

Subject Continuing Care for Older Adults

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## Overview

This bill makes various changes to the nursing facility payment rate system, called value-based reimbursement (VBR), including reforming the property payment rates.

## Summary

Section	Description
1	<p><b>Resident assessment schedule.</b></p> <p>Amends § 144.0724, subd. 4. In a subdivision requiring nursing facilities to conduct certain resident assessments to determine case mix classifications for reimbursement, provides that for rehabilitation therapy a facility must perform a significant change in status assessment if all speech, occupational, and physical therapies have ended, and specifies timing for this assessment. Also specifies that any modifications to the most recent assessments must be included in the case mix classification analysis.</p>
2	<p><b>Short stays.</b></p> <p>Amends § 144.0724, subd. 5. Provides that a nursing facility is not required to conduct an admission assessment of a resident if the resident is admitted to and discharged from the facility on the same day.</p>
3	<p><b>Request for reconsideration of resident classifications.</b></p> <p>Amends § 144.0724, subd. 8. Allows a reconsideration of a resident's case mix classification by the commissioner of health to include consideration of any items changed during the audit process, and removes language requiring a reconsideration request to include a copy of the minimum data set (MDS) used to determine the case mix classification.</p>
4	<p><b>Definitions.</b></p> <p>Amends § 144.071, subd. 1a. In a subdivision defining terms for the nursing home bed moratorium section, modifies the definitions of building, capital assets, and depreciation guidelines by adding cross-references to the definitions of those terms in section</p>

Section	Description
5	<p>256R.261 (definitions for nursing facility property rates). Also strikes definitions of project construction costs and technology.</p> <p><b>Moratorium.</b></p> <p>Amends § 144A.071, subd. 2. In current law the commissioner of health may approve a nursing facility construction project whose costs are at or below \$1,000,000; construction projects with costs above that amount must meet one of the criteria in paragraph (a) or (b) in order to be approved by the commissioner. This section raises the cost threshold for construction projects the commissioner may approve without requiring the project to satisfy additional criteria, from \$1,000,000 to \$1,500,000. Also requires the commissioner of human services, in addition to the commissioner of health as in current law, to be provided with an itemized cost estimate for project construction costs before final plan approval of a construction project.</p>
6	<p><b>Exceptions authorizing increase in beds; hardship areas.</b></p> <p>Amends § 144A.071, subd. 3. The amendments to paragraph (d) provide that if a nursing facility in a hardship area adds beds and after these beds are added 50 percent or more of the facility's beds are newly licensed, the facility's operating payment rate and external fixed payment rate shall be determined according to a new subdivision governing total payment rates for new facilities (§ 256R.21, subd. 5), and the facility's property payment rate shall be determined under a new section governing property payment rates (§ 256R.26).</p>
7	<p><b>Exceptions for replacement beds.</b></p> <p>Amends § 144A.071, subd. 4a. In a paragraph authorizing a nursing facility moratorium exception to replace a facility in Wilkin County damaged by a flood, changes a reference governing the interim and settle-up payment provisions for that facility from a rule being repealed in this bill to a new section in chapter 256R governing interim payment rates and settle-up (§ 256R.27).</p>
8	<p><b>Exceptions for replacement beds after June 30, 2003.</b></p> <p>Amends § 144A.071, subd. 4c. In a paragraph authorizing a nursing facility moratorium exception to licensed beds transferred to a new facility on the grounds of the Ah-Gwah-Ching campus, changes a reference governing the interim and settle-up payment provisions for that facility from a rule being repealed in this bill to a new section in chapter 256R governing interim payment rates and settle-up (§ 256R.27).</p>
9	<p><b>Cost estimate of a moratorium exception project.</b></p> <p>Amends § 144A.071, subd. 5a. In a subdivision establishing requirements for cost estimates of nursing facility moratorium exception projects, requires the commissioner of human services to prepare an estimate of the property-related payment rate to be established when the project is complete, and specifies what governs the final property</p>

