Bill Summary Comparison of

Health and Human Services

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| Senate File: 800-3 | House File: UES0800-2 |
| Article 3: Continuing Care  | Article 2: Continuing Care |

Prepared by:

Senate Counsel, Research and Fiscal Analysis and House Research

April 18, 2017

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| Article 3: Continuing Care |  | Article 2: Continuing Care |
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| **Section 1 (144.0724, subdivision 4)** clarifies existing law by making explicit in state statute the federal requirements with respect to the frequency of change in status assessments for residents of nursing homes. | Senate only |  |
| **Section 2 (144.0724, subdivision 6)** reduces the threshold at which facilities may apply for a reduction in their penalty for late or nonsubmission of resident assessments, and also reduces the length of time during which the facilities are penalized. | Identical | Sec. 1. Penalties for late or nonsubmission. Amends § 144.0724, subd. 6. Expands the commissioner of human services’ authority to reduce penalties incurred by a nursing facility for failure to complete or submit a case mix assessment. Makes this section effective the day following final enactment. |
|  | House only | Sec. 2. Eligibility for license condition. Amends § 144.562, subd. 2. Modifies the commissioner’s authority to approve swing bed use above the cap by requiring patients to agree to referral to skilled nursing facilities under certain circumstances. |
| **Section 3 (144A.071, subdivision 4d)** modifies the date for nursing facility property rate changes related to consolidation projects to the first January or July following both the completion of the upgrades in the remaining facility and the closure of the other facility. | Similar. Senate and House cross-reference corrections are identical.The Senate modifies the date on which nursing facility consolidation rate adjustments take effect and the House does not. The Senate includes a special effective date and the House does not. | Article 9, sec. 8. Consolidation of nursing facilities. Amends § 144A.071, subd. 4d. Corrects obsolete cross-references. |
|  | House only | Sec. 3. Maximum charges. Amends § 144A.74. Amends a section setting maximum charges a supplemental nursing services agency is permitted to bill or receive payments from a nursing home, to specify that a nursing home that pays for actual travel and housing costs for supplemental nursing services agency staff working at the facility is not violating the limitation on charges in this section. |
| **Section 4 (256.975, subdivision 7)** modifies the services the Senior Linkage Line must provide to ensure that older adults are properly referred for counseling regarding the new self-directed caregiver grant program. | Senate only |  |
| **Section 5 (256.975, subdivision 12)** establishes a new self-directed caregiver grant program to provide assistance to family care-givers who help older adults age in place. | Senate only\*Similar to House only section 7. |  |
|  | House only\*Similar to Senate only section 5. | Sec. 7. Caregiver support programs. Creates § 256.9755. Subd. 1. Program goals. States the goal of all area agencies on aging and caregiver support programs is to support family caregivers of persons with Alzheimer’s disease or other related dementias who are living in the community by promoting caregiver support programs and providing caregiver support services. Subd. 2. Authority. Requires the Minnesota Board on Aging to allocate to the area agencies on aging the caregiver support program state and federal funds in a manner consistent with federal requirements.  Subd. 3. Caregiver support services. Requires funds allocated to an area agency on aging for caregiver support services to be used in a manner consistent with the National Family Caregiver Support Program to reach family caregivers of persons with Alzheimer’s disease or related dementias. Requires funds to be used to provide social, nonmedical, community-based services and activities that provide respite for caregivers and social interaction for participants. |
| **Section 6 (256B.0911, subdivision 3a)** allows persons being assessed for adult day services to grant permission for their current or proposed service provider to submit to the certified assessor the provider’s nursing assessment and recommendations concerning the person’s care needs.  If a provider submits its nursing assessment and recommendations for a person being assessed for elderly waiver services, then the provider must receive a draft of the assessment, be allowed to submit additional information before the assessment is final, and receive a copy of the final community support plan, case mix level and Residential Services Workbook.In addition, this section permits an eligibility update 90 days after the last face-to-face assessment under the alternative care program, the elderly waiver, and the disability waivers. | Senate only |  |
| **Section 7 (256B.0915, subdivision 3a)** specifies that if a legislatively authorized rate increase for home and community-based services is service-specific, then the way this increase will be applied to the monthly cost limits under the elderly waiver is by increasing each monthly cost limit by the percent increase in spending for the program that is affected by the service-specific rate increase.In addition, this section aligns the date of future increases in the monthly cost limits for elderly waiver services with the date on which nursing facility rate increases are effective. | Senate only |  |
