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HOUSE OF REPRESENTATIVES

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SESSION

HOUSE FILE No. **400**

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act  
1.2 relating to human services; allowing contracts with nursing facilities for the  
1.3 provision of additional specialized services; modifying reimbursement for  
1.4 short-stay residents; increasing nursing facility operating payment rates;  
1.5 implementing new case mix indices and providing interim rate adjustments;  
1.6 rebasing nursing facility rates; providing additional nursing facility quality  
1.7 add-ons; amending Minnesota Statutes 2006, sections 256B.431, subdivisions  
1.8 2e, 32; 256B.434, by adding a subdivision; 256B.438, by adding a subdivision;  
1.9 256B.441, subdivisions 1, 46.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2006, section 256B.431, subdivision 2e, is amended to  
1.12 read:

1.13 Subd. 2e. **Contracts for services for ventilator-dependent persons and**  
1.14 **persons requiring other specialized services.** The commissioner may negotiate with a  
1.15 nursing facility eligible to receive medical assistance payments to provide services to a  
1.16 ventilator-dependent person; a person requiring wound vacuum and wound stimulation  
1.17 equipment and care; a person requiring bariatric care, services, and equipment due to  
1.18 obesity; a person requiring skilled nursing services and equipment for tracheotomy  
1.19 care; and a person requiring other complex clinical care, identified by the commissioner  
1.20 according to criteria developed by the commissioner, including:

1.21 (1) nursing facility care has been recommended for the person by a preadmission  
1.22 screening team;

1.23 (2) the person has been hospitalized and no longer requires inpatient acute care  
1.24 hospital services; and

1.25 (3) the commissioner has determined that necessary services for the person cannot  
1.26 be provided under existing nursing facility rates.

2.1 The commissioner may negotiate an adjustment to the operating cost payment  
 2.2 rate for a nursing facility with a resident who is ventilator-dependent, for that resident.  
 2.3 The commissioner may also negotiate an adjustment to the operating cost payment  
 2.4 rate for a resident who requires wound vacuum and wound stimulation equipment and  
 2.5 care; bariatric care, services, and equipment due to obesity; skilled nursing services  
 2.6 and equipment for tracheotomy care; or other complex clinical care. The negotiated  
 2.7 adjustment must reflect only the actual additional cost of meeting the specialized care  
 2.8 needs of ~~a ventilator-dependent person~~ the resident identified by the commissioner for  
 2.9 whom necessary services cannot be provided under existing nursing facility rates and  
 2.10 which are not otherwise covered under Minnesota Rules, parts 9549.0010 to 9549.0080 or  
 2.11 9505.0170 to 9505.0475. For persons who are initially admitted to a nursing facility before  
 2.12 July 1, 2001, and have their payment rate under this subdivision negotiated after July 1,  
 2.13 2001, the negotiated payment rate must not exceed 200 percent of the highest multiple  
 2.14 bedroom payment rate for the facility, as initially established by the commissioner for the  
 2.15 rate year for case mix classification K; or, upon implementation of the RUG's-based case  
 2.16 mix system, 200 percent of the highest RUG's rate. For persons initially admitted to a  
 2.17 nursing facility on or after July 1, 2001, the negotiated payment rate must not exceed 300  
 2.18 percent of the facility's multiple bedroom payment rate for case mix classification K; or,  
 2.19 upon implementation of the RUG's-based case mix system, 300 percent of the highest  
 2.20 RUG's rate. The negotiated adjustment shall not affect the payment rate charged to private  
 2.21 paying residents under the provisions of section 256B.48, subdivision 1.

2.22 **EFFECTIVE DATE.** This section is effective October 1, 2007.

2.23 Sec. 2. Minnesota Statutes 2006, section 256B.431, subdivision 32, is amended to read:

2.24 Subd. 32. **Payment during first 90 days.** (a) For rate years beginning on or after  
 2.25 July 1, 2001, the total payment rate for a facility reimbursed under this section, section  
 2.26 256B.434, or any other section for the first 90 paid days after admission shall be:

2.27 (1) for the first 30 paid days, the rate shall be 120 percent of the facility's medical  
 2.28 assistance rate for each case mix class;

2.29 (2) for the next 60 paid days after the first 30 paid days, the rate shall be 110 percent  
 2.30 of the facility's medical assistance rate for each case mix class;

2.31 (3) beginning with the 91st paid day after admission, the payment rate shall be the  
 2.32 rate otherwise determined under this section, section 256B.434, or any other section; and

2.33 (4) payments under this paragraph apply to admissions occurring on or after July 1,  
 2.34 2001, and before July 1, 2003, and to resident days occurring before July 30, 2003.