<b>Section</b>	<b>Description</b>
	rate. Strikes paragraphs governing the interest rate used to estimate the cost of a proposal.
10	<b>Relocation projects.</b> Amends § 144A.073, subd. 3c. Allows the commissioner to accept relocation proposals at any time (current law allows the commissioner to accept at any time relocation proposals that are cost-neutral with respect to state costs). Also strikes a paragraph describing how cost neutrality is measured.
11	<b>Contractual agreements.</b> Amends § 256B.434, subd. 1. Removes obsolete language and clarifies this applies to nursing facilities located in Minnesota that elect to enroll as a medical assistance provider. Provides an immediate effective date.
12	<b>Duration and termination of contracts.</b> Amends § 256B.434, subd. 3. Removes obsolete language and provides an immediate effective date.
13	<b>Capital assets.</b> Amends § 256R.02, subd. 8. Modifies the definition of “capital assets” under the nursing facility VBR.
14	<b>External fixed costs.</b> Amends § 256R.02, subd. 19. Modifies the definition of “external fixed costs” under the nursing facility VBR. Provides a January 1, 2020, effective date.
15	<b>Interim payment rates.</b> Amends § 256R.02, by adding subd. 25a. Defines “interim payment rates” under the nursing facility VBR.
16	<b>Settle up payment rates.</b> Amends § 256R.02, by adding subd. 47a. Defines “settle up payment rates” under the nursing facility VBR.
17	<b>Reporting of financial statements.</b> Amends § 256R.08, subd. 1. Expands the list of information nursing facilities must report to the commissioner to include information regarding licensee ownership interest or control in a related party or organization. For purposes of this section, defines “profit and loss statement” and “related party.” Provides a November 1, 2019, effective date.

Section	Description
18	<p><b>Calculation of a quality score.</b></p> <p>Amends § 256R.16, subd. 1. Removes the July 1 effective date for adjustments to the methodology for computing the total quality score.</p>
19	<p><b>Total payment rate for new facilities.</b></p> <p>Amends § 256R.21, by adding subd. 5. Specifies the manner in which the total payment rate must be determined for a new facility created under a cost-neutral relocation moratorium exception project. Provides a January 1, 2020, effective date.</p>
20	<p><b>Determination of total care-related payment rate limits.</b></p> <p>Amends § 256R.23, subd. 5. Modifies the calculation for determining each facility's total care-related payment rate limit. Provides a January 1, 2020, effective date.</p>
21	<p><b>Other operating payment rate.</b></p> <p>Amends § 256R.24. Modifies the calculation for determining a facility's other operating payment rate by breaking up the other operating costs into three components: (1) laundry, housekeeping, and dietary; (2) administration; and (3) maintenance and plant operations.</p> <p>Specifies a facility's payment rate for laundry, housekeeping, and dietary equals 105 percent of the seven-county metro area median cost.</p> <p>Sets a facility's payment rate for administrative, maintenance, and plant operations at \$49.06 per day effective January 1, 2020, and allows for one percent growth each year through December 31, 2023. Beginning January 1, 2014, adjusts the payment rate for administrative, maintenance, and plant operations by an inflation factor.</p> <p>Specifies a facility's other operating payment rate equals the sum of the three components.</p>
22	<p><b>External fixed costs payment rate.</b></p> <p>Amends § 256R.25. Removes planned closure rate adjustments, consolidation rate adjustments, and single-bed room incentives from the external fixed costs payment rate (these adjustments are repealed as part of this proposal). Provides a January 1, 2020, effective date.</p>
23	<p><b>Property payment rate.</b></p> <p>Amends § 256R.26.</p> <p><b>Subd. 1. Generally.</b> Paragraph (a) requires the commissioner to reimburse nursing facilities participating in MA for the rental use of real estate and depreciable assets.</p>