| **Section 8 (256B.0915, subdivision 3e)** modifies the language governing the payment rates for customized living services under the elderly waiver by adding, **effective January 1, 2022,** a cognitive and behavioral needs factor. This section also aligns the date of future increases in the individualized service rate limits for customized living services with the date on which nursing facility rate increases are effective. | Different. Senate modifies the language establishing the maximum individualized monthly authorized payment for elderly waiver customized living services and the House does not.The Senate adds a cognitive and behavioral needs factor to customized living services payment rates and the House does not. Senate aligns the effective dates of future customized living services individualized service rate limit increases with nursing facility rate increases and the House does not. | House article 9, section 18. Customized living service rate. Amends § 256B.0915, subd. 3e. Corrects obsolete cross-references. |
| **Section 9 (256B.0915, subdivision 3h)** aligns the date of future increases in the individualized service rate limits for 24-hour customized living services with the date on which nursing facility rate increases are effective. | Senate only |  |
| **Section 10 (256B.0915, subdivision 5)** amends the language governing change in status assessments for elderly waiver recipients by specifying the criteria for an assessment, who may request an assessment, and the timing of the assessment. | Senate only |  |
| **Sections 11 to 16** establish new rates for services offered under the elderly waiver and for similar services. | Senate only |  |
| **Section 11 (256B.0915, subdivision 11)** specifies that a new rate methodology under 256B.0915, subdivisions 12 to 16, applies to the following services and programs:(1) Elderly waiver(2) Elderly waiver customized living(3) Alternative care(4) Essential community supports(6) CADI waiver customized living(7) BI waiver customized living(8) Elderly waiver foster care(9) Elderly waiver residential care | Senate only |  |
| **Section 12 (256B.0915, subdivision 12)** provides for a phase-in of the new EW rates beginning January 1, 2019. The phase in is as follows:(1) a blended rate between January 1, 2019, and December 31, 2020, consisting of 12 percent of the new rate and 88 percent of the old rate; and(2) a blended rate beginning January 1, 2021, consisting of 20 percent of the new rate and 80 percent of the old rate. | Senate only |  |
| **Section 13 (256B.0915, subdivision 13)** specifies the data sources that will be used to set the wage and component value rates under the proposed rate methodology and outlines the factors included in the methodology. | Senate only |  |
| **Section 14 (256B.0915, subdivision 14)** specifies the base wage calculations for all the services affected by this rate methodology. | Senate only |  |
| **Section 15 (256B.0915, subdivision 15)** specifies how each of the factors are calculated. | Senate only |  |
| **Section 16 (256B.0915, subdivision 16)** specifies how the total payment rate is calculated for each service. | Senate only |  |
| **Section 17 (256B.0915, subdivision 17)** requires the commissioner, in consultation with stakeholders, to study the appropriateness and effect of the new rates and to make recommendations to the legislature by January 1, 2019. | Senate only |  |
| **Section 18 (256B.0922, subdivision 1)** increases from $400 to $600 the monthly limit for essential community supports, and adds respite care and companion services to the list of services available under the essential community supports program. | Senate only |  |
| **Section 19 (256B.431, subdivision 10)** modifies the date for nursing facility property rate changes related to construction projects to the first January or July following the completion of the construction project and the submission of the provider’s rate adjustment request. | Senate only |  |
| **Section 20 (256B.431, subdivision 16)** modifies the date for nursing facility property rate changes related to major additions or facility replacements to the first January or July following the completion of the addition or replacement. | Senate only |  |
| **Section 21 (256B.431, subdivision 30)** modifies the date for nursing facility property rate adjustments resulting from bed layaway or bed delicensure to the first January or July following the layaway or delicensure. | Technical wording differences. Staff recommends the Senate language.Senate includes a special effective date and the House does not. | Sec. 15. Bed layaway and delicensure. Amends § 256B.431, subd. 30. Modifies the timing of property payment rate increases due to a bed layaway or delicensure. Updates a cross-reference. |
| **Section 22 (256B.434, subdivision 4)** strikes obsolete language, thereby clarifying that inflationary adjustments apply only to the property rate and not to the other nursing facility rate components. This section also specifies that the next property rate inflation adjustment will be delayed until January 1, 2019. | Similar. The Senate modifies alternate rates for nursing facilities for rate years beginning on and after January 1, 2019. The House modifies the rates for rate years beginning on and after January 1, 2018. | Sec. 16. Alternate rates for nursing facilities. Amends § 256B.434, subd. 4. Limits an inflationary adjustment to the property payment rate for rate years beginning on and after January 1, 2018, and removes obsolete language. Makes this section effective the day following final enactment. |
| **Section 23 (256B.434, subdivision 4f)** modifies the date for nursing facility property rate adjustments resulting from certain construction projects to the first July or January following the completion of the project. | Senate only |  |
