.212] MINNESOTA NURSING HOME WORKFORCE STANDARDS**
577.12 **BOARD; ESTABLISHMENT.**
- 577.13 Subdivision 1. **Board established; membership.** The Minnesota Nursing Home
577.14 Workforce Standards Board is created with the powers and duties established by law. The
577.15 board is composed of the following members:
- 577.16 (1) the commissioner of human services or a designee;
577.17 (2) the commissioner of health or a designee;
577.18 (3) the commissioner of labor and industry or a designee;
577.19 (4) three members who represent nursing home employers or employer organizations,
577.20 appointed by the governor; and
577.21 (5) three members who represent nursing home workers or worker organizations,
577.22 appointed by the governor.
- 577.23 Subd. 2. **Terms; vacancies.** (a) Board members appointed under subdivision 1, clause
577.24 (4) or (5), shall serve four-year terms following the initial staggered-lot determination. The
577.25 initial terms of members appointed under subdivision 1, clauses (4) and (5), shall be
577.26 determined by lot by the secretary of state and shall be as follows:
- 577.27 (1) one member appointed under each of subdivision 1, clauses (4) and (5), shall serve
577.28 a two-year term;
577.29 (2) one member appointed under each of subdivision 1, clauses (4) and (5), shall serve
577.30 a three-year term; and
577.31 (3) one member appointed under each of subdivision 1, clauses (4) and (5), shall serve
577.32 a four-year term.
- 578.1 (b) For members appointed under subdivision 1, clause (4) or (5), the governor shall fill
578.2 vacancies occurring prior to the expiration of a member's term by appointment for the
578.3 unexpired term. A member appointed under subdivision 1, clause (4) or (5), must not be
578.4 appointed to more than two consecutive four-year terms.

578.5 Subd. 3. **Chairperson.** The board shall elect a member by majority vote to serve as its
578.6 chairperson and shall determine the term to be served by the chairperson.

578.7 Subd. 4. **Staffing.** The board may employ an executive director and other personnel to
578.8 carry out duties of the board under sections 181.211 to 181.217.

578.9 Subd. 5. **Compensation.** Compensation of board members is governed by section
578.10 15.0575.

578.11 Subd. 6. **Application of other laws.** Meetings of the board are subject to chapter 13D.
578.12 The board is subject to chapter 13.

578.13 Subd. 7. **Voting.** The affirmative vote of five board members is required for the board
578.14 to take any action, including action to establish minimum nursing home employment
578.15 standards under section 181.213.

578.16 Subd. 8. **Hearings and investigations.** To carry out its duties, the board shall hold public
578.17 hearings on, and conduct investigations into, working conditions in the nursing home
578.18 industry.

578.19 Sec. 5. **[181.213] DUTIES OF THE BOARD; MINIMUM NURSING HOME**
578.20 **EMPLOYMENT STANDARDS.**

578.21 Subdivision 1. **Authority to establish minimum nursing home employment**
578.22 **standards.** (a) The board must adopt rules establishing minimum nursing home employment
578.23 standards that are reasonably necessary and appropriate to protect the health and welfare
578.24 of nursing home workers, to ensure that nursing home workers are properly trained and
578.25 fully informed of their rights under sections 181.211 to 181.217, and to otherwise satisfy
578.26 the purposes of sections 181.211 to 181.217. Standards established by the board must
578.27 include, as appropriate, standards on compensation, working hours, and other working
578.28 conditions for nursing home workers. Any standards established by the board under this
578.29 section must be at least as protective of or beneficial to nursing home workers as any other
578.30 applicable statute or rule or any standard previously established by the board. In establishing
578.31 standards under this section, the board may establish statewide standards, standards that
578.32 apply to specific nursing home occupations, standards that apply to specific geographic
578.33 areas within the state, or any combination thereof.

579.1 (b) The board must adopt rules establishing initial standards for wages and working
579.2 hours for nursing home workers no later than August 1, 2023. The board may use the
579.3 authority in section 14.389 to adopt rules under this paragraph.

579.4 (c) To the extent that any minimum standards that the board finds are reasonably
579.5 necessary and appropriate to protect the health and welfare of nursing home workers fall
579.6 within the jurisdiction of chapter 182, the board shall not adopt rules establishing the
579.7 standards but shall instead recommend the standards to the commissioner of labor and
579.8 industry. The commissioner of labor and industry shall adopt nursing home health and safety
579.9 standards under section 182.655 as recommended by the board, unless the commissioner

579.10 determines that the recommended standard is outside the statutory authority of the
579.11 commissioner or is otherwise unlawful and issues a written explanation of this determination.

579.12 Subd. 2. **Investigation of market conditions.** The board must investigate market
579.13 conditions and the existing wages, benefits, and working conditions of nursing home workers
579.14 for specific geographic areas of the state and specific nursing home occupations. Based on
579.15 this information, the board must seek to adopt minimum nursing home employment standards
579.16 that meet or exceed existing industry conditions for a majority of nursing home workers in
579.17 the relevant geographic area and nursing home occupation. The board must consider the
579.18 following types of information in making wage rate determinations that are reasonably
579.19 necessary to protect the health and welfare of nursing home workers:

579.20 (1) wage rate and benefit data collected by or submitted to the board for nursing home
579.21 workers in the relevant geographic area and nursing home occupations;

579.22 (2) statements showing wage rates and benefits paid to nursing home workers in the
579.23 relevant geographic area and nursing home occupations;

579.24 (3) signed collective bargaining agreements applicable to nursing home workers in the
579.25 relevant geographic area and nursing home occupations;

579.26 (4) testimony and information from current and former nursing home workers, worker
579.27 organizations, nursing home employers, and employer organizations;

579.28 (5) local minimum nursing home employment standards;

579.29 (6) information submitted by or obtained from state and local government entities; and

579.30 (7) any other information pertinent to establishing minimum nursing home employment
579.31 standards.

579.32 Subd. 3. **Review of standards.** At least once every two years, the board shall:

580.1 (1) conduct a full review of the adequacy of the minimum nursing home employment
580.2 standards previously established by the board; and

580.3 (2) following that review, adopt new rules, amend or repeal existing rules, or make
580.4 recommendations to adopt new rules or amend or repeal existing rules, as appropriate to
580.5 meet the purposes of sections 181.211 to 181.217.

580.6 Subd. 4. **Conflict.** In the event of a conflict between a standard established by the board
580.7 in rule and a rule adopted by another state agency, the rule adopted by the board shall apply
580.8 to nursing home workers and nursing home employers, except where the conflicting rule
580.9 is issued after the board's standard, and the rule issued by the other state agency is more
580.10 protective or more beneficial, then the subsequent more protective or more beneficial rule
580.11 must apply to nursing home workers and nursing home employers.

580.12 Subd. 5. **Effect on other agreements.** Nothing in sections 181.211 to 181.217 shall be
580.13 construed to:

580.14 (1) limit the rights of parties to a collective bargaining agreement to bargain and agree
580.15 with respect to nursing home employment standards; or

580.16 (2) diminish the obligation of a nursing home employer to comply with any contract,
580.17 collective bargaining agreement, or employment benefit program or plan that meets or
580.18 exceeds, and does not conflict with, the minimum standards and requirements in sections
580.19 181.211 to 181.217 or established by the board.

580.20 Sec. 6. **[181.214] DUTIES OF THE BOARD; TRAINING FOR NURSING HOME**
580.21 **WORKERS.**

580.22 Subdivision 1. **Certification of worker organizations.** The board shall certify worker
580.23 organizations that it finds are qualified to provide training to nursing home workers according
580.24 to this section. The board shall by rule establish certification criteria that a worker
580.25 organization must meet in order to be certified. In adopting rules to establish initial
580.26 certification criteria under this subdivision, the board may use the authority in section 14.389.
580.27 The criteria must ensure that a worker organization, if certified, is able to provide:

580.28 (1) effective, interactive training on the information required by this section; and

580.29 (2) follow-up written materials and responses to inquiries from nursing home workers
580.30 in the languages in which nursing home workers are proficient.

581.1 Subd. 2. **Curriculum.** (a) The board shall establish requirements for the curriculum for
581.2 the nursing home worker training required by this section. A curriculum must at least provide
581.3 the following information to nursing home workers:

581.4 (1) the applicable compensation, working hours, and working conditions in the minimum
581.5 standards or local minimum standards established by the board;

581.6 (2) the antiretaliation protections established in section 181.216;

581.7 (3) information on how to enforce sections 181.211 to 181.217 and on how to report
581.8 violations of sections 181.211 to 181.217 or of standards established by the board, including
581.9 contact information for the Department of Labor and Industry, the board, and any local
581.10 enforcement agencies, and information on the remedies available for violations;

581.11 (4) the purposes and functions of the board and information on upcoming hearings,
581.12 investigations, or other opportunities for nursing home workers to become involved in board
581.13 proceedings;

581.14 (5) other rights, duties, and obligations under sections 181.211 to 181.217;

581.15 (6) any updates or changes to the information provided according to clauses (1) to (5)
581.16 since the most recent training session;

581.17 (7) any other information the board deems appropriate to facilitate compliance with
581.18 sections 181.211 to 181.217; and

581.19 (8) information on other applicable local, state, and federal laws, rules, and ordinances
581.20 regarding nursing home working conditions or nursing home worker health and safety.

581.21 (b) Before establishing initial curriculum requirements, the board must hold at least one
581.22 public hearing to solicit input on the requirements.

581.23 Subd. 3. **Topics covered in training session.** A certified worker organization is not
581.24 required to cover all of the topics listed in subdivision 2 in a single training session. A
581.25 curriculum used by a certified worker organization may provide instruction on each topic
581.26 listed in subdivision 2 over the course of up to three training sessions.