Section	Description
	<p>Paragraph (b) requires the commercial valuation system selected by the commissioner to be utilized in all appraisals. Prohibits adjustments or substitutions from being permitted for any alternative analysis of properties.</p> <p>Paragraph (c) requires the property appraisal firm selected by the commissioner to produce a report detailing both the depreciated replacement cost (DRC) and undepreciated replacement cost (URC) of the nursing facility. Excludes the valuation of movable equipment, land, or land improvements from the valuation. Requires the valuation to be adjusted for any shared area included in the DRC and URC not used for nursing facility purposes. Excludes the physical plant for central operations from the appraisal.</p> <p>Paragraph (d) allows the initial appraisal to include the full value of all shared areas. Requires the DRC, URC, and square footage to be adjusted to reflect only the nursing facility usage of shared areas in the final nursing facility values. Specifies the basis for the adjustment.</p> <p><b>Subd. 2. Appraised value.</b> Bases the DRC and URC on the appraisals of a building and attached fixtures as determined by the contracted property appraisal firm using a commercial valuation system selected by the commissioner.</p> <p><b>Subd. 3. Initial rate year.</b> Specifies the property payment rate for the initial rate year effective January 1, 2020.</p> <p><b>Subd. 4. Subsequent rate years.</b> Paragraph (a) requires the commissioner, beginning in calendar year 2020, to contract with a property appraisal firm to appraise the building and attached fixtures for nursing facilities using the commercial valuation system. Requires approximately one-third of nursing facilities to be appraised each year.</p> <p>Paragraph (b) specifies the timing for a nursing facility to appeal findings of fact in an appraisal report.</p> <p>Paragraphs (c) and (d) specify the manner in which property payment rates are determined for rate years 2021 to 2023.</p> <p>Paragraph (e) specifies requirements for appraisals completed after 2016.</p> <p><b>Subd. 5. Special reappraisals.</b> Paragraph (a) allows a nursing facility that completes an addition to or replacement of a building or attached fixtures to request a property rate adjustment. Specifies the process for requesting and determining a property rate adjustment.</p> <p>Paragraph (b) allows a nursing facility that completes a threshold construction project to request a project rate adjustment if the building improvement or addition costs exceed \$300,000 and the project is not reflected in an appraisal used for rate setting. Specifies additional eligibility requirements for a property</p>

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	<p>rate adjustment under this paragraph and the manner in which the rate adjustment is determined.</p>
	<p>Paragraph (c) specifies appraisal requirements for nursing facilities new to the medical assistance (MA) program effective January 1, 2020.</p>
	<p><b>Subd. 6. Limitation on appraisal valuations.</b> Limits the increase in the URC to \$500,000 per year since the last completed appraisal plus any completed moratorium exception project costs. Requires any limitation to the URC to be applied in the same proportion to the DRC.</p>
	<p><b>Subd. 7. Total hold harmless rate.</b> Paragraph (a) lists the items included in the total hold harmless rate.</p>
	<p>Paragraph (b) adds certain moratorium rate adjustments to the total hold harmless rate.</p>
	<p>Paragraph (c) includes the following in the total hold harmless rate: (1) planned closure rate adjustments; (2) consolidation rate adjustments; and (3) single-bed room incentives from previous years.</p>
	<p>Paragraph (d) provides a January 1, 2026, expiration date for this subdivision.</p>
	<p><b>Subd. 8. Phase out of hold harmless rate.</b> For a facility that has a higher total hold harmless rate than the new property payment rate, specifies a phase out schedule of the hold harmless rate over six years. Provides a January 1, 2026, expiration date for this subdivision.</p>
24	<p><b>Nursing facility property rate definitions.</b> Creates § 256R.261.</p>
	<p><b>Subd. 1. Definitions.</b> Specifies the following terms have the meanings given them for purposes of the nursing facility property payment rates under VBR.</p>
	<p><b>Subd. 2. Addition.</b> Defines “addition.”</p>
	<p><b>Subd. 3. Appraisal.</b> Defines “appraisal.”</p>
	<p><b>Subd. 4. Building.</b> Defines “building.”</p>
	<p><b>Subd. 5. Commercial valuation system.</b> Defines “commercial valuation system.”</p>
	<p><b>Subd. 6. Depreciable movable equipment.</b> Defines “depreciable movable equipment.”</p>