| **Section 24 (256B.50, subdivision 1b)** clarifies that nursing facilities have 60 days from the publication of rates to file an appeal of their rates. | Similar. The Senate includes a special effective date and the House does not. Staff recommends the Senate language. | Sec. 27. Filing an appeal. Amends § 256B.50, subd. 1b. Modifies the date by which an appeal must be received by the commissioner. |
| **Section 25 (256B.5012, subdivision 3a)** modifies the conditions under which an intermediate care facility for persons with developmental disabilities can be reimbursed for therapeutic leave days.  | Identical | Sec. 28. Therapeutic leave days. Amends § 256B.5012, by adding subd. 3a. Counts a vacant bed in an intermediate care facility for persons with developmental disabilities as a reserved bed when determining occupancy rates and eligibility for payment of a therapeutic leave day. |
|  | House only | Sec. 29. ICF/DD rate increase effective July 1, 2017; Murray County. Amends § 256B.5012, by adding subd. 17. Effective July 1, 2017, specifies the daily rate for a specific ICF/DD located in Murray County is $400. Adds this increase to any other increase that is effective on July 1, 2017. |
| **Section 26 (256R.04, subdivision 4)** clarifies which forms of insurance are administrative costs and which are fringe benefit costs. | Similar. Technical wording differences. Staff recommends the Senate language.House includes costs incurred for travel and housing for persons employed by a supplemental nursing services agency and the Senate does not.Senate makes this section effective the day following final enactment and the House makes this section effective October 1, 2017. | Sec. 39. Administrative costs. Amends § 256R.02, subd. 4. Modifies the definition of “administrative costs” in the chapter of statutes governing nursing facility payment rates by clarifying insurance costs and including costs incurred for travel and housing for people employed by a supplemental nursing services agency. This includes these costs in the facility’s other operating payment rate. |
|  | House only | Sec. 40. Direct care costs. Amends § 256R.02, subd. 17. Modifies the definition of “direct care costs” by adding costs for nurse consultants, pharmacy consultants, and medical directors. Requires that salaries and payroll taxes for nurse consultants who work out of a central office be allocated proportionately to the nursing facilities served by those consultants.  |
| **Section 27 (256R.02, subdivision 18)** clarifies that the employer health insurance cost category includes the actual expenses incurred by self-insured plans for reinsurance and clarifies the definition of a full-time employee. | Similar. The House includes administrative costs and the Senate does not. House and Senate language regarding the minimum number of hours an employee must work for employer health insurance costs to be allowable under the nursing facility payment system is different.Senate makes this section effective the day following final enactment and the House does not. | Sec. 41. Employer health insurance costs. Amends § 256R.02, subd. 18. Clarifies the definition of “employer health insurance costs.” |
|  | House only | Sec. 42. External fixed costs. Amends § 256R.02, subd. 19. Modifies the definition of “external fixed costs” by adding rate adjustments for compensation-related costs for minimum wage changes and by clarifying the PERA costs that are included.  |
|  | House only | Sec. 43. Fringe benefit costs. Amends § 256R.02, subd. 22. Clarifies the definition of “fringe benefit costs.” |
|  | House only | Sec. 44. Raw food costs. Amends § 256R.02, subd. 42. Includes the allocation of dietary credits in the definition of “raw food costs.” |
|  | House only | Sec. 45. Real estate taxes. Amends § 256R.02, by adding subd. 42a. Defines “real estate taxes.” |
|  | House only | Sec. 46. Special assessments. Amends § 256R.02, subd. 48a. Defines “special assessments.” |
|  | House only | Sec. 47. Therapy costs. Amends § 256R.02, subd. 52. Clarifies the definition of “therapy costs.” |
|  | House only | Sec. 48. Notice to residents. Amends § 256R.06, subd. 5. Modifies requirements related to notifying private pay residents of nursing facility rate increases. |
|  | House only | Sec. 49. Criteria. Amends § 256R.07, subd. 1. Corrects cross-references. |
| **Section 28 (256R.07, subdivision 6)** permits electronic signatures on documents submitted to the commissioner for the purposes of setting nursing facility rates. | Identical | Sec. 50. Electronic signature. Amends § 256R.07, by adding subd. 6. Allows the use of an electronic signature for documentation requiring a signature under the nursing facility payment system. |
| Section 29 (256R.10, subdivision 7) gives the commissioner the authority, after consulting with stakeholders, to determine the cost category for cost items or services not otherwise categorized. | Senate only |  |
|  | House only | Sec. 51. Extended record retention requirements. Amends § 256R.13, subd. 4. Corrects changes to cross-references. |
| **Section 30 (256R.18)** requires the commissioner beginning January 1, 2019 to submit to the legislature a biennial report on the effectiveness of the new value-based reimbursement system. | Senate only\*Similar to House only section 52 |  |
|  | House only\*Similar to Senate only section 30 | Sec. 52. Biennial report. Creates § 256R.18. Requires the commissioner to provide to the legislature a biennial report including:* the impact of the quality adjusted care limits;
* the ability of nursing facilities to retain employees, including whether rate increases are passed through to employees;
* the efficacy of the critical access nursing facility program; and
* the impact of payment rate limit reduction.