581.27 Subd. 4. **Annual review of curriculum requirements.** The board must review the
581.28 adequacy of its curriculum requirements at least annually and must revise the requirements
581.29 as appropriate to meet the purposes of sections 181.211 to 181.217. As part of each annual
581.30 review of the curriculum requirements, the board must hold at least one public hearing to
581.31 solicit input on the requirements.

581.32 Subd. 5. **Duties of certified worker organizations.** A certified worker organization:

582.1 (1) must use a curriculum for its training sessions that meets requirements established
582.2 by the board;

582.3 (2) must provide trainings that are interactive and conducted in the languages in which
582.4 the attending nursing home workers are proficient;

582.5 (3) must, at the end of each training session, provide attending nursing home workers
582.6 with follow-up written or electronic materials on the topics covered in the training session.
582.7 in order to fully inform nursing home workers of their rights and opportunities under sections
582.8 181.211 to 181.217 and other applicable laws, rules, and ordinances governing nursing
582.9 home working conditions or worker health and safety;

582.10 (4) must make itself reasonably available to respond to inquiries from nursing home
582.11 workers during and after training sessions; and

582.12 (5) may conduct surveys of nursing home workers who attend a training session to assess
582.13 the effectiveness of the training session and industry compliance with sections 181.211 to
582.14 181.217 and other applicable laws, rules, and ordinances governing nursing home working
582.15 conditions or worker health and safety.

582.16 Subd. 6. **Nursing home employer duties regarding training.** (a) A nursing home
582.17 employer must ensure, and must provide proof to the commissioner of labor and industry,
582.18 that every six months each of its nursing home workers completes one hour of training that
582.19 meets the requirements of this section and is provided by a certified worker organization.

582.20 A nursing home employer may, but is not required to, host training sessions on the premises
582.21 of the nursing home.

582.22 (b) If requested by a certified worker organization, a nursing home employer must, after
582.23 a training session provided by the certified worker organization, provide the certified worker
582.24 organization with the names and contact information of the nursing home workers who
582.25 attended the training session, unless a nursing home worker opts out according to paragraph
582.26 (c).

582.27 (c) A nursing home worker may opt out of having the worker's nursing home employer
582.28 provide the worker's name and contact information to a certified worker organization that
582.29 provided a training session attended by the worker by submitting a written statement to that
582.30 effect to the nursing home employer.

582.31 Subd. 7. **Compensation.** A nursing home employer must compensate its nursing home
582.32 workers at their regular hourly rate of wages and benefits for each hour of training completed
582.33 as required by this section.

583.1 Sec. 7. **[181.215] REQUIRED NOTICES.**

583.2 Subdivision 1. **Provision of notice.** (a) Nursing home employers must provide notices
583.3 informing nursing home workers of the rights and obligations provided under sections
583.4 181.211 to 181.217 of applicable minimum nursing home employment standards or local
583.5 minimum standards and that for assistance and information, nursing home workers should
583.6 contact the Department of Labor and Industry. A nursing home employer must provide
583.7 notice using the same means that the nursing home employer uses to provide other
583.8 work-related notices to nursing home workers. Provision of notice must be at least as
583.9 conspicuous as:

583.10 (1) posting a copy of the notice at each work site where nursing home workers work
583.11 and where the notice may be readily observed and reviewed by all nursing home workers
583.12 working at the site; or

583.13 (2) providing a paper or electronic copy of the notice to all nursing home workers and
583.14 applicants for employment as a nursing home worker.

583.15 (b) The notice required by this subdivision must include text provided by the board that
583.16 informs nursing home workers that they may request the notice to be provided in a particular
583.17 language. The nursing home employer must provide the notice in the language requested
583.18 by the nursing home worker. The board must assist nursing home employers in translating
583.19 the notice in the languages requested by their nursing home workers.

583.20 Subd. 2. **Minimum content and posting requirements.** The board must adopt rules
583.21 specifying the minimum content and posting requirements for the notices required in
583.22 subdivision 1. The board must make available to nursing home employers a template or

583.23 sample notice that satisfies the requirements of this section and rules adopted under this
583.24 section.

583.25 Sec. 8. **[181.216] RETALIATION ON CERTAIN GROUNDS PROHIBITED.**

583.26 A nursing home employer must not retaliate against a nursing home worker, including
583.27 taking retaliatory personnel action, for:

583.28 (1) exercising any right afforded to the nursing home worker under sections 181.211 to
583.29 181.217;

583.30 (2) participating in any process or proceeding under sections 181.211 to 181.217,
583.31 including but not limited to board hearings, investigations, or other proceedings; or

583.32 (3) attending or participating in the training required by section 181.214.

584.1 Sec. 9. **[181.217] ENFORCEMENT.**

584.2 Subdivision 1. **Minimum nursing home employment standards.** The minimum wages,
584.3 maximum hours of work, and other working conditions established by the board in rule as
584.4 minimum nursing home employment standards shall be the minimum wages, maximum
584.5 hours of work, and standard conditions of labor for nursing home workers or a subgroup
584.6 of nursing home workers as a matter of state law. It shall be unlawful for a nursing home
584.7 employer to employ a nursing home worker for lower wages or for longer hours than those
584.8 established as the minimum nursing home employment standards or under any other working
584.9 conditions that violate the minimum nursing home employment standards.

584.10 Subd. 2. **Investigations.** The commissioner may investigate possible violations of sections
584.11 181.214 to 181.217 or of the minimum nursing home employment standards established by
584.12 the board whenever it has cause to believe that a violation has occurred, either on the basis
584.13 of a report of a suspected violation or on the basis of any other credible information, including
584.14 violations found during the course of an investigation.

584.15 Subd. 3. **Enforcement authority.** The Department of Labor and Industry shall enforce
584.16 sections 181.214 to 181.217 and compliance with the minimum nursing home employment
584.17 standards established by the board according to the authority in section 177.27, subdivisions
584.18 4 and 7.

584.19 Subd. 4. **Civil action by nursing home worker.** (a) One or more nursing home workers
584.20 may bring a civil action in district court seeking redress for violations of sections 181.211
584.21 to 181.217 or of any applicable minimum nursing home employment standards or local
584.22 minimum nursing home employment standards. Such an action may be filed in the district
584.23 court of the county where a violation or violations are alleged to have been committed or
584.24 where the nursing home employer resides, or in any other court of competent jurisdiction,
584.25 and may represent a class of similarly situated nursing home workers.

584.26 (b) Upon a finding of one or more violations, a nursing home employer shall be liable
584.27 to each nursing home worker for the full amount of the wages, benefits, and overtime

584.28 compensation, less any amount the nursing home employer is able to establish was actually
584.29 paid to each nursing home worker and for an additional equal amount as liquidated damages.
584.30 In an action under this subdivision, nursing home workers may seek damages and other
584.31 appropriate relief provided by section 177.27, subdivision 7, or otherwise provided by law,
584.32 including reasonable costs, disbursements, witness fees, and attorney fees. A court may also
584.33 issue an order requiring compliance with sections 181.211 to 181.217 or with the applicable
584.34 minimum nursing home employment standards or local minimum nursing home employment
585.1 standards. A nursing home worker found to have experienced a retaliatory personnel action
585.2 in violation of section 181.216 shall be entitled to reinstatement to the worker's previous
585.3 position, wages, benefits, hours, and other conditions of employment.

585.4 (c) An agreement between a nursing home employer and nursing home worker or labor
585.5 union that fails to meet the minimum standards and requirements in sections 181.211 to
585.6 181.217 or established by the board is not a defense to an action brought under this
585.7 subdivision.

585.8 Sec. 10. Minnesota Statutes 2020, section 256B.0913, subdivision 4, is amended to read:

585.9 Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a)
585.10 Funding for services under the alternative care program is available to persons who meet
585.11 the following criteria:

585.12 (1) the person is a citizen of the United States or a United States national;

585.13 (2) the person has been determined by a community assessment under section 256B.0911
585.14 to be a person who would require the level of care provided in a nursing facility, as
585.15 determined under section 256B.0911, subdivision 4e, but for the provision of services under
585.16 the alternative care program;

585.17 (3) the person is age 65 or older;

585.18 (4) the person would be eligible for medical assistance within 135 days of admission to
585.19 a nursing facility;

585.20 (5) the person is not ineligible for the payment of long-term care services by the medical
585.21 assistance program due to an asset transfer penalty under section 256B.0595 or equity
585.22 interest in the home exceeding \$500,000 as stated in section 256B.056;

585.23 (6) the person needs long-term care services that are not funded through other state or
585.24 federal funding, or other health insurance or other third-party insurance such as long-term
585.25 care insurance;

585.26 (7) except for individuals described in clause (8), the monthly cost of the alternative
585.27 care services funded by the program for this person does not exceed 75 percent of the
585.28 monthly limit described under section 256S.18. This monthly limit does not prohibit the
585.29 alternative care client from payment for additional services, but in no case may the cost of
585.30 additional services purchased under this section exceed the difference between the client's
585.31 monthly service limit defined under section 256S.04, and the alternative care program

585.32 monthly service limit defined in this paragraph. If care-related supplies and equipment or
586.1 environmental modifications and adaptations are or will be purchased for an alternative
586.2 care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive
586.3 months beginning with the month of purchase. If the monthly cost of a recipient's other
586.4 alternative care services exceeds the monthly limit established in this paragraph, the annual
586.5 cost of the alternative care services ~~shall~~ must be determined. In this event, the annual cost
586.6 of alternative care services ~~shall~~ must not exceed 12 times the monthly limit described in
586.7 this paragraph;

586.8 (8) for individuals assigned a case mix classification A as described under section
586.9 256S.18, with (i) no dependencies in activities of daily living, or (ii) up to two dependencies
586.10 in bathing, dressing, grooming, walking, and eating when the dependency score in eating
586.11 is three or greater as determined by an assessment performed under section 256B.0911, the
586.12 monthly cost of alternative care services funded by the program cannot exceed \$593 per
586.13 month for all new participants enrolled in the program on or after July 1, 2011. This monthly
586.14 limit shall be applied to all other participants who meet this criteria at reassessment. This
586.15 monthly limit ~~shall~~ must be increased annually as described in section 256S.18. This monthly
586.16 limit does not prohibit the alternative care client from payment for additional services, but
586.17 in no case may the cost of additional services purchased exceed the difference between the
586.18 client's monthly service limit defined in this clause and the limit described in clause (7) for
586.19 case mix classification A; ~~and~~

586.20 (9) the person is making timely payments of the assessed monthly fee; and

586.21 (10) for a person participating in consumer-directed community supports, the person's
586.22 monthly service limit must be equal to the monthly service limits in clause (7), except that
586.23 a person assigned a case mix classification L must receive the monthly service limit for
586.24 case mix classification A.

