

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 316

DATE: April 13, 2015

Version: The Delete Everything Amendment (H0316DE1-2)

Authors: Schomacker and others

Subject: Nursing Facility Payment Reform

Analyst: Danyell A. Punelli

Sean Williams

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Overview

This bill reforms the MA nursing facility payment system and modifies adjustments to Elderly Waiver cost limits.

MA reimburses nursing facilities for operating costs, external fixed costs, and property costs.

Operating costs include costs for nursing, social services activities, dietary, housekeeping, laundry, building maintenance, and administration; salaries and wages of persons performing these services; fringe benefits and payroll taxes; and other related costs such as costs for supplies, food, utilities, and consultants.

External fixed costs includes surcharges and fees; scholarships; planned closure rate adjustments; single-bed room incentives; property taxes and property insurance; and Public Employee Retirement Act costs.

Property costs include interest expense and return on equity.

Prior to October 1, 2006, nursing facilities were reimbursed under a cost-based system sometimes referred to as “rule 50,” where reimbursement to facilities was based on their reported costs, subject to various limits. From October 1, 2006, through September 30, 2008, all nursing facilities participating in MA were reimbursed under the Alternative Payment System (APS), a contract-based system where facilities were exempt from certain statutory requirements of the cost-based

Section

system and reimbursed at the level of their payment rate in effect just prior to entering into an APS contract with the commissioner. Since October 1, 2008, facilities have been reimbursed under a blend of APS and a “rebased” reimbursement rate.

The 2007 Legislature required DHS to rebase nursing facility rates, meaning that operating payment rates for nursing facilities would be calculated using the statistical and cost report filed by each nursing facility for the report period ending one year prior to the rate year. Similar to the APS, these reimbursement rates would vary with resident case-mix and incorporate reimbursement for care-related, other operating, external fixed, and property costs. Rebasing would allow nursing facilities to have new or currently unreimbursed expenditures recognized in the facility payment rate, subject to certain statutory limits.

Rebasing for operating cost payment rates began October 1, 2008, and was designed to be phased in over eight years. During the phase-in period, nursing facilities were to (1) receive a blended rate—based partially on the APS reimbursement system and partially on the new value-based (rebased) reimbursement system; and (2) be held harmless—a facility could not receive an operating cost payment rate that was less than what the facility would have received without rebasing.

The 2011 Legislature prohibited all further steps phasing in rebased operating payment rates—leaving nursing facilities with blended operating payment rates. This was projected to save the state in excess of \$100 million per year in fiscal years 2014 and 2015. The savings result from cancelling scheduled rate increases.

Section

- 1** **Eligibility for funding for services for nonmedical assistance recipients.** Amends § 256B.0913, subd. 4. Modifies monthly limits under the Alternative Care program to be consistent with the EW monthly limits.
- 2** **Elderly waiver cost limits.** Amends § 256B.0915, subd. 3a. Modifies adjustments to the elderly waiver cost limits and removes obsolete language. Makes this section effective July 1, 2016.
- 3** **Customized living service rate.** Amends § 256B.0915, subd. 3e. Modifies adjustments to elderly waiver customized living service rates and removes obsolete language. Makes this section effective July 1, 2016.
- 4** **Service rate limits; 24-hour customized living services.** Amends § 256B.0915, subd. 3h. Modifies adjustments to elderly waiver 24-hour customized living services rate limits and removes obsolete language. Makes this section effective July 1, 2016.