3.1 (b) For rate years beginning on or after July 1, 2003, the total payment rate for a  
3.2 facility reimbursed under this section, section 256B.434, or any other section shall be:

3.3 (1) for the first 30 calendar days after admission, the rate shall be 120 percent of  
3.4 the facility's medical assistance rate for each RUG class;

3.5 (2) beginning with the 31st calendar day after admission, the payment rate shall be  
3.6 the rate otherwise determined under this section, section 256B.434, or any other section;  
3.7 and

3.8 (3) payments under this paragraph apply to admissions occurring on or after July  
3.9 1, 2003.

3.10 (c) Effective January 1, 2004, the enhanced rates under this subdivision shall not be  
3.11 allowed if a resident has resided during the previous 30 calendar days in:

3.12 (1) the same nursing facility;

3.13 (2) a nursing facility owned or operated by a related party; or

3.14 (3) a nursing facility or part of a facility that closed or was in the process of closing.

3.15 (d) For rate years beginning on or after October 1, 2007, the total payment rate for a  
3.16 facility reimbursed under this section, section 256B.434, or any other section shall be:

3.17 (1) for the first 60 calendar days after admission, the rate shall be 120 percent of  
3.18 the facility's medical assistance rate for each RUG class;

3.19 (2) beginning with the 61st calendar day after admission, the payment rate shall be  
3.20 the rate otherwise determined under this section, section 256B.434, or any other section.

3.21 (e) Payments under paragraph (d) apply to admissions occurring on or after October  
3.22 1, 2007.

3.23 **EFFECTIVE DATE.** This section is effective October 1, 2007.

3.24 Sec. 3. Minnesota Statutes 2006, section 256B.434, is amended by adding a  
3.25 subdivision to read:

3.26 Subd. 4i. **Rate increases effective October 1, 2007.** (a) For the rate year  
3.27 beginning October 1, 2007, the commissioner shall make available to each nursing facility  
3.28 reimbursed under this section an adjustment to the total operating payment rate of seven  
3.29 percent. Operating payment rate increases under this subdivision shall be applied to each  
3.30 facility's operating payment rate as of the last day prior to the beginning of the rate year.

3.31 (b) For the rate year beginning on October 1, 2008, the commissioner shall make  
3.32 available to each nursing facility reimbursed under this section an adjustment to the total  
3.33 operating payment rate of six percent. Operating payment rate increases under this  
3.34 subdivision shall be applied to each facility's operating payment rate as of the last day  
3.35 prior to the beginning of the rate year.

4.1 **EFFECTIVE DATE.** This section is effective October 1, 2007.

4.2 Sec. 4. Minnesota Statutes 2006, section 256B.438, is amended by adding a  
4.3 subdivision to read:

4.4 Subd. 8. **New case mix indices.** (a) Effective with rates for the rate year beginning  
4.5 October 1, 2007, the commissioner shall implement the case mix indices recommended  
4.6 by the time study conducted under Laws 2001, First Special Session chapter 9, article 5,  
4.7 section 35, paragraph (e). The commissioner shall implement the new case mix indices  
4.8 as follows:

4.9 (1) The September 30, 2006, case mix component of the nursing facility operating  
4.10 payment rate shall be multiplied by the new case mix indices to create 36 case mix  
4.11 adjusted rates.

4.12 (2) The 36 case mix adjusted rates determined in clause (1), plus the noncase mix  
4.13 component, shall be the 36 nursing facility operating payment rates.

4.14 (3) The rate increases authorized by sections 256B.431, subdivision 41, and  
4.15 256B.441, subdivision 46, shall be applied to the rates determined under clause (2).