586.25 A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees
586.26 to:

586.27 (i) the appointment of a representative payee;

586.28 (ii) automatic payment from a financial account;

586.29 (iii) the establishment of greater family involvement in the financial management of
586.30 payments; or

586.31 (iv) another method acceptable to the lead agency to ensure prompt fee payments.

586.32 The lead agency may extend the client's eligibility as necessary while making
586.33 arrangements to facilitate payment of past-due amounts and future premium payments.

587.1 Following disenrollment due to nonpayment of a monthly fee, eligibility ~~shall~~ must not be
587.2 reinstated for a period of 30 days.

587.3 (b) Alternative care funding under this subdivision is not available for a person who is
587.4 a medical assistance recipient or who would be eligible for medical assistance without a

587.5 spenddown or waiver obligation. A person whose initial application for medical assistance
587.6 and the elderly waiver program is being processed may be served under the alternative care
587.7 program for a period up to 60 days. If the individual is found to be eligible for medical
587.8 assistance, medical assistance must be billed for services payable under the federally
587.9 approved elderly waiver plan and delivered from the date the individual was found eligible
587.10 for the federally approved elderly waiver plan. Notwithstanding this provision, alternative
587.11 care funds may not be used to pay for any service the cost of which: (i) is payable by medical
587.12 assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a
587.13 medical assistance income spenddown for a person who is eligible to participate in the
587.14 federally approved elderly waiver program under the special income standard provision.

587.15 (c) Alternative care funding is not available for a person who resides in a licensed nursing
587.16 home, certified boarding care home, hospital, or intermediate care facility, except for case
587.17 management services which are provided in support of the discharge planning process for
587.18 a nursing home resident or certified boarding care home resident to assist with a relocation
587.19 process to a community-based setting.

587.20 (d) Alternative care funding is not available for a person whose income is greater than
587.21 the maintenance needs allowance under section 256S.05, but equal to or less than 120 percent
587.22 of the federal poverty guideline effective July 1 in the fiscal year for which alternative care
587.23 eligibility is determined, who would be eligible for the elderly waiver with a waiver
587.24 obligation.

587.25 **EFFECTIVE DATE.** This section is effective January 1, 2023.

587.26 Sec. 11. Minnesota Statutes 2020, section 256B.0913, subdivision 5, is amended to read:

587.27 Subd. 5. **Services covered under alternative care.** Alternative care funding may be
587.28 used for payment of costs of:

587.29 (1) adult day services and adult day services bath;

587.30 (2) home care;

587.31 (3) homemaker services;

587.32 (4) personal care;

588.1 (5) case management and conversion case management;

588.2 (6) respite care;

588.3 (7) specialized supplies and equipment;

588.4 (8) home-delivered meals;

588.5 (9) nonmedical transportation;

588.6 (10) nursing services;

- 588.7 (11) chore services;
- 588.8 (12) companion services;
- 588.9 (13) nutrition services;
- 588.10 (14) family caregiver training and education;
- 588.11 (15) coaching and counseling;
- 588.12 (16) telehome care to provide services in their own homes in conjunction with in-home
- 588.13 visits;
- 588.14 (17) consumer-directed community supports under the alternative care programs which
- 588.15 are available statewide and limited to the average monthly expenditures representative of
- 588.16 all alternative care program participants for the same case mix resident class assigned in
- 588.17 the most recent fiscal year for which complete expenditure data is available;
- 588.18 (18) environmental accessibility and adaptations; and
- 588.19 (19) discretionary services, for which lead agencies may make payment from their
- 588.20 alternative care program allocation for services not otherwise defined in this section or
- 588.21 section 256B.0625, following approval by the commissioner.
- 588.22 Total annual payments for discretionary services for all clients served by a lead agency
- 588.23 must not exceed 25 percent of that lead agency's annual alternative care program base
- 588.24 allocation, except that when alternative care services receive federal financial participation
- 588.25 under the 1115 waiver demonstration, funding shall be allocated in accordance with
- 588.26 subdivision 17.
- 588.27 **EFFECTIVE DATE.** This section is effective January 1, 2023.

- 70.9 Section 1. Minnesota Statutes 2020, section 256R.02, subdivision 16, is amended to read:
- 70.10 Subd. 16. **Dietary costs.** "Dietary costs" means the costs for ~~the salaries and wages of~~
- 70.11 ~~the dietary supervisor, dietitians, chefs, cooks, dishwashers, and other employees assigned~~
- 70.12 ~~to the kitchen and dining room, and associated fringe benefits and payroll taxes. Dietary~~
- 70.13 ~~costs also includes~~ the salaries or fees of dietary consultants, dietary supplies, and food
- 70.14 preparation and serving.
- 70.15 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
- 70.16 2024, or upon federal approval, whichever occurs later. The commissioner of human services
- 70.17 shall notify the revisor of statutes when federal approval is obtained.

70.18 Sec. 2. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to
70.19 read:

70.20 Subd. 16a. **Dietary labor costs.** "Dietary labor costs" means the costs for the salaries
70.21 and wages of the dietary supervisor, dietitians, chefs, cooks, dishwashers, and other
70.22 employees assigned to the kitchen and dining room, and associated fringe benefits and
70.23 payroll taxes.

70.24 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
70.25 2024, or upon federal approval, whichever occurs later. The commissioner of human services
70.26 shall notify the revisor of statutes when federal approval is obtained.

70.27 Sec. 3. Minnesota Statutes 2020, section 256R.02, subdivision 24, is amended to read:

70.28 Subd. 24. **Housekeeping costs.** "Housekeeping costs" means the costs for the salaries
70.29 and wages of the housekeeping supervisor, housekeepers, and other cleaning employees
71.1 and associated fringe benefits and payroll taxes. It also includes the cost of housekeeping
71.2 supplies, including, but not limited to, cleaning and lavatory supplies and contract services.

71.3 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
71.4 2024, or upon federal approval, whichever occurs later. The commissioner of human services
71.5 shall notify the revisor of statutes when federal approval is obtained.

71.6 Sec. 4. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to
71.7 read:

71.8 Subd. 24a. **Housekeeping labor costs.** "Housekeeping labor costs" means the costs for
71.9 the salaries and wages of the housekeeping supervisor, housekeepers, and other cleaning
71.10 employees, and associated fringe benefits and payroll taxes.

71.11 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
71.12 2024, or upon federal approval, whichever occurs later. The commissioner of human services
71.13 shall notify the revisor of statutes when federal approval is obtained.

71.14 Sec. 5. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to
71.15 read:

71.16 Subd. 25b. **Known cost change factor.** "Known cost change factor" means 1.00 plus
71.17 the forecasted percentage change in the CPI-U index from July 1 of the reporting period to
71.18 July 1 of the rate year as determined by the national economic consultant used by the
71.19 commissioner of management and budget.

71.20 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
71.21 2024, or upon federal approval, whichever occurs later. The commissioner of human services
71.22 shall notify the revisor of statutes when federal approval is obtained.

71.23 Sec. 6. Minnesota Statutes 2020, section 256R.02, subdivision 26, is amended to read:

71.24 Subd. 26. **Laundry costs.** "Laundry costs" means the costs for the salaries and wages
71.25 of the laundry supervisor and other laundry employees, associated fringe benefits, and
71.26 payroll taxes. It also includes the costs of linen and bedding, the laundering of resident
71.27 clothing, laundry supplies, and contract services.

71.28 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
71.29 2024, or upon federal approval, whichever occurs later. The commissioner of human services
71.30 shall notify the revisor of statutes when federal approval is obtained.

72.1 Sec. 7. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to
72.2 read:

72.3 Subd. 26a. **Laundry labor costs.** "Laundry labor costs" means the costs for the salaries
72.4 and wages of the laundry supervisor and other laundry employees, and associated fringe
72.5 benefits and payroll taxes.

72.6 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
72.7 2024, or upon federal approval, whichever occurs later. The commissioner of human services
72.8 shall notify the revisor of statutes when federal approval is obtained.

SECTION 256R.02, SUBDIVISION 29, IS ALSO AMENDED IN UES4410-2,
ARTICLE 11, SECTION 13.

72.9 Sec. 8. Minnesota Statutes 2020, section 256R.02, subdivision 29, is amended to read:

72.10 Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations
72.11 costs" means the costs for the salaries and wages of the maintenance supervisor, engineers,
72.12 heating-plant employees, and other maintenance employees and associated fringe benefits
72.13 and payroll taxes. It also includes identifiable costs for maintenance and operation of the
72.14 building and grounds, including, but not limited to, fuel, electricity, medical waste and
72.15 garbage removal, water, sewer, supplies, tools, and repairs.

72.16 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
72.17 2024, or upon federal approval, whichever occurs later. The commissioner of human services
72.18 shall notify the revisor of statutes when federal approval is obtained.