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	<p><b>Subd. 7. Depreciated replacement cost or DRC.</b> Defines “depreciated replacement cost” or “DRC.”</p> <p><b>Subd. 8. Depreciation expense.</b> Defines “depreciation expense.”</p> <p><b>Subd. 9. Depreciation guidelines.</b> Defines “depreciation guidelines.”</p> <p><b>Subd. 10. Equipment allowance.</b> Defines “equipment allowance.”</p> <p><b>Subd. 11. Fair rental value system.</b> Defines “fair rental value system.”</p> <p><b>Subd. 12. Fixed equipment.</b> Defines “fixed equipment.”</p> <p><b>Subd. 13. Land improvement.</b> Defines “land improvement.”</p> <p><b>Subd. 14. Rental rate.</b> Defines “rental rate.”</p> <p><b>Subd. 15. Shared area.</b> Defines “shared area.”</p> <p><b>Subd. 16. Threshold project.</b> Defines “threshold project.”</p> <p><b>Subd. 17. Undepreciated replacement cost or URC.</b> Defines “undepreciated replacement cost” or “URC.”</p> <p><b>Subd. 18. Undepreciated replacement cost (URC) per bed limit.</b> Defines “undepreciated replacement cost (URC) per bed limit.”</p>
25	<p><b>Property rate calculation under fair rental value system.</b> Creates § 256R.265.</p> <p><b>Subd. 1. Square feet per bed limit.</b> Specifies the calculation for the square feet per bed limit.</p> <p><b>Subd. 2. Total URC limit.</b> Specifies the calculation for the total URC limit.</p> <p><b>Subd. 3. Calculation of total property rate.</b> Specifies the calculation for the total property rate.</p>
26	<p><b>Interim and settle up payment rates.</b> Creates § 256R.27.</p> <p><b>Subd. 1. Generally.</b> Paragraph (a) requires a newly constructed nursing facility or a nursing facility with a capacity increase of 50 percent or more to receive interim payment rates and settle up payment rates.</p>

Section	Description
	<p>Paragraph (b) requires a nursing facility to submit a written application to the commissioner to receive interim payment rates.</p> <p>Paragraph (c) specifies the effective date of the interim payment rates and prohibits interim payment rates from being in effect for more than 17 months.</p> <p>Paragraph (d) specifies the time period during which the nursing facility must receive the interim payment rates.</p> <p>Paragraph (e) specifies the manner in which the settle up payment rates must be determined during the 15-month period following the settle up reporting period.</p> <p>Paragraph (f) specifies the time period during which the settle up payment rates are in effect.</p> <p>Paragraph (g) specifies the manner in which the total operating payment rate and the external fixed costs payment rate must be determined following the time period under paragraph (e).</p> <p><b>Subd. 2. Determination of interim payment rates.</b> Paragraph (a) requires a nursing facility to submit an interim cost report for the reporting year in which the nursing facility plans to begin operation. Specifies the information that must be included in the interim cost report. Specifies the calculation to determine the anticipated interim standardized days and resident days for the reporting period.</p> <p>Paragraph (b) specifies the calculation for the interim total operating costs payment rate.</p> <p><b>Subd. 3. Determination of settle up payment rates.</b> Paragraphs (a) and (b) specify the time period for which a facility must file settle up cost reports.</p> <p>Paragraph (c) specifies the calculation for the settle up total operating payment rate.</p>
27	<p><b>Interim and settle up payment rates for new owners and operators.</b> Creates § 256R.28.</p> <p><b>Subd. 1. Generally.</b> Paragraph (a) specifies a facility that undergoes a change of ownership or operator resulting in a change of licensee must receive interim payment rates and settle up payment rates.</p> <p>Paragraph (b) specifies the effective date of the interim rates and prohibits interim rates from being in effect for more than 26 months.</p> <p>Paragraph (c) requires the nursing facility to continue to receive the interim payment rates until the settle up payment rates are determined.</p>