Makes this section effective January 1, 2019. |
| **Section 31 (256R.37)** removes the requirement that registered nurses, licensed practical nurses, or nursing assistants who receive scholarships must be recent graduates. | Similar. House removes the requirement that registered nurses, licensed practical nurses, or nursing assistants who receive scholarships must be newly hired and the Senate does not. | Sec. 53. Scholarships. Amends § 256R.37. Removes the requirement that registered nurses and licensed practical nurses be newly hired and newly graduated in order to be eligible for a scholarship under the nursing facility payment system. |
|  | House only | Sec. 54. Definitions. Amends § 256R.40, subd. 1. Modifies the definition of “completion of closure” for the purposes of the planned closure rate adjustment. |
| **Section 32 (256R.40, subdivision 5)** limits to just twice a year the effective date of planned closure rate adjustments. | Similar. Technical wording difference in paragraph (b).The House adds paragraph (f), which specifies the effective date of the rate adjustment for a facility that is ceasing operations through delicensure and decertification and the Senate does not.The Senate includes a special effective date and the House does not. | Sec. 55. Planned closure rate adjustment. Amends § 256R.40, subd. 5. Modifies the timing of the planned closure rate adjustment due to the closure of a facility. Adds language specifying the timing of a rate adjustment for a nursing facility that is closing operations. |
| **Section 33** | Technical wording difference in paragraph (a) and the Senate includes a special effective date and the House does not. | Sec. 56. Single-bed room incentive. Amends § 256R.41. Modifies the timing of the single-bed room incentive due to the delicensure of beds. |
| **Section 34 (256R.47)** extends for an additional two years the existing suspension of the rate adjustment for critical access nursing facilities. | Similar. The Senate includes a special effective date and the House does not. | Sec. 57. Rate adjustment for critical access nursing facilities. Amends § 256R.47. Extends the suspension of this program through December 31, 2019. The current suspension expires on December 31, 2017. |
| **Section 35 (256R.49)** establishes a rolling two-year expiration of rate increases for compensation-related costs for minimum wage changes. | Similar. The House removes language requiring the rate adjustments to be used to pay compensation costs for employees paid less than $14 per hour, allows rate adjustments to be made for minimum wage changes implemented in statute or by local ordinance, and modifies the formula for determining the rate adjustment and the Senate does not.The Senate includes a special effective date and the House does not. | Sec. 58. Rate adjustments for compensation-related costs for minimum wage changes. Amends § 256R.49. Makes rate increases provided under this section expire after two years. Removes language requiring the rate adjustment to be used to pay compensation costs for employees paid less than $14 per hour. Allows rate adjustments to be made for minimum wage changes implemented in statute or by local ordinance. Modifies the formula for determining the rate adjustment. |
| **Section 36 (Direction to the Commissioner; Adult Day Services Staffing Ratios)** requires the commissioner to study existing staffing ratio requirements for adult day services and make recommendations to the legislature by January 1, 2018. | Senate only |  |
| **Section 37 (Direction to the Commissioner; Border City Nursing Facility Rate Study)** requires the commissioner to study the disparity between nursing facility rates in Moorhead and the rates paid by North Dakota in Fargo and the surrounding communities, as well as the effect of the rate disparities on the Moorhead workforce and access to nursing facility services. | Different. The Senate requires the commissioner of human services to study the disparity between nursing facility rates in Moorhead and the rates paid by North Dakota in the Fargo area. The House provides for a special operating payment rate adjustment for a nonprofit nursing facility in Moorhead beginning January 1, 2020. | Sec. 59. Nursing facilities in border cities. Amends § 256R.53, subd. 2. Adds nonprofit nursing facilities in Moorhead to the nursing facility payment rate exemption that already exists for Breckenridge. Requires the commissioner to make a comparison of rates by November 1 of each year and apply it to the rates to be effective on the following January 1. Exempts facilities under this subdivision from rate limits if the adjustments under this subdivision result in a rate that exceeds the limits. Makes this section effective for rate increases for facilities in Moorhead for rate years beginning January 1, 2020, and annually thereafter. |
|  | House only | Sec. 61. Alzheimer’s Disease Working Group. Creates § 256.999. Subd. 1. Members. Requires the Minnesota Board on Aging to appoint an Alzheimer’s disease working group consisting of 16 members. Lists the organizations that must be represented on the working group. Requires the appointing authorities to complete their appointments no later than December 15, 2017. Requires the membership of the working group to reflect the diversity in Minnesota. Subd. 2. Duties; recommendations. Requires the working group to review and revise the 2011 report titled “Preparing Minnesota for Alzheimer’s: the Budgetary, Social and Personal Impacts.” Requires the working group to consider and make recommendations and findings on several issues, including:* trends and disparities in the state’s Alzheimer’s population;
* risk reduction, including health education and health promotion on risk factors, safety, and potentially avoidable hospitalizations; and
* health disparities and access to high quality dementia care.