72.19 Sec. 9. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to
72.20 read:

72.21 Subd. 29a. **Maintenance and plant operations labor costs.** "Maintenance and plant
72.22 operations labor costs" means the costs for the salaries and wages of the maintenance
72.23 supervisor, engineers, heating-plant employees, and other maintenance employees, and
72.24 associated fringe benefits and payroll taxes.

- 72.25 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
72.26 2024, or upon federal approval, whichever occurs later. The commissioner of human services
72.27 shall notify the revisor of statutes when federal approval is obtained.
- 72.28 Sec. 10. Minnesota Statutes 2020, section 256R.02, subdivision 34, is amended to read:
- 72.29 Subd. 34. **Other care-related costs.** "Other care-related costs" means the sum of activities
72.30 costs, other direct care costs, raw food costs, dietary labor costs, housekeeping labor costs,
73.1 laundry labor costs, maintenance and plant operations labor costs, therapy costs, and social
73.2 services costs.
- 73.3 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
73.4 2024, or upon federal approval, whichever occurs later. The commissioner of human services
73.5 shall notify the revisor of statutes when federal approval is obtained.
- 73.6 Sec. 11. Minnesota Statutes 2020, section 256R.23, subdivision 2, is amended to read:
- 73.7 Subd. 2. **Calculation of direct care cost per standardized day.** Each facility's direct
73.8 care cost per standardized day is the product of the facility's direct care costs and the known
73.9 cost change factor, divided by the sum of the facility's standardized days. A facility's direct
73.10 care cost per standardized day is the facility's cost per day for direct care services associated
73.11 with a case mix index of 1.00.
- 73.12 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
73.13 2024, or upon federal approval, whichever occurs later. The commissioner of human services
73.14 shall notify the revisor of statutes when federal approval is obtained.
- 73.15 Sec. 12. Minnesota Statutes 2020, section 256R.23, subdivision 3, is amended to read:
- 73.16 Subd. 3. **Calculation of other care-related cost per resident day.** Each facility's other
73.17 care-related cost per resident day is the product of its other care-related costs and the known
73.18 cost change factor, divided by the sum of the facility's resident days.
- 73.19 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
73.20 2024, or upon federal approval, whichever occurs later. The commissioner of human services
73.21 shall notify the revisor of statutes when federal approval is obtained.
- 73.22 Sec. 13. Minnesota Statutes 2020, section 256R.24, subdivision 1, is amended to read:
- 73.23 Subdivision 1. **Determination of other operating cost per day.** Each facility's other
73.24 operating cost per day is the product of its other operating costs and the known cost change
73.25 factor, divided by the sum of the facility's resident days.
- 73.26 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
73.27 2024, or upon federal approval, whichever occurs later. The commissioner of human services
73.28 shall notify the revisor of statutes when federal approval is obtained.

74.1 Sec. 14. Minnesota Statutes 2020, section 256R.25, is amended to read:

74.2 **256R.25 EXTERNAL FIXED COSTS PAYMENT RATE.**

74.3 (a) The payment rate for external fixed costs is the sum of the amounts in paragraphs
74.4 (b) to (o).

74.5 (b) For a facility licensed as a nursing home, the portion related to the provider surcharge
74.6 under section 256.9657 is equal to \$8.86 per resident day. For a facility licensed as both a
74.7 nursing home and a boarding care home, the portion related to the provider surcharge under
74.8 section 256.9657 is equal to \$8.86 per resident day multiplied by the result of its number
74.9 of nursing home beds divided by its total number of licensed beds.

74.10 (c) The portion related to the licensure fee under section 144.122, paragraph (d), is the
74.11 amount of the fee divided by the sum of the facility's resident days.

74.12 (d) The portion related to development and education of resident and family advisory
74.13 councils under section 144A.33 is \$5 per resident day divided by 365.

74.14 (e) The portion related to scholarships is determined under section 256R.37.

74.15 (f) The portion related to planned closure rate adjustments is as determined under section
74.16 256R.40, subdivision 5, and Minnesota Statutes 2010, section 256B.436.

74.17 (g) The portion related to consolidation rate adjustments shall be as determined under
74.18 section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d.

74.19 (h) The portion related to single-bed room incentives is as determined under section
74.20 256R.41.

74.21 (i) The portions related to real estate taxes, special assessments, and payments made in
74.22 lieu of real estate taxes directly identified or allocated to the nursing facility are the allowable
74.23 amounts divided by the sum of the facility's resident days. Allowable costs under this
74.24 paragraph for payments made by a nonprofit nursing facility that are in lieu of real estate
74.25 taxes shall not exceed the amount which the nursing facility would have paid to a city or
74.26 township and county for fire, police, sanitation services, and road maintenance costs had
74.27 real estate taxes been levied on that property for those purposes.

74.28 (j) The portion related to employer health insurance costs is the product of the allowable
74.29 costs and the known cost change factor, divided by the sum of the facility's resident days.

74.30 (k) The portion related to the Public Employees Retirement Association is the allowable
74.31 costs divided by the sum of the facility's resident days.

75.1 (l) The portion related to quality improvement incentive payment rate adjustments is
75.2 the amount determined under section 256R.39.

75.3 (m) The portion related to performance-based incentive payments is the amount
75.4 determined under section 256R.38.

588.28 Sec. 12. Minnesota Statutes 2020, section 256S.15, subdivision 2, is amended to read:

588.29 Subd. 2. **Foster care limit.** The elderly waiver payment for the foster care service in
588.30 combination with the payment for all other elderly waiver services, including case
589.1 management, must not exceed the monthly case mix budget cap for the participant as
589.2 specified in sections 256S.18, subdivision 3, and 256S.19, ~~subdivisions~~ subdivision 3 and
589.3 4.

589.4 **EFFECTIVE DATE.** This section is effective January 1, 2023.

589.5 Sec. 13. Minnesota Statutes 2020, section 256S.18, is amended by adding a subdivision
589.6 to read:

589.7 Subd. 3a. **Monthly case mix budget caps for consumer-directed community**
589.8 **supports.** The monthly case mix budget caps for each case mix classification for
589.9 consumer-directed community supports must be equal to the monthly case mix budget caps
589.10 in subdivision 3.

589.11 **EFFECTIVE DATE.** This section is effective January 1, 2023.

589.12 Sec. 14. Minnesota Statutes 2020, section 256S.19, subdivision 3, is amended to read:

589.13 Subd. 3. **Calculation of monthly conversion budget cap without consumer-directed**
589.14 **community supports caps.** (a) The elderly waiver monthly conversion budget cap for the
589.15 cost of elderly waiver services ~~without consumer-directed community supports~~ must be
589.16 based on the nursing facility case mix adjusted total payment rate of the nursing facility
589.17 where the elderly waiver applicant currently resides for the applicant's case mix classification
589.18 as determined according to section 256R.17.

589.19 (b) The elderly waiver monthly conversion budget cap for the cost of elderly waiver
589.20 services ~~without consumer-directed community supports~~ shall ~~must~~ be calculated by
589.21 multiplying the applicable nursing facility case mix adjusted total payment rate by 365,
589.22 dividing by 12, and subtracting the participant's maintenance needs allowance.

75.5 (n) The portion related to special dietary needs is the amount determined under section
75.6 256R.51.

75.7 (o) The portion related to the rate adjustments for border city facilities is the amount
75.8 determined under section 256R.481.

75.9 **EFFECTIVE DATE.** This section is effective for the rate year beginning January 1,
75.10 2024, or upon federal approval, whichever occurs later. The commissioner of human services
75.11 shall notify the revisor of statutes when federal approval is obtained.

SEC. 15. MINNESOTA STATUTES 2020, SECTION 256S.16, AMENDMENT
MOVED TO MATCH UES4410-2, ARTICLE 9, SECTION 23.

589.23 (c) A participant's initially approved monthly conversion budget cap for elderly waiver
589.24 services without consumer directed community supports shall must be adjusted at least
589.25 annually as described in section 256S.18, subdivision 5.

589.26 (d) Conversion budget caps for individuals participating in consumer-directed community
589.27 supports are also set as described in paragraphs (a) to (c).

589.28 **EFFECTIVE DATE.** This section is effective January 1, 2023.

75.25 Sec. 16. Minnesota Statutes 2021 Supplement, section 256S.205, is amended to read:

75.26 **256S.205 CUSTOMIZED LIVING SERVICES; DISPROPORTIONATE SHARE**
75.27 **RATE ADJUSTMENTS.**

75.28 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
75.29 subdivision have the meanings given.

75.30 (b) "Application year" means a year in which a facility submits an application for
75.31 designation as a disproportionate share facility.

76.1 (c) "~~Assisted living facility~~" or "~~facility~~" means ~~an assisted living facility licensed under~~
76.2 ~~chapter 144G~~ "Customized living resident" means a resident of a facility who is receiving
76.3 either 24-hour customized living services or customized living services authorized under
76.4 the elderly waiver, the brain injury waiver, or the community access for disability inclusion
76.5 waiver.

76.6 (d) "Disproportionate share facility" means ~~an assisted living~~ a facility designated by
76.7 the commissioner under subdivision 4.

76.8 (e) "Facility" means either an assisted living facility licensed under chapter 144G or a
76.9 setting that is exempt from assisted living licensure under section 144G.08, subdivision 7,
76.10 clauses (10) to (13).

76.11 (f) "Rate year" means January 1 to December 31 of the year following an application
76.12 year.

