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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 972

February 15, 2007

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

February 26, 2007

By motion, recalled and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to human services; providing a rate increase for intermediate care
1.3 facilities for persons with developmental disabilities, community service
1.4 providers, and nursing facilities; appropriating money; amending Minnesota
1.5 Statutes 2006, section 256B.5012, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2006, section 256B.5012, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 7. ICF/MR rate increases effective July 1, 2007, and July 1, 2008. (a) For
1.10 the rate period beginning July 1, 2007, the commissioner shall make available to each
1.11 facility reimbursed under this section an adjustment to the total operating payment rate
1.12 of ... percent. For the rate period beginning July 1, 2008, the commissioner shall make
1.13 available to each facility reimbursed under this section an adjustment to the total operating
1.14 payment rate of ... percent.

1.15 (b) ... percent of the money resulting from the rate adjustment under paragraph (a)
1.16 must be used to increase wages and benefits and pay associated costs for employees,
1.17 except for the administrator and management fees. ... percent of the money received by a
1.18 facility as a result of the rate adjustment provided in paragraph (a) must be used only for
1.19 aggregate wage, benefit, and staff increases implemented on or after the effective date of
1.20 the rate increase each year, and must not be used for increases implemented prior to that
1.21 date. The wage adjustment and other benefits eligible employees may receive may vary
1.22 based on merit, seniority, or other factors determined by the provider.

1.23 (c) For each facility, the commissioner shall make available an adjustment, based
1.24 on licensed beds, using the percentage specified in paragraph (a) multiplied by the total
1.25 payment rate in effect on the preceding June 30, including variable and retirement rates but

2.1 excluding the property-related payment rate. For the purposes of calculating compliance
2.2 with paragraph (b), the commissioner shall utilize the rate determined by occupied beds on
2.3 the preceding June 30 to establish the required percentage adjustment. The total payment
2.4 rate shall include the adjustment provided in section 256B.501, subdivision 12.

2.5 (d) A facility whose payment rates are governed by closure agreements, receivership
2.6 agreements, or Minnesota Rules, part 9553.0075, is not eligible for an adjustment
2.7 otherwise granted under this subdivision.

2.8 (e) A copy of the provider's plan for complying with paragraph (b) must be made
2.9 available to all employees by giving each employee a copy or by posting a copy in an area
2.10 of the provider's operation to which all employees have access. If an employee does not
2.11 receive the adjustment, if any, described in the plan and is unable to resolve the problem
2.12 with the provider, the employee may contact the employee's union representative. If the
2.13 employee is not covered by a collective bargaining agreement, the employee may contact
2.14 the commissioner at a telephone number provided by the commissioner and included in
2.15 the provider's plan.

2.16 **Sec. 2. PROVIDER RATE INCREASES.**

2.17 (a) The commissioner of human services shall increase reimbursement rates or rate
2.18 limits, as applicable, by ... percent for the rate period beginning July 1, 2007, and by ...
2.19 percent for the rate period beginning July 1, 2008, effective for services rendered on
2.20 or after those dates.

2.21 (b) The annual rate increases described in this section must be provided to:

2.22 (1) home and community-based waived services for persons with developmental
2.23 disabilities or related conditions, including consumer-directed community supports, under
2.24 Minnesota Statutes, section 256B.501;

2.25 (2) home and community-based waived services for the elderly under Minnesota
2.26 Statutes, section 256B.0915;

2.27 (3) waived services under community alternatives for disabled individuals under
2.28 Minnesota Statutes, section 256B.49;

2.29 (4) community alternative care waived services, including consumer-directed
2.30 community supports, under Minnesota Statutes, section 256B.49;

2.31 (5) traumatic brain injury waived services, including consumer-directed
2.32 community supports, under Minnesota Statutes, section 256B.49;

2.33 (6) nursing services and home health services under Minnesota Statutes, section
2.34 256B.0625, subdivision 6a;