Section

- 5** **Operating costs after July 1, 1985.** Amends § 256B.431, subd. 2b. Removes language related to special dietary needs (this language is moved to a new subdivision in § 256B.441).
- 6** **Alternate rates for nursing facilities.** Amends § 256B.434, subd. 4. Removes obsolete language in paragraphs (a), (b), and (e). Extends the suspension of automatic inflationary adjustments for two rate years. Removes language in paragraph (d) related to the performance-based incentive payment program (this language is moved to a new subdivision in § 256B.441).
- 7** **Calculation of nursing facility operating payment rates.** Amends § 256B.441, subd. 1. Specifies how the commissioner of human services must calculate nursing facility operating payment rates beginning January 1, 2016. Removes obsolete language related to the phase-in of rebased operating payment rates and language related to rebasing of property rates.
- 8** **Administrative costs.** Amends § 256B.441, subd. 5. Modifies the definition of “administrative costs” by including property insurance.
- 9** **Employer health insurance costs.** Amends § 256B.441, by adding subd. 11a. Defines “employer health insurance costs.”
- 10** **External fixed costs.** Amends § 256B.441, subd. 13. Modifies the definition of “external fixed costs” by removing obsolete language and adding property assessments, payments in lieu of taxes; employer health insurance costs; quality improvement incentive payment rate adjustments; performance-based incentive payments; and special dietary needs.
- 11** **Facility average case mix index.** Amends § 256B.441, subd. 14. Modifies the definition of “facility average case mix index” by removing obsolete language and specifying that resource utilization group (RUG) weights used shall be based on the case mix system prescribed in statute.
- 12** **Fringe benefit costs.** Amends § 256B.441, subd. 17. Modifies the definition of “fringe benefit costs” by removing health insurance and excluding the Public Employees Retirement Association (PERA) and employer health insurance costs.
- 13** **Median total care-related cost per diem and other operating per diem determined.** Amends § 256B.441, subd. 30. Removes language related to peer groups and requires the commissioner to determine the median total care-related cost per diem and other operating cost per diem using the cost reports from nursing facilities in the seven county metro area.
Paragraph (b) specifies how the median total care-related per diem is calculated.
Paragraph (c) specifies how the median other operating per diem is calculated.
- 14** **Prior system operating cost payment rate.** Amends § 256B.441, subd. 31. Updates the date of the prior cost operating payment rate to be the rate in effect on December 31, 2015, and removes obsolete language.
- 15** **Rate year.** Amends § 256B.441, subd. 33. Modifies the definition of rate year to conform to the change in the timing of the rate year.

Section

- 16** **Reporting period.** Amends § 256B.441, subd. 35. Modifies the definition of “reporting period” to include parameters for interim and settle-up periods.
- 17** **Standardized days.** Amends § 256B.441, subd. 40. Modifies the definition of “standardized days” to specify how resident days at a penalty classification are treated.
- 18** **Calculation of a quality score.** Amends § 256B.441, subd. 44. Removes obsolete language and makes technical and conforming changes to the statute governing the calculation of nursing facility quality scores.
- 19** **Quality improvement incentive system beginning October 1, 2015.** Amends § 256B.441, subd. 46c. Makes conforming changes to the quality improvement incentive system to reflect the new rate year timeline. Specifies that quality improvement incentive rate adjustments must be included in the external fixed payment rate.
- 20** **Performance-based incentive payments.** Amends § 256B.441, by adding subd. 46d. Moves the performance-based incentive payment language from § 256B.434, subdivision 4, paragraph (d) to this new subdivision.
- 21** **Calculation of care-related per diems.** Amends § 256B.441, subd. 48. Removes language listing the items included in the other operating per diem (this language is moved to subd. 30).
- 22** **Determination of total care-related limit.** Amends § 256B.441, subd. 50. Describes the formula used to calculate the limit on a facility’s reimbursement for care-related costs. The commissioner would calculate a facility’s care-related limit using the facility’s quality score and the metro median care related per diem, which is defined in section 13. Facilities with higher quality scores would be subject to higher limits. The table below shows example limits for a number of different facility quality scores.

Facility Quality Score	Care-related Limit (percent of metro median care-related per diem)
0	89.375%
10	90%
25	103.4375%
50	117.5%
75	131.5625%
90	140%
100	145.625%

Paragraph (d) specifies that a facility that has costs that exceed its care-related limit shall have its total care-related per diem reduced to its limit.