4.16 (b) The commissioner shall adjust the October 1, 2007, operating rates in paragraph  
4.17 (a) for nursing facilities estimated to receive a decrease in operating revenue. The rate  
4.18 interim adjustment is established as follows:

4.19 (1) The commissioner shall use the minimum data set to classify private and medical  
4.20 assistance patient days by RUG classification for the year ending June 30, 2007, according  
4.21 to both the case mix indices and resident assessment schedule to be used on September 30,  
4.22 2007, and the case mix indices and resident assessment schedule to be used on October  
4.23 1, 2007.

4.24 (2) The commissioner shall use the resident days in clause (1) and the nursing  
4.25 facility's October 1, 2007, unadjusted operating payment rate to estimate operating  
4.26 revenue according to both the case mix indices and resident assessment schedule to be  
4.27 used on September 30, 2007, and the case mix indices and resident assessment schedule  
4.28 to be used on October 1, 2007.

4.29 (3) The estimated operating revenue determined with the case mix indices and  
4.30 resident assessment schedule to be used on September 30, 2007, minus the operating  
4.31 revenue determined with the case mix indices and resident assessment schedule to be  
4.32 used on October 1, 2007, shall equal the decrease in medical assistance and private pay  
4.33 operating revenue.

5.1 (4) Facilities with an estimated decrease in clause (3) shall receive an interim rate  
5.2 adjustment equal to the value determined in clause (3) divided by the medical assistance  
5.3 and private pay resident days in clause (1).

5.4 (5) The interim rate adjustment shall be in effect from October 1, 2007, through  
5.5 June 30, 2008, and shall not be part of a facility's operating payment rate after June 30,  
5.6 2008. The interim rate adjustment shall be applied to the case mix portion of the facility  
5.7 operating rate.

5.8 (6) The commissioner, by August 15, 2007, shall provide nursing facilities that the  
5.9 commissioner has estimated will experience a decrease in operating revenue with written  
5.10 notice that specifies the amount of the estimated decrease in operating revenue and the  
5.11 amount of the interim rate adjustment. Nursing facilities shall have 30 days to decline the  
5.12 interim rate adjustment.

5.13 (c) The commissioner shall adjust the July 1, 2008, operating rates of facilities  
5.14 receiving the interim rate adjustments in paragraph (b) and facilities that demonstrate a  
5.15 decrease in operating revenue from the implementation of the new case mix indices.  
5.16 The adjustment is calculated as follows:

5.17 (1) Facilities that received the interim rate adjustment in paragraph (b) shall report  
5.18 to the commissioner the number of medical assistance and private pay resident days  
5.19 by RUG classification for the six-month period October 1, 2007, through March 31,  
5.20 2008, according to both the case mix indices and resident assessment schedule used on  
5.21 September 30, 2007, and the case mix indices and resident assessment schedule used  
5.22 on October 1, 2007. A facility not receiving the rate adjustment in paragraph (b) that  
5.23 had a decrease in operating revenue resulting from implementation of the new case mix  
5.24 indices may report to the commissioner the number of medical assistance and private pay  
5.25 resident days by RUG classification for the six-month period October 1, 2007, through  
5.26 March 31, 2008, according to both the case mix indices and resident assessment schedule  
5.27 used on September 30, 2007, and the case mix indices and resident assessment schedule  
5.28 used on October 1, 2007. Nursing facilities shall submit the required information to the  
5.29 commissioner by May 15, 2008, in the manner specified by the commissioner.

5.30 (2) The commissioner shall use the resident days reported in clause (1) and the  
5.31 nursing facility's October 1, 2007, unadjusted operating payment rate to determine  
5.32 operating revenue under both the case mix indices and resident assessment schedule  
5.33 used on September 30, 2007, and the case mix indices and resident assessment schedule  
5.34 used on October 1, 2007.

5.35 (3) The operating revenue determined using the case mix indices and resident  
5.36 assessment schedule used on September 30, 2007, minus the operating revenue determined

6.1 using the case mix indices and resident assessment schedule used on October 1, 2007,  
 6.2 shall equal the decrease in operating revenue.

6.3 (4) The July 1, 2008, operating payment rate adjustment shall be the decrease in  
 6.4 operating revenue determined in clause (3) divided by the total medical assistance and  
 6.5 private pay days reported in clause (1) for the six-month period October 1, 2007, through  
 6.6 March 31, 2008. The operating payment rate adjustment shall be applied to the case  
 6.7 mix portion of the facility operating rate.