76.13 Subd. 2. **Rate adjustment application.** ~~An assisted living~~ A facility may apply to the
76.14 commissioner for designation as a disproportionate share facility. Applications must be
76.15 submitted annually between ~~October~~ September 1 and ~~October 31~~ September 30. The
76.16 applying facility must apply in a manner determined by the commissioner. The applying
76.17 facility must document as a percentage the census of elderly waiver participants each of the
76.18 following on the application:

76.19 (1) the number of customized living residents in the facility on September 1 of the
76.20 application year, broken out by specific waiver program; and

- 76.21 (2) the total number of people residing in the facility on ~~October~~ September 1 of the
76.22 application year.
- 76.23 Subd. 3. **Rate adjustment eligibility criteria.** Only facilities with a census of at least
76.24 80 percent elderly waiver participants satisfying all of the following conditions on ~~October~~
76.25 September 1 of the application year are eligible for designation as a disproportionate share
76.26 facility:
- 76.27 (1) at least 80 percent of the residents of the facility are customized living residents; and
76.28 (2) at least 50 percent of the customized living residents are elderly waiver participants.
- 76.29 Subd. 4. **Designation as a disproportionate share facility.** (a) By ~~November~~ October
76.30 15 of each application year, the commissioner must designate as a disproportionate share
76.31 facility a facility that complies with the application requirements of subdivision 2 and meets
76.32 the eligibility criteria of subdivision 3.
- 77.1 (b) An annual designation is effective for one rate year.
- 77.2 Subd. 5. **Rate adjustment; rate floor.** (a) Notwithstanding the 24-hour customized
77.3 living monthly service rate limits under section 256S.202, subdivision 2, and the component
77.4 service rates established under section 256S.201, subdivision 4, the commissioner must
77.5 establish a rate floor equal to ~~\$119~~ \$139 per resident per day for 24-hour customized living
77.6 services provided to an elderly waiver participant in a designated disproportionate share
77.7 facility for the purpose of ensuring the minimal level of staffing required to meet the health
77.8 and safety needs of elderly waiver participants.
- 77.9 (b) The commissioner must apply the rate floor to the services described in paragraph
77.10 (a) provided during the rate year.
- 77.11 (~~b~~) (c) The commissioner must adjust the rate floor at least annually in the manner
77.12 described under section 256S.18, subdivisions 5 and 6 by the same amount and at the same
77.13 time as any adjustment to the 24-hour customized living monthly service rate limits under
77.14 section 256S.202, subdivision 2.
- 77.15 (~~e~~) (d) The commissioner shall not implement the rate floor under this section if the
77.16 customized living rates established under sections 256S.21 to 256S.215 will be implemented
77.17 at 100 percent on January 1 of the year following an application year.
- 77.18 Subd. 6. **Budget cap disregard.** The value of the rate adjustment under this section
77.19 must not be included in an elderly waiver client's monthly case mix budget cap.
- 77.20 **EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval,
77.21 whichever is later, and applies to services provided on or after October 1, 2022, or on or
77.22 after the date upon which federal approval is obtained, whichever is later. The commissioner
77.23 of human services shall notify the revisor of statutes when federal approval is obtained.

590.1 Sec. 15. Minnesota Statutes 2021 Supplement, section 256S.21, is amended to read:

590.2 **256S.21 RATE SETTING; APPLICATION.**

590.3 The payment methodologies in sections 256S.2101 to 256S.215 apply to:

590.4 (1) elderly waiver, elderly waiver customized living, and elderly waiver foster care under
590.5 this chapter;

590.6 (2) alternative care under section 256B.0913;

590.7 (3) essential community supports under section 256B.0922; and

590.8 (4) homemaker services under the developmental disability waiver under section
590.9 256B.092 and community alternative care, community access for disability inclusion, and
590.10 brain injury waiver under section 256B.49; and

590.11 (5) community access for disability inclusion customized living and brain injury
590.12 customized living under section 256B.49.

590.13 **EFFECTIVE DATE.** This section is effective January 1, 2023.

590.14 Sec. 16. Minnesota Statutes 2021 Supplement, section 256S.2101, subdivision 2, is
590.15 amended to read:

590.16 Subd. 2. **Phase-in for elderly waiver rates.** Except for home-delivered meals as
590.17 described in section 256S.215, subdivision 15, all rates and rate components for elderly
590.18 waiver, elderly waiver customized living, and elderly waiver foster care under this chapter;
590.19 alternative care under section 256B.0913; and essential community supports under section
590.20 256B.0922 shall must be the sum of 18.8 21.6 percent of the rates calculated under sections
590.21 256S.211 to 256S.215, and 81.2 78.4 percent of the rates calculated using the rate
590.22 methodology in effect as of June 30, 2017. The rate for home-delivered meals shall be the
590.23 sum of the service rate in effect as of January 1, 2019, and the increases described in section
590.24 256S.215, subdivision 15.

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

77.24 Sec. 17. Minnesota Statutes 2021 Supplement, section 256S.2101, is amended to read:

77.25 **256S.2101 RATE SETTING; PHASE-IN.**

77.26 Subdivision 1. **Phase-in for disability waiver customized living rates.** All rates and
77.27 rate components for community access for disability inclusion customized living and brain
77.28 injury customized living under section 256B.4914 shall be the sum of ten 27.2 percent of
77.29 the rates calculated under sections 256S.211 to 256S.215 and 90 72.8 percent of the rates
77.30 calculated using the rate methodology in effect as of June 30, 2017.

77.31 Subd. 2. **Phase-in for elderly waiver rates.** Except for home-delivered meals as
77.32 described in section 256S.215, subdivision 15, all rates and rate components for elderly
78.1 waiver, elderly waiver customized living, and elderly waiver foster care under this chapter;
78.2 alternative care under section 256B.0913; and essential community supports under section
78.3 256B.0922 shall be the sum of 18.8 27.2 percent of the rates calculated under sections
78.4 256S.211 to 256S.215, and 81.2 72.8 percent of the rates calculated using the rate
78.5 methodology in effect as of June 30, 2017. The rate for home-delivered meals shall be the
78.6 sum of the service rate in effect as of January 1, 2019, and the increases described in section
78.7 256S.215, subdivision 15.

78.8 Subd. 3. **Spending requirements.** (a) At least 80 percent of the marginal increase in
78.9 revenue from the implementation of adjusted phase-in proportions under this section,
78.10 including any concurrent or subsequent adjustments to the base wage indices, for services
78.11 rendered on or after the day of implementation of the modified phase-in proportion or

78.12 applicable adjustment to the base wage indices must be used to increase compensation-related
78.13 costs for employees directly employed by the provider.

78.14 (b) For the purposes of this subdivision, compensation-related costs include:

78.15 (1) wages and salaries;

78.16 (2) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
78.17 taxes, workers' compensation, and mileage reimbursement;

78.18 (3) the employer's paid share of health and dental insurance, life insurance, disability
78.19 insurance, long-term care insurance, uniform allowance, pensions, and contributions to
78.20 employee retirement accounts; and

78.21 (4) benefits that address direct support professional workforce needs above and beyond
78.22 what employees were offered prior to the implementation of adjusted phase-in proportions
78.23 under this section, including any concurrent or subsequent adjustments to the base wage
78.24 indices.

78.25 (c) Compensation-related costs for persons employed in the central office of a corporation
78.26 or entity that has an ownership interest in the provider or exercises control over the provider,
78.27 or for persons paid by the provider under a management contract, do not count toward the
78.28 80 percent requirement under this subdivision.

78.29 (d) A provider or individual provider that receives additional revenue subject to the
78.30 requirements of this subdivision shall prepare, and upon request submit to the commissioner,
78.31 a distribution plan that specifies the amount of money the provider expects to receive that
78.32 is subject to the requirements of this subdivision, including how that money was or will be
78.33 distributed to increase compensation-related costs for employees. Within 60 days of final
79.1 implementation of the new phase-in proportion or adjustment to the base wage indices
79.2 subject to the requirements of this subdivision, the provider must post the distribution plan
79.3 and leave it posted for a period of at least six months in an area of the provider's operation
79.4 to which all direct support professionals have access. The posted distribution plan must
79.5 include instructions regarding how to contact the commissioner, or the commissioner's
79.6 representative, if an employee has not received the compensation-related increase described
79.7 in the plan.

79.8 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
79.9 whichever is later. The commissioner of human services shall notify the revisor of statutes
79.10 when federal approval is obtained.

590.26 Sec. 17. Minnesota Statutes 2021 Supplement, section 256S.2101, is amended by adding
590.27 a subdivision to read:

590.28 Subd. 3. **Phase-in for home-delivered meals rate.** The home-delivered meals rate for
590.29 elderly waiver under this chapter; alternative care under section 256B.0913; and essential
590.30 community supports under section 256B.0922 must be the sum of 65 percent of the rate in

- 591.1 section 256S.215, subdivision 15, and 35 percent of the rate calculated using the rate
591.2 methodology in effect as of June 30, 2017.
- 591.3 **EFFECTIVE DATE.** This section is effective January 1, 2023.
- 591.4 Sec. 18. Minnesota Statutes 2020, section 256S.211, is amended by adding a subdivision
591.5 to read:
- 591.6 Subd. 3. **Updating homemaker services rates.** On January 1, 2023, and every two
591.7 years thereafter, the commissioner shall recalculate rates for homemaker services as directed
591.8 by section 256S.215, subdivisions 9 to 11. Prior to recalculating the rates, the commissioner
591.9 shall:
- 591.10 (1) update the base wage index for homemaker services in section 256S.212, subdivisions
591.11 8 to 10, based on the most recently available Bureau of Labor Statistics Minneapolis-St.
591.12 Paul-Bloomington, MN-WI MetroSA data;
- 591.13 (2) update the payroll taxes and benefits factor in section 256S.213, subdivision 1, and
591.14 the general and administrative factor in section 256S.213, subdivision 2, based on the most
591.15 recently available nursing facility cost report data;
- 591.16 (3) update the registered nurse management and supervision wage component in section
591.17 256S.213, subdivision 4, based on the most recently available Bureau of Labor Statistics
591.18 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA data; and
- 591.19 (4) update the adjusted base wage for homemaker services as directed in section 256S.214.
- 591.20 **EFFECTIVE DATE.** This section is effective January 1, 2023.
- 591.21 Sec. 19. Minnesota Statutes 2020, section 256S.211, is amended by adding a subdivision
591.22 to read:
- 591.23 Subd. 4. **Updating the home-delivered meals rate.** On July 1 of each year, the
591.24 commissioner shall update the home-delivered meals rate in section 256S.215, subdivision
591.25 15, by the percent increase in the nursing facility dietary per diem using the two most recent
591.26 and available nursing facility cost reports.
- 591.27 **EFFECTIVE DATE.** This section is effective July 1, 2022.
- 592.1 Sec. 20. Minnesota Statutes 2020, section 256S.212, is amended to read:
- 592.2 **256S.212 RATE SETTING; BASE WAGE INDEX.**
- 592.3 Subdivision 1. **Updating SOC codes.** If any of the SOC codes and positions used in
592.4 this section are no longer available, the commissioner shall, in consultation with stakeholders,
592.5 select a new SOC code and position that is the closest match to the previously used SOC
592.6 position.
- 592.7 Subd. 2. **Home management and support services base wage.** For customized living,
592.8 and foster care, and residential care component services, the home management and support

592.9 services base wage equals 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
592.10 MetroSA average wage for home health and personal and home care aide aides (SOC code
592.11 ~~39-9024~~ 31-1120); 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
592.12 average wage for food preparation workers (SOC code 35-2021); and 33.34 percent of the
592.13 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and
592.14 housekeeping cleaners (SOC code 37-2012).