Section

- 23** **Determination of other operating price.** Amends § 256B.441, subd. 51. Modifies the existing limit on operating costs. Limits a facility’s other operating per diem to 105% of the metro median other operating per diem, which is defined in section 13 of the bill.
- 24** **Exception for specialized care facilities.** Amends § 256B.441, subd. 51a. Removes the commissioner’s authority to negotiate certain increases for nursing facilities that provide specialized care. Beginning January 1, 2016, increases the care-related limit for specialized care facilities by 50 percent. Defines “specialized care facilities.”
- 25** **Special dietary needs.** Amends § 256B.441, by adding subd. 51b. Moves a provision related to special dietary needs from § 256B.431, subd. 2b, paragraph (h), to a new subdivision and removes this amount from allowable raw food per diem costs and includes it in the external fixed per diem rate.
- 26** **Calculation of payment rate for external fixed costs.** Amends § 256B.441, subd. 53. Modifies the calculation of external fixed costs by removing obsolete language and reordering some of the paragraphs, removing property insurance from external fixed costs, and adding calculations for employer health insurance costs, quality improvement incentive payment rate adjustments, performance-based incentive payments, and special dietary needs.
- 27** **Determination of total payment rates.** Amends § 256B.441, subd. 54. Removes obsolete language and makes conforming changes.
- 28** **Employees represented by collective bargaining agents.** Amends § 256B.441, by adding subd. 54a. Specifies the process for approving wage and benefit costs for facilities in which employees are represented by collective bargaining agents.
- 29** **Alternative to phase-in for publicly owned nursing facilities.** Amends § 256B.441, subd. 55a. Makes conforming changes.
- 30** **Hold harmless.** Amends § 256B.441, subd. 56. Removes obsolete language related to the phase-in of the rebased operating payment rates and updates hold harmless language, effective for the rate year beginning January 1, 2016, to specify that no nursing facility will receive an operating payment rate less than its operating payment rate as of December 31, 2015.
- Paragraph (b) prohibits facilities from being subject to a care-related payment rate limit reduction greater than five percent of the median total care-related per diem for rate years beginning on or after January 1, 2016.
- 31** **Critical access nursing facilities.** Amends § 256B.441, subd. 63. Suspends the critical access nursing facility program from January 1, 2016, to December 31, 2017.
- 32** **Nursing facility in Golden Valley.** Amends § 256B.441, by adding subd. 65. Requires the operating payment rate for a specified facility located in Golden Valley to be calculated without the application of the total care-related limit and the determination of the other operating price, effective for the rate year beginning on January 1, 2016.

Section

- 33** **Scope.** Amends § 256B.50, subd. 1. Modifies the scope of MA appeals to include allowable costs under the nursing facility payment system. Makes this section effective January 1, 2016, and apply to appeals filed on or after that date.
- 34** **Monthly rates; exemptions.** Amends § 256I.05, subd. 2. Adds a cross-reference to the current nursing facility payment system.
- 35** **Direction to commissioner; nursing facility payment reform report.** By January 1, 2017, requires the commissioner of human services to evaluate and report to the legislature on several items related to nursing facility payment reform including the impact of the quality adjusted care limits and the ability of nursing facilities to attract and retain employees under the new payment system.
- 36** **Property rate setting; appropriation.** Paragraph (a) requires the commissioner to conduct a study, in consultation with stakeholders and experts, of property rate setting, based on a rental value approach for Minnesota nursing facilities and to report to the legislature by March 1, 2016, for a system implementation date of January 1, 2017. Lists actions the commissioner must take, including contracting with at least two firms to conduct appraisals of all nursing facilities in the MA program and using the information from the appraisals to complete the design of a fair rental value system and calculate a replacement value and an effective age for each nursing facility.
- Paragraph (b) appropriates \$890,000 in fiscal year 2016 from the general fund to the commissioner of human services to conduct the property rate setting study.
- 37** **Revisor's instruction.** Instructs the Revisor of Statutes, in consultation with the House Research Department, Office of Senate Counsel, Research, and Fiscal Analysis, Department of Human Services, and stakeholders, to prepare legislation for the 2016 legislative session to recodify laws governing nursing home payments and rates. Makes this section effective the day following final enactment.
- 38** **Repealer.** Repeals Minnesota Statutes, § 256B.434, subd. 19b (nursing facility rate adjustments beginning October 1, 2015); and § 256B.441, subds. 14a (facility group types), 19 (hospital-attached nursing facility status), 50a (determination of proximity adjustments), 52 (determination of efficiency incentive), 55 (phase-in of rebased operating payment rates), 58 (implementation delay), and 62 (repeal of rebased operating payment rates).