6.8 (5) If the amount determined in clause (4) is greater than the amount determined  
 6.9 under paragraph (b), clause (4), the commissioner shall retroactively pay to nursing  
 6.10 facilities the difference between the two amounts, for all paid medical assistance days  
 6.11 from October 1, 2007, through June 30, 2008.

6.12 **EFFECTIVE DATE.** This section is effective October 1, 2007.

6.13 Sec. 5. Minnesota Statutes 2006, section 256B.441, subdivision 1, is amended to read:

6.14 Subdivision 1. **Rate determination rebasing.** ~~(a) The commissioner shall establish~~  
 6.15 ~~a value-based nursing facility reimbursement system which will provide facility-specific,~~  
 6.16 ~~prospective rates for nursing facilities participating in the medical assistance program.~~  
 6.17 ~~The rates shall be determined using an annual statistical and cost report filed by each~~  
 6.18 ~~nursing facility. The total payment rate shall be composed of four rate components: direct~~  
 6.19 ~~care services, support services, external fixed, and property-related rate components.~~  
 6.20 ~~The payment rate shall be derived from statistical measures of actual costs incurred in~~  
 6.21 ~~facility operation of nursing facilities. From this cost basis, the components of the total~~  
 6.22 ~~payment rate shall be adjusted for quality of services provided, recognition of staffing~~  
 6.23 ~~levels, geographic variation in labor costs, and resident acuity~~ rebase nursing facility rates  
 6.24 for the rate year beginning October 1, 2008, and shall collect all data necessary to rebase  
 6.25 rates. Nursing facilities shall submit this data in the form and manner specified by the  
 6.26 commissioner. The rebasing methodology shall recognize increased expenses incurred  
 6.27 by facilities that are not reflected in current payments and shall not be constrained by a  
 6.28 state budget neutrality factor or method.

6.29 ~~(b) Rates shall be rebased annually. Each cost reporting year shall begin on October~~  
 6.30 ~~1 and end on the following September 30. Beginning in 2006, a statistical and cost report~~  
 6.31 ~~shall be filed by each nursing facility by January 15. Notice of rates shall be distributed by~~  
 6.32 ~~August 15 and the rates shall go into effect on October 1 for one year.~~

6.33 ~~(c) The commissioner shall begin to phase in the new reimbursement system~~  
 6.34 ~~beginning October 1, 2007. Full phase-in shall be completed by October 1, 2011.~~

7.1 **EFFECTIVE DATE.** This section is effective July 1, 2007.

7.2 Sec. 6. Minnesota Statutes 2006, section 256B.441, subdivision 46, is amended to read:

7.3 Subd. 46. **Calculation of quality add-on.** The payment rate for the quality add-on  
7.4 shall be a variable amount based on each facility's quality score.

7.5 (a) For the rate year beginning October 1, 2006, the maximum quality add-on percent  
7.6 shall be 2.4 percent and this add-on shall not be subject to a phase-in. The determination  
7.7 of the quality score to be used in calculating the quality add-on for October 1, 2006,  
7.8 shall be based on a report which must be filed with the commissioner, according to the  
7.9 requirements in subdivision 43, for a six-month period ending January 31, 2006. This  
7.10 report shall be filed with the commissioner by February 28, 2006. The commissioner shall  
7.11 prorate the six months of data to a full year. When new quality measures are incorporated  
7.12 into the quality score methodology and when existing quality measures are updated or  
7.13 improved, the commissioner may increase the maximum quality add-on percent.

7.14 (b) For each facility, determine the operating payment rate.

7.15 (c) For each facility determine a ratio of the quality score of the facility determined  
7.16 in subdivision 44, less 40 and then divided by 60. If this value is less than zero, use  
7.17 the value zero.

7.18 (d) For each facility, the quality add-on shall be the value determined in paragraph  
7.19 (b) times the value determined in paragraph (c) times the maximum quality add-on percent.

7.20 (e) For rate years beginning on or after October 1, 2007, the maximum quality  
7.21 add-on percent shall be four percent, and the average add-on shall be two percent. The  
7.22 commissioner shall determine the quality add-on using the methodology described in  
7.23 paragraphs (b) to (d).

7.24 **EFFECTIVE DATE.** This section is effective October 1, 2007.