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	<p>Paragraph (d) makes the settle up payment rates effective retroactively to the effective date of the new license and remain effective until the end of the interim rate period.</p> <p>Paragraph (e) specifies the manner in which the settle up payment rates must be determined during the 15-month period following the settle up reporting period.</p> <p>Paragraph (f) specifies the manner in which the total operating payment rate and the external fixed costs payment rate must be determined following the time period under paragraph (e).</p> <p><b>Subd. 2. Determination of interim payment rates.</b> Specifies the manner in which the interim total payment rates must be calculated.</p> <p><b>Subd. 3. Determination of settle up payment rates.</b> Paragraphs (a) and (b) specify the time period for which a facility must file settle up cost reports.</p> <p>Paragraph (c) specifies the calculation for the settle up total payment rate.</p>
28	<p><b>Rate adjustment for private rooms for medical necessity.</b></p> <p>Amends § 256R.44. Reduces the amount paid for a private room for medical necessity and removes a cross-reference that is proposed to be repealed. Provides a January 1, 2020, effective date.</p>
29	<p><b>Rate adjustment for critical access nursing facilities.</b></p> <p>Amends § 256R.47. Extends the suspension of this provision to December 31, 2023.</p>
30	<p><b>Determination of rate adjustment.</b></p> <p>Amends § 256R.50, subd. 6. Limits bed relocation rate adjustments to three full years following the effective date of the rate adjustment. Sunsets this subdivision when the final rate adjustment determined under this subdivision expires.</p>
31	<p><b>Direction to commissioner; moratorium exception funding.</b></p> <p>In fiscal year 2019, allows the commissioner of human services to approve moratorium exception projects for which the full annualized share of MA costs does not exceed \$1,500,000 plus any carryover of previous appropriations for this purpose. Provides an immediate effective date.</p>
32	<p><b>Revisor instruction.</b></p> <p>Instructs the revisor of statutes to renumber the nursing facility contracting provisions that are currently coded in section 256B.434, subdivisions 1 and 3, as amended by this act, as a section in chapter 256R and revise any statutory cross-references consistent with the recoding.</p>

Section	Description
33	<p data-bbox="354 275 472 302"><b>Repealer.</b></p> <p data-bbox="354 317 1357 420">Paragraph (a) repeals Minn. Stat. §§ 144A.071, subd. 4d (consolidation of nursing facilities); 256R.40 (nursing facility voluntary closure); and 256R.41 (single-bed room incentive) effective July 1, 2019.</p> <p data-bbox="354 457 1433 1087">Paragraph (b) repeals Minn. Stat. §§ 256B.431, subds. 3a (property-related costs after July 1, 1985), 3f (property costs after July 1, 1988), 3g (property costs after July 1, 1990, for certain facilities), 3i (property costs for the rate year beginning July 1, 1990), 10 (property rate adjustments and construction projects), 13 (hold harmless property-related rates), 15 (capital repair and replacement cost reporting and rate determination), 16 (major additions and replacements; equity incentive), 17 (special provisions for moratorium exceptions), 17a (allowable interest expense), 17c (replacement-costs-new per bed limit), 17d (determination of rental per diem for total replacement projects), 17e (replacement-costs-new per bed limit effective October 1, 2007), 18 (updating appraisals, additions, and replacements), 21 (indexing thresholds), 22 (changes to nursing facility reimbursement), 30 (bed layaway and delicensure), and 45 (rate adjustments for some moratorium exception projects); 256B.434, subds. 4 (alternate rates for nursing facilities), 4f (construction project rate adjustments effective October 1, 2006), 4i (construction project rate adjustments for certain nursing facilities), and 4j (construction project rate increase for certain nursing facilities); and 256R.36 (hold harmless), and Minn. Rules, parts 9549.0057 (determination of interim and settle up operating cost payment rates); and 9549.0060, subps. 4, 5, 6, 7, 10, 11, and 14 (determination of the property-related payment rate) effective January 1, 2020.</p> <p data-bbox="354 1125 1406 1192">Paragraph (c) repeals Minn. Stat. § 256B.434, subds. 6 (contract payment rates; appeals) and 10 (exemptions), effective the day following final enactment.</p>



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