- 3.1 (7) personal care services and nursing supervision of personal care services under
3.2 Minnesota Statutes, section 256B.0625, subdivision 19a;
- 3.3 (8) private duty nursing services under Minnesota Statutes, section 256B.0625,
3.4 subdivision 7;
- 3.5 (9) day training and habilitation services for adults with developmental disabilities
3.6 or related conditions under Minnesota Statutes, sections 252.40 to 252.46;
- 3.7 (10) alternative care services under Minnesota Statutes, section 256B.0913;
- 3.8 (11) adult residential program grants under Minnesota Rules, parts 9535.2000 to
3.9 9535.3000;
- 3.10 (12) adult and family community support grants under Minnesota Rules, parts
3.11 9535.1700 to 9535.1760;
- 3.12 (13) the group residential housing supplementary service rate under Minnesota
3.13 Statutes, section 256I.05, subdivision 1a;
- 3.14 (14) adult mental health integrated fund grants under Minnesota Statutes, section
3.15 245.4661;
- 3.16 (15) semi-independent living services (SILS) under Minnesota Statutes, section
3.17 252.275, including SILS funding under county social services grants formerly funded
3.18 under Minnesota Statutes, chapter 256I;
- 3.19 (16) community support services for deaf and hard-of-hearing adults with mental
3.20 illness who use or wish to use sign language as their primary means of communication;
- 3.21 (17) living skills training programs for persons with intractable epilepsy who need
3.22 assistance in the transition to independent living;
- 3.23 (18) physical therapy services under sections 256B.0625, subdivision 8, and
3.24 256D.03, subdivision 4;
- 3.25 (19) occupational therapy services under sections 256B.0625, subdivision 8a, and
3.26 256D.03, subdivision 4;
- 3.27 (20) speech-language therapy services under section 256D.03, subdivision 4, and
3.28 Minnesota Rules, part 9505.0390;
- 3.29 (21) respiratory therapy services under section 256D.03, subdivision 4, and
3.30 Minnesota Rules, part 9505.0295;
- 3.31 (22) adult rehabilitative mental health services under section 256B.0623;
- 3.32 (23) children's therapeutic services and support services under section 256B.0943;
3.33 and
- 3.34 (24) nursing facilities under section 256B.434.

4.1 (c) For services funded through Minnesota disability health options, the rate
4.2 increases under this section apply to all medical assistance payments, including former
4.3 group residential housing supplementary rates under Minnesota Statutes, chapter 256I.

4.4 (d) Managed care plans that contract with the state of Minnesota to provide either
4.5 Minnesota senior health options or Minnesota disability health options shall provide the
4.6 increase described in paragraph (a) to home care providers under paragraph (b), except
4.7 for skilled home health services, under paragraph (b), clause (6), that meet the Medicare
4.8 definitions of skilled services in United States Code, title 42, section 1395n(a)(2)(A),
4.9 and homebound status in United States Code, title 42, section 1395f(a)(2)(C). These
4.10 providers shall be reimbursed by the managed care plan using the Medicare payment
4.11 methodology of prospective payment system, episodic rates under United States Code,
4.12 title 42, section 1395l(a)(2)(A).

4.13 (e) A managed care plan receiving state payments for the services in this section
4.14 must include these increases in their payments to providers on a prospective basis, except
4.15 as provided in paragraph (d).

4.16 (f) Providers that receive a rate increase under this section shall use ... percent of
4.17 the additional revenue to increase aggregate wages and benefits and pay associated costs
4.18 for employees, except the administrator and management fees. The wage adjustment and
4.19 other benefits eligible employees may receive may vary based on merit, seniority, or
4.20 other factors determined by the provider.

4.21 (g) For public employees, the increase for wages and benefits for certain staff is
4.22 available and pay rates must be increased only to the extent that they comply with laws
4.23 governing public employees collective bargaining. Money received by a provider for pay
4.24 increases under this section may be used only for increases implemented on or after the
4.25 first day of the rate period in which the increase is available and must not be used for
4.26 increases implemented prior to that date.

4.27 (h) Counties shall increase the budget for each recipient of consumer-directed
4.28 community supports by the amounts in paragraph (a) on the effective dates in paragraph
4.29 (a).

4.30 (i) A copy of the provider's plan for complying with paragraph (f) must be made
4.31 available to all employees by giving each employee a copy or by posting a copy in an area
4.32 of the provider's operation to which all employees have access. If an employee does not
4.33 receive the adjustment, if any, described in the plan and is unable to resolve the problem
4.34 with the provider, the employee may contact the employee's union representative. If the
4.35 employee is not covered by a collective bargaining agreement, the employee may contact

5.1 the commissioner at a telephone number provided by the commissioner and included in
5.2 the provider's plan.

5.3 **Sec. 3. COMPLIANCE WITH MINIMUM WAGE.**

5.4 (a) The commissioner shall provide an additional rate increase for overnight sleep
5.5 staff employed by providers reimbursed under sections 1 and 2, who are paid minimum
5.6 wage for periods when the federal minimum wage exceeds the Minnesota minimum wage.
5.7 The rate increase equals the total annual amount to be spent by affected providers to
5.8 comply with federal minimum wage increases.

5.9 (b) Eligible providers shall submit an application to the commissioner documenting
5.10 the total annual number of hours paid to overnight sleep staff who were paid the minimum
5.11 wage in the prior 12 months multiplied by the increment between the Minnesota minimum
5.12 wage and the federal minimum wage. The documentation must be submitted by eligible
5.13 providers in a manner directed by the commissioner prior to the federal minimum wage
5.14 effective dates in order to provide the rate increase in the first payment following the
5.15 federal minimum wage increase.

5.16 (c) The rate increase in this section must be used solely for wages paid to overnight
5.17 sleep staff paid the minimum wage.

5.18 **Sec. 4. APPROPRIATION.**

5.19 \$...... is appropriated from the general fund to the commissioner of human services
5.20 for the biennium beginning July 1, 2007, for the purposes of sections 1 to 3.