592.15 Subd. 3. **Home care aide base wage.** For customized living, and foster care, and
592.16 residential care component services, the home care aide base wage equals ~~50~~ 75 percent of
592.17 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health
592.18 and personal care aides (SOC code ~~31-1014~~ 31-1120); and ~~50~~ 25 percent of the
592.19 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
592.20 (SOC code ~~31-1014~~ 31-1131).

592.21 Subd. 4. **Home health aide base wage.** For customized living, and foster care, and
592.22 residential care component services, the home health aide base wage equals ~~20~~ 33.33 percent
592.23 of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed
592.24 practical and licensed vocational nurses (SOC code 29-2061); and ~~80~~ 33.33 percent of the
592.25 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
592.26 (SOC code ~~31-1014~~ 31-1131); and 33.34 percent of the Minneapolis-St. Paul-Bloomington,
592.27 MN-WI MetroSA average wage for home health and personal care aides (SOC code
592.28 31-1120).

592.29 Subd. 5. **Medication setups by licensed nurse base wage.** For customized living, and
592.30 foster care, and residential care component services, the medication setups by licensed nurse
592.31 base wage equals ~~ten~~ 25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
592.32 average wage for licensed practical and licensed vocational nurses (SOC code 29-2061);
592.33 and ~~90~~ 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average
592.34 wage for registered nurses (SOC code 29-1141).

593.1 Subd. 6. **Chore services base wage.** The chore services base wage equals ~~100~~ 50 percent
593.2 of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for landscaping
593.3 and groundskeeping workers (SOC code 37-3011); and 50 percent of the Minneapolis-St.
593.4 Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners
593.5 (SOC code 37-2012).

593.6 Subd. 7. **Companion services base wage.** The companion services base wage equals
593.7 ~~50~~ 80 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage
593.8 for home health and personal and home care aides (SOC code ~~39-9024~~ 31-1120); and ~~50~~
593.9 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for
593.10 maids and housekeeping cleaners (SOC code 37-2012).

593.11 Subd. 8. **Homemaker services and assistance with personal care base wage.** The
593.12 homemaker services and assistance with personal care base wage equals ~~60~~ 50 percent of
593.13 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health
593.14 and personal and home care aide aides (SOC code ~~39-9024~~ 31-1120); ~~20~~ and 50 percent of

593.15 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
593.16 (SOC code 31-1014 31-1131); and 20 percent of the Minneapolis-St. Paul-Bloomington,
593.17 MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

593.18 Subd. 9. **Homemaker services and cleaning base wage.** The homemaker services and
593.19 cleaning base wage equals 60 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
593.20 MetroSA average wage for personal and home care aide (SOC code 39-9021); 20 percent
593.21 of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing
593.22 assistants (SOC code 31-1014); and 20 100 percent of the Minneapolis-St. Paul-Bloomington,
593.23 MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

593.24 Subd. 10. **Homemaker services and home management base wage.** The homemaker
593.25 services and home management base wage equals 60 50 percent of the Minneapolis-St.
593.26 Paul-Bloomington, MN-WI MetroSA average wage for home health and personal and home
593.27 care aide aides (SOC code 39-9021 31-1120); 20 and 50 percent of the Minneapolis-St.
593.28 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
593.29 31-1014 31-1131); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
593.30 MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012).

593.31 Subd. 11. **In-home respite care services base wage.** The in-home respite care services
593.32 base wage equals five 15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA
593.33 average wage for registered nurses (SOC code 29-1141); 75 percent of the Minneapolis-St.
593.34 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants home health and
594.1 personal care aides (SOC code 31-1014 31-1120); and 20 ten percent of the Minneapolis-St.
594.2 Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed
594.3 vocational nurses (SOC code 29-2061).

594.4 Subd. 12. **Out-of-home respite care services base wage.** The out-of-home respite care
594.5 services base wage equals five 15 percent of the Minneapolis-St. Paul-Bloomington, MN-WI
594.6 MetroSA average wage for registered nurses (SOC code 29-1141); 75 percent of the
594.7 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
594.8 home health and personal care aides (SOC code 31-1014 31-1120); and 20 ten percent of
594.9 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical
594.10 and licenseds vocational nurses (SOC code 29-2061).

594.11 Subd. 13. **Individual community living support base wage.** The individual community
594.12 living support base wage equals 20 60 percent of the Minneapolis-St. Paul-Bloomington,
594.13 MN-WI MetroSA average wage for licensed practical and licensed vocational nurses social
594.14 and human services aides (SOC code 29-2061 21-1093); and 80 40 percent of the
594.15 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants
594.16 (SOC code 31-1014 31-1131).

594.17 Subd. 14. **Registered nurse base wage.** The registered nurse base wage equals 100
594.18 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for
594.19 registered nurses (SOC code 29-1141).

594.20 Subd. 15. **Social worker Unlicensed supervisor base wage.** The social worker
594.21 unlicensed supervisor base wage equals 100 percent of the Minneapolis-St.
594.22 Paul-Bloomington, MN-WI MetroSA average wage for ~~medical and public health social~~
594.23 ~~first-line supervisors of personal service workers (SOC code 21-1022 39-1098).~~

594.24 Subd. 16. **Adult day services base wage.** The adult day services base wage equals 75
594.25 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home
594.26 health and personal care aides (SOC code 31-1120); and 25 percent of the Minneapolis-St.
594.27 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code
594.28 31-1131).

594.29 **EFFECTIVE DATE.** This section is effective January 1, 2023.

595.1 Sec. 21. Minnesota Statutes 2020, section 256S.213, is amended to read:

595.2 **256S.213 RATE SETTING; FACTORS AND SUPERVISION WAGE**
595.3 **COMPONENTS.**

595.4 Subdivision 1. **Payroll taxes and benefits factor.** The payroll taxes and benefits factor
595.5 is the sum of net payroll taxes and benefits, divided by the sum of all salaries for all nursing
595.6 facilities on the most recent and available cost report.

595.7 Subd. 2. **General and administrative factor.** The general and administrative factor is
595.8 the difference of net general and administrative expenses and administrative salaries, divided
595.9 by total operating expenses for all nursing facilities on the most recent and available cost
595.10 report 14.4 percent.

595.11 Subd. 3. **Program plan support factor.** (a) The program plan support factor is ~~12.8 ten~~
595.12 percent for the following services to cover the cost of direct service staff needed to provide
595.13 support for home and community-based the service when not engaged in direct contact with
595.14 participants:

- 595.15 (1) adult day services;
595.16 (2) customized living; and
595.17 (3) foster care.

595.18 (b) The program plan support factor is 15.5 percent for the following services to cover
595.19 the cost of direct service staff needed to provide support for the service when not engaged
595.20 in direct contact with participants:

- 595.21 (1) chore services;
595.22 (2) companion services;
595.23 (3) homemaker services and assistance with personal care;
595.24 (4) homemaker services and cleaning;

595.25 (5) homemaker services and home management;

595.26 (6) in-home respite care;

595.27 (7) individual community living support; and

595.28 (8) out-of-home respite care.

596.1 Subd. 4. Registered nurse management and supervision factor wage component. The
596.2 registered nurse management and supervision factor wage component equals 15 percent of
596.3 the registered nurse adjusted base wage as defined in section 256S.214.

596.4 Subd. 5. Social worker Unlicensed supervisor supervision factor wage
596.5 component. The ~~social worker~~ unlicensed supervisor supervision factor wage component
596.6 equals 15 percent of the ~~social worker~~ unlicensed supervisor adjusted base wage as defined
596.7 in section 256S.214.

596.8 Subd. 6. Facility and equipment factor. The facility and equipment factor for adult
596.9 day services is 16.2 percent.

596.10 Subd. 7. Food, supplies, and transportation factor. The food, supplies, and
596.11 transportation factor for adult day services is 24 percent.

596.12 Subd. 8. Supplies and transportation factor. The supplies and transportation factor
596.13 for the following services is 1.56 percent:

596.14 (1) chore services;

596.15 (2) companion services;

596.16 (3) homemaker services and assistance with personal care;

596.17 (4) homemaker services and cleaning;

596.18 (5) homemaker services and home management;

596.19 (6) in-home respite care;

596.20 (7) individual community living support; and

596.21 (8) out-of-home respite care.