 Subd. 3. Meetings. Requires the Board on Aging to convene the first meeting of the working group no later than January 15, 2018. Requires meetings of the working group to be open to the public, and to the extent practicable, technological means, such as Web casts, must be used to reach the greatest number of people throughout the state. Requires the Board of Aging to designate one member to serve as chair. Limits the working group to no more than five meetings. Subd. 4. Compensation. Provides that working group members serve without compensation, except for allowed expense reimbursement. Subd. 5. Administrative support. Requires the Board of Aging to provide administrative support. Subd. 6. Report. Requires the Board on Aging to submit a report providing the findings and recommendations of the working group to the governor and the legislature no later than January 15, 2019. Subd. 7. Expiration. Provides an expiration date for the working group. |
|  | House only | Sec. 65. Electronic service delivery documentation system.  Subd. 1. Documentation; establishment. Requires the commissioner of human services to establish implementation requirements and standards for an electronic service delivery documentation system to comply with the 21st Century Cures Act. Subd. 2. Definitions. Defines the terms “electronic service delivery documentation,” “electronic service delivery documentation system,” and “service.” Subd. 3. Requirements. Requires the commissioner to consider electronic visit verification systems and other electronic service delivery documentation methods in developing implementation requirements for an electronic service delivery documentation system. Requires the commissioner to convene impacted stakeholders to ensure that the requirements meet certain criteria, including:* being minimally administratively and financially burdensome to a provider;
* considering existing best practices and use of electronic service delivery documentation; and
* being effective methods for preventing fraud.

Requires the commissioner to: (1) make training available to providers on the electronic service delivery documentation system requirements; (2) establish baseline measurements related to preventing fraud; and (3) establish measures to determine the effect of electronic service delivery documentation requirements on program integrity.  Subd. 4. Legislative report. Requires the commissioner to submit a report by January 15, 2018, to the legislative committees with jurisdiction over human services with recommendations to establish electronic service delivery documentation system requirements and standards. Lists items the report must include. Makes this section effective the day following final enactment. |
|  | House only | Sec. 67. Direction to commissioner; ICF/DD Payment Rate Study. Directs the commissioner, within available appropriations, to study the ICF/DD payment rates and make recommendations on the rate structure to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance by January 1, 2018. |
| **Section 38 (Revisor’s Instruction)** requires nonpartisan legislative staff and the Department of Human Services to propose a recodification of the language governing the elderly waiver. | Senate only |  |