596.22 Subd. 9. Absence factor. The absence factor for the following services is 4.5 percent:

596.23 (1) adult day services;

596.24 (2) chore services;

596.25 (3) companion services;

596.26 (4) homemaker services and assistance with personal care;

- 596.27 (5) homemaker services and cleaning;
- 596.28 (6) homemaker services and home management;
- 596.29 (7) in-home respite care;
- 597.1 (8) individual community living support; and
- 597.2 (9) out-of-home respite care.
- 597.3 **EFFECTIVE DATE.** This section is effective January 1, 2023.
- 597.4 Sec. 22. Minnesota Statutes 2020, section 256S.214, is amended to read:
- 597.5 **256S.214 RATE SETTING; ADJUSTED BASE WAGE.**
- 597.6 For the purposes of section 256S.215, the adjusted base wage for each position equals
- 597.7 the position's base wage under section 256S.212 plus:
- 597.8 (1) the position's base wage multiplied by the payroll taxes and benefits factor under
- 597.9 section 256S.213, subdivision 1;
- 597.10 ~~(2) the position's base wage multiplied by the general and administrative factor under~~
- 597.11 ~~section 256S.213, subdivision 2; and~~
- 597.12 ~~(2)~~ (2) the position's base wage multiplied by the applicable program plan support factor
- 597.13 under section 256S.213, subdivision 3; and
- 597.14 (3) the position's base wage multiplied by the absence factor under section 256S.213,
- 597.15 subdivision 9, if applicable.
- 597.16 **EFFECTIVE DATE.** This section is effective January 1, 2023.
- 597.17 Sec. 23. Minnesota Statutes 2020, section 256S.215, is amended to read:
- 597.18 **256S.215 RATE SETTING; COMPONENT RATES.**
- 597.19 Subdivision 1. **Medication setups by licensed nurse component rate.** The component
- 597.20 rate for medication setups by a licensed nurse equals the medication setups by licensed
- 597.21 nurse adjusted base wage.
- 597.22 Subd. 2. **Home management and support services component rate.** The component
- 597.23 rate for home management and support services is calculated as follows:
- 597.24 (1) sum the home management and support services adjusted base wage plus and the
- 597.25 registered nurse management and supervision factor wage component;
- 597.26 (2) multiply the result of clause (1) by the general and administrative factor; and
- 597.27 (3) sum the results of clauses (1) and (2).

597.28 Subd. 3. **Home care aide services component rate.** The component rate for home care
597.29 aide services is calculated as follows:

598.1 (1) sum the home health aide services adjusted base wage ~~plus~~ and the registered nurse
598.2 management and supervision ~~factor~~ wage component;

598.3 (2) multiply clause (1) by the general and administrative factor; and

598.4 (3) sum the results of clauses (1) and (2).

598.5 Subd. 4. **Home health aide services component rate.** The component rate for home
598.6 health aide services is calculated as follows:

598.7 (1) sum the home health aide services adjusted base wage ~~plus~~ and the registered nurse
598.8 management and supervision ~~factor~~ wage component;

598.9 (2) multiply the result of clause (1) by the general and administrative factor; and

598.10 (3) sum the results of clauses (1) and (2).

598.11 Subd. 5. **Socialization component rate.** The component rate under elderly waiver
598.12 customized living for one-to-one socialization equals the home management and support
598.13 services component rate.

598.14 Subd. 6. **Transportation component rate.** The component rate under elderly waiver
598.15 customized living for one-to-one transportation equals the home management and support
598.16 services component rate.

598.17 Subd. 7. **Chore services rate.** The 15-minute unit rate for chore services is calculated
598.18 as follows:

598.19 (1) sum the chore services adjusted base wage and the ~~social worker~~ unlicensed supervisor
598.20 supervision ~~factor~~ wage component; ~~and~~

598.21 (2) multiply the result of clause (1) by the general and administrative factor;

598.22 (3) multiply the result of clause (1) by the supplies and transportation factor; and

598.23 (4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

598.24 Subd. 8. **Companion services rate.** The 15-minute unit rate for companion services is
598.25 calculated as follows:

598.26 (1) sum the companion services adjusted base wage and the ~~social worker~~ unlicensed
598.27 supervisor supervision ~~factor~~ wage component; ~~and~~

598.28 (2) multiply the result of clause (1) by the general and administrative factor;

598.29 (3) multiply the result of clause (1) by the supplies and transportation factor; and

598.30 (4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

599.1 Subd. 9. **Homemaker services and assistance with personal care rate.** The 15-minute
599.2 unit rate for homemaker services and assistance with personal care is calculated as follows:

599.3 (1) sum the homemaker services and assistance with personal care adjusted base wage
599.4 and the ~~registered nurse management and unlicensed supervisor supervision factor~~ wage
599.5 component; ~~and~~

599.6 (2) multiply the result of clause (1) by the ~~general and administrative factor~~;

599.7 (3) multiply the result of clause (1) by the ~~supplies and transportation factor~~; and

599.8 (4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

599.9 Subd. 10. **Homemaker services and cleaning rate.** The 15-minute unit rate for
599.10 homemaker services and cleaning is calculated as follows:

599.11 (1) sum the homemaker services and cleaning adjusted base wage and the ~~registered~~
599.12 ~~nurse management and unlicensed supervisor supervision factor~~ base wage; ~~and~~

599.13 (2) multiply the result of clause (1) by the ~~general and administrative factor~~;

599.14 (3) multiply the result of clause (1) by the ~~supplies and transportation factor~~; and

599.15 (4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

599.16 Subd. 11. **Homemaker services and home management rate.** The 15-minute unit rate
599.17 for homemaker services and home management is calculated as follows:

599.18 (1) sum the homemaker services and home management adjusted base wage and the
599.19 ~~registered nurse management and unlicensed supervisor supervision factor~~ wage component;
599.20 ~~and~~

599.21 (2) multiply the result of clause (1) by the ~~general and administrative factor~~;

599.22 (3) multiply the result of clause (1) by the ~~supplies and transportation factor~~; and

599.23 (4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

599.24 Subd. 12. **In-home respite care services rates.** (a) The 15-minute unit rate for in-home
599.25 respite care services is calculated as follows:

599.26 (1) sum the in-home respite care services adjusted base wage and the registered nurse
599.27 management and supervision ~~factor~~ wage component; ~~and~~

599.28 (2) multiply the result of clause (1) by the ~~general and administrative factor~~;

599.29 (3) multiply the result of clause (1) by the ~~supplies and transportation factor~~; and

599.30 (4) sum the results of clauses (1) to (3) and divide the result ~~of clause (1)~~ by four.

600.1 (b) The in-home respite care services daily rate equals the in-home respite care services

600.2 15-minute unit rate multiplied by 18.

600.3 Subd. 13. **Out-of-home respite care services rates.** (a) The 15-minute unit rate for
600.4 out-of-home respite care is calculated as follows:

600.5 (1) sum the out-of-home respite care services adjusted base wage and the registered
600.6 nurse management and supervision ~~factor~~ wage component; ~~and~~

600.7 (2) multiply the result of clause (1) by the general and administrative factor;

600.8 (3) multiply the result of clause (1) by the supplies and transportation factor; and

600.9 (4) sum the results of clauses (1) to (3) and divide the result of ~~clause (1)~~ by four.

600.10 (b) The out-of-home respite care services daily rate equals the 15-minute unit rate for
600.11 out-of-home respite care services multiplied by 18.

600.12 Subd. 14. **Individual community living support rate.** The individual community living
600.13 support rate is calculated as follows:

600.14 (1) sum the ~~home care aide~~ individual community living support adjusted base wage
600.15 and the ~~social worker~~ registered nurse management and supervision ~~factor~~ wage component;
600.16 ~~and~~

600.17 (2) multiply the result of clause (1) by the general and administrative factor;

600.18 (3) multiply the result of clause (1) by the supplies and transportation factor; and

600.19 (4) sum the results of clauses (1) to (3) and divide the result of ~~clause (1)~~ by four.

600.20 Subd. 15. **Home-delivered meals rate.** The home-delivered meals rate equals ~~\$9.30~~
600.21 ~~\$8.17. The commissioner shall increase the home delivered meals rate every July 1 by the~~
600.22 ~~percent increase in the nursing facility dietary per diem using the two most recent and~~
600.23 ~~available nursing facility cost reports.~~

600.24 Subd. 16. **Adult day services rate.** The 15-minute unit rate for adult day services, ~~with~~
600.25 ~~an assumed staffing ratio of one staff person to four participants, is the sum of~~ is calculated
600.26 as follows:

600.27 (1) ~~one-sixteenth of the home care aide~~ divide the adult day services adjusted base wage;
600.28 ~~except that the general and administrative factor used to determine the home care aide~~
600.29 ~~services adjusted base wage is 20 percent~~ by five to reflect an assumed staffing ratio of one
600.30 to five;

601.1 (2) ~~one-fourth of the registered nurse management and supervision factor~~ sum the result
601.2 of clause (1) and the registered nurse management and supervision wage component; ~~and~~

601.3 (3) ~~\$0.63 to cover the cost of meals.~~ multiply the result of clause (2) by the general and
601.4 administrative factor;

601.5 (4) multiply the result of clause (2) by the facility and equipment factor;

601.6 (5) multiply the result of clause (2) by the food, supplies, and transportation factor; and

601.7 (6) sum the results of clauses (2) to (5) and divide the result by four.

601.8 Subd. 17. **Adult day services bath rate.** The 15-minute unit rate for adult day services
601.9 bath is ~~the sum of~~ calculated as follows:

601.10 (1) ~~one-fourth of the home care aide~~ sum the adult day services adjusted base wage;
601.11 ~~except that the general and administrative factor used to determine the home care aide~~
601.12 ~~services adjusted base wage is 20 percent and the nurse management and supervision wage~~
601.13 ~~component;~~

601.14 (2) ~~one-fourth of the registered nurse management and supervision factor~~ multiply the
601.15 result of clause (1) by the general and administrative factor; ~~and~~

601.16 (3) ~~\$0.63 to cover the cost of meals.~~ multiply the result of clause (1) by the facility and
601.17 ~~equipment factor;~~

601.18 (4) multiply the result of clause (1) by the food, supplies, and transportation factor; and

601.19 (5) sum the results of clauses (1) to (4) and divide the result by four.

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

601.21 Sec. 24. **DIRECTION TO COMMISSIONER; INITIAL PACE IMPLEMENTATION**
601.22 **FUNDING.**

601.23 The commissioner of human services must work with stakeholders to develop
601.24 recommendations for financing mechanisms to complete the actuarial work and cover the
601.25 administrative costs of a program of all-inclusive care for the elderly (PACE). The
601.26 commissioner must recommend a financing mechanism that could begin July 1, 2024. By
601.27 December 15, 2023, the commissioner shall inform the chairs and ranking minority members
601.28 of the legislative committees with jurisdiction over health care funding on the commissioner's
601.29 progress toward developing a recommended financing mechanism.

602.1 Sec. 25. **TITLE.**

602.2 Sections 181.212 to 181.217 shall be known as the "Minnesota Nursing Home Workforce
602.3 Standards Board Act."

602.4 Sec. 26. **INITIAL APPOINTMENTS.**

602.5 The governor shall make initial appointments to the Minnesota Nursing Home Workforce
602.6 Standards Board under Minnesota Statutes, section 181.212, no later than August 1, 2022.

602.7 Sec. 27. **REVISOR INSTRUCTION.**

602.8 (a) In Minnesota Statutes, chapter 256S, the revisor of statutes shall change the following
602.9 terms:

- 602.10 (1) "homemaker services and assistance with personal care" to "homemaker assistance
602.11 with personal care services";
602.12 (2) "homemaker services and cleaning" to "homemaker cleaning services"; and
602.13 (3) "homemaker services and home management" to "homemaker home management
602.14 services" wherever the terms appear.
602.15 (b) The revisor shall also make necessary grammatical changes related to the changes
602.16 in terms.
602.17 Sec. 28. **REPEALER.**
602.18 Minnesota Statutes 2020, section 256S.19, subdivision 4, is repealed.
602.19 **EFFECTIVE DATE.** This section is effective January 1, 2023.

- 79.11 Sec. 18. **NURSING FACILITY FUNDING.**
79.12 (a) Effective July 1, 2022, through December 31, 2024, the total payment rate for all
79.13 facilities reimbursed under this section must be increased by \$28.65 per resident day.
79.14 (b) To be eligible to receive a payment under this section, a nursing facility must attest
79.15 to the commissioner of human services that the additional revenue will be used exclusively
79.16 to increase compensation-related costs for employees directly employed by the facility on
79.17 or after July 1, 2022, excluding:
79.18 (1) owners of the building and operation;
79.19 (2) persons employed in the central office of an entity that has any ownership interest
79.20 in the nursing facility or exercises control over the nursing facility;
79.21 (3) persons paid by the nursing facility under a management contract; and
79.22 (4) persons providing separately billable services.
79.23 (c) Contracted housekeeping, dietary, and laundry employees providing services on site
79.24 at the nursing facility are eligible for compensation-related cost increases under this section,
79.25 provided the agency that employs them submits to the nursing facility proof of the costs of
79.26 the increases provided to those employees.
79.27 (d) For purposes of this section, compensation-related costs include:
79.28 (1) permanent new increases to wages and salaries implemented on or after July 1, 2022,
79.29 and before September 1, 2022, for nursing facility employees;
79.30 (2) permanent new increases to wages and salaries implemented on or after July 1, 2022,
79.31 and before September 1, 2022, for employees in the organization's shared services

80.1 departments of hospital-attached nursing facilities for the nursing facility allocated share
80.2 of wages; and

80.3 (3) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
80.4 taxes, PERA, workers' compensation, and pension and employee retirement accounts directly
80.5 associated with the wage and salary increases in clauses (1) and (2) incurred no later than
80.6 December 31, 2024, and paid for no later than June 30, 2025.

80.7 (e) A facility that receives a rate increase under this section must complete a distribution
80.8 plan in the form and manner determined by the commissioner. This plan must specify the
80.9 total amount of money the facility is estimated to receive from this rate increase and how
80.10 that money will be distributed to increase the allowable compensation-related costs described
80.11 in paragraph (d) for employees described in paragraphs (b) and (c). This estimate must be
80.12 computed by multiplying \$28.65 by the sum of the medical assistance and private pay
80.13 resident days as defined in Minnesota Statutes, section 256R.02, subdivision 45, for the
80.14 period beginning October 1, 2020, through September 30, 2021, dividing this sum by 365
80.15 and multiplying the result by 915. A facility must submit its distribution plan to the
80.16 commissioner by October 1, 2022. The commissioner may review the distribution plan to
80.17 ensure that the payment rate adjustment per resident day is used in accordance with this
80.18 section. The commissioner may allow for a distribution plan amendment under exceptional
80.19 circumstances to be determined at the sole discretion of the commissioner.

80.20 (f) By September 1, 2022, a facility must post the distribution plan summary and leave
80.21 it posted for a period of at least six months in an area of the facility to which all employees
80.22 have access. The posted distribution plan summary must be in the form and manner
80.23 determined by the commissioner. The distribution plan summary must include instructions
80.24 regarding how to contact the commissioner or the commissioner's representative if an
80.25 employee believes the employee is covered by paragraph (b) or (c) and has not received the
80.26 compensation-related increases described in paragraph (d). The instruction to such employees
80.27 must include the e-mail address and telephone number that may be used by the employee
80.28 to contact the commissioner's representative. The posted distribution plan summary must
80.29 demonstrate how the increase in paragraph (a) received by the nursing facility from July 1,
80.30 2022, through December 1, 2024, will be used in full to pay the compensation-related costs
80.31 in paragraph (d) for employees described in paragraphs (b) and (c).

80.32 (g) If the nursing facility expends less on new compensation-related costs than the amount
80.33 that was made available by the rate increase in this section for that purpose, the amount of
80.34 this rate adjustment must be reduced to equal the amount utilized by the facility for purposes
80.35 authorized under this section. If the facility fails to post the distribution plan summary in
81.1 its facility as required, fails to submit its distribution plan to the commissioner by the due
81.2 date, or uses these funds for unauthorized purposes, these rate increases must be treated as
81.3 an overpayment and subsequently recovered.

81.4 (h) The commissioner shall not treat payments received under this section as an applicable
81.5 credit for purposes of setting total payment rates under Minnesota Statutes, chapter 256R.

81.6 Sec. 19. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES;**
81.7 **IMPLEMENTATION OF DISPROPORTIONATE SHARE RATE ADJUSTMENTS.**

81.8 Subdivision 1. **Definitions.** For the purposes of this section, the definitions in Minnesota
81.9 Statutes, section 256S.205, apply.

81.10 Subd. 2. **Modified implementation of rate years 2022 and 2023.** (a) Notwithstanding
81.11 the provisions of Minnesota Statutes, section 256S.205, subdivisions 2 to 5, regarding
81.12 application dates, eligibility dates, designation dates, and payment adjustment dates, a
81.13 facility may apply between July 1, 2022, and July 31, 2022, to be designated a
81.14 disproportionate share facility on the basis of the conditions outlined in Minnesota Statutes,
81.15 section 256S.205, subdivision 3, as of July 1, 2022. The commissioner shall designate
81.16 disproportionate share facilities by August 15, 2022. Between October 1, 2022, and December
81.17 31, 2023, the commissioner shall apply the rate floor under Minnesota Statutes, section
81.18 256S.205, as amended in this act, to eligible customized living services provided in
81.19 disproportionate share facilities between those dates. On January 1, 2023, the commissioner
81.20 shall adjust the rate floor amount as directed in Minnesota Statutes, section 256S.205,
81.21 subdivision 5, paragraph (c).

81.22 Subd. 3. **Rate year 2023.** The commissioner shall not administer an application between
81.23 September 1, 2022, and September 30, 2022, as described in Minnesota Statutes, section
81.24 256S.205, subdivisions 2 to 4, for the purposes of rate year 2023.

81.25 Subd. 4. **Treatment of prior rate adjustments.** (a) The commissioner shall apply rate
81.26 adjustments required under Minnesota Statutes 2021 Supplement, section 256S.205, until
81.27 September 30, 2022. Beginning October 1, 2022, the commissioner shall remove all rate
81.28 adjustments required under Minnesota Statutes 2021 Supplement, section 256S.205.

81.29 (b) A disproportionate share facility receiving a rate adjustment under Minnesota Statutes
81.30 2021 Supplement, section 256S.205, as of July 1, 2022, may apply for an adjustment under
81.31 this section.

81.32 **EFFECTIVE DATE.** (a) Subdivisions 1 to 3 are effective July 1, 2022, or upon federal
81.33 approval, whichever is later, and apply to services provided on or after October 1, 2022, or
82.1 on or after the date upon which federal approval is obtained, whichever is later. The
82.2 commissioner of human services shall notify the revisor of statutes when federal approval
82.3 is obtained.

82.4 (b) Subdivision 4 is effective July 1, 2022.

82.5 Sec. 20. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; ELDERLY**
82.6 **WAIVER BASE WAGE INDEX ADJUSTMENTS.**

82.7 On January 1, 2023, the commissioner shall update the base wage indices in Minnesota
82.8 Statutes, section 256S.212, based on the most recently available Minneapolis-St.
82.9 Paul-Bloomington, MN-WI MetroSA average wage data from the Bureau of Labor Statistics.

- 82.10 **EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval,
82.11 whichever occurs later. The commissioner of human services shall inform the revisor of
82.12 statutes when federal approval is obtained.