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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **1289**

February 22, 2007

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The bill was read for the first time and referred to the Committee on Finance

1.1 A bill for an act  
1.2 relating to human services; modifying procedures for determining nursing  
1.3 home per diem reimbursements; directing the commissioner to implement law;  
1.4 amending Minnesota Statutes 2006, section 256B.431, subdivision 2b.

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

1.6 Section 1. Minnesota Statutes 2006, section 256B.431, subdivision 2b, is amended to  
1.7 read:

1.8 Subd. 2b. **Operating costs after July 1, 1985.** (a) For rate years beginning on or  
1.9 after July 1, 1985, the commissioner shall establish procedures for determining per diem  
1.10 reimbursement for operating costs.

1.11 (b) The commissioner shall contract with an econometric firm with recognized  
1.12 expertise in and access to national economic change indices that can be applied to the  
1.13 appropriate cost categories when determining the operating cost payment rate.

1.14 (c) The commissioner shall analyze and evaluate each nursing facility's cost report  
1.15 of allowable operating costs incurred by the nursing facility during the reporting year  
1.16 immediately preceding the rate year for which the payment rate becomes effective.

1.17 (d) The commissioner shall establish limits on actual allowable historical operating  
1.18 cost per diems based on cost reports of allowable operating costs for the reporting year  
1.19 that begins October 1, 1983, taking into consideration relevant factors including resident  
1.20 needs, geographic location, and size of the nursing facility. In developing the geographic  
1.21 groups for purposes of reimbursement under this section, the commissioner shall ensure  
1.22 that nursing facilities in any county contiguous to the Minneapolis-St. Paul seven-county  
1.23 metropolitan area and Benton, Sherburne, and Stearns Counties are included in the same  
1.24 geographic group. The limits established by the commissioner shall not be less, in the

2.1 aggregate, than the 60th percentile of total actual allowable historical operating cost  
2.2 per diems for each group of nursing facilities established under subdivision 1 based  
2.3 on cost reports of allowable operating costs in the previous reporting year. For rate  
2.4 years beginning on or after July 1, 1989, facilities located in geographic group I as  
2.5 described in Minnesota Rules, part 9549.0052, on January 1, 1989, may choose to have  
2.6 the commissioner apply either the care related limits or the other operating cost limits  
2.7 calculated for facilities located in geographic group II, or both, if either of the limits  
2.8 calculated for the group II facilities is higher. The efficiency incentive for geographic  
2.9 group I nursing facilities must be calculated based on geographic group I limits. The  
2.10 phase-in must be established utilizing the chosen limits. For purposes of these exceptions  
2.11 to the geographic grouping requirements, the definitions in Minnesota Rules, parts  
2.12 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits  
2.13 established under this paragraph remain in effect until the commissioner establishes  
2.14 a new base period. Until the new base period is established, the commissioner shall  
2.15 adjust the limits annually using the appropriate economic change indices established in  
2.16 paragraph (e). In determining allowable historical operating cost per diems for purposes  
2.17 of setting limits and nursing facility payment rates, the commissioner shall divide the  
2.18 allowable historical operating costs by the actual number of resident days, except that  
2.19 where a nursing facility is occupied at less than 90 percent of licensed capacity days, the  
2.20 commissioner may establish procedures to adjust the computation of the per diem to  
2.21 an imputed occupancy level at or below 90 percent. The commissioner shall establish  
2.22 efficiency incentives as appropriate. The commissioner may establish efficiency incentives  
2.23 for different operating cost categories. The commissioner shall consider establishing  
2.24 efficiency incentives in care related cost categories. The commissioner may combine one  
2.25 or more operating cost categories and may use different methods for calculating payment  
2.26 rates for each operating cost category or combination of operating cost categories. For the  
2.27 rate year beginning on July 1, 1985, the commissioner shall:

2.28 (1) allow nursing facilities that have an average length of stay of 180 days or less in  
2.29 their skilled nursing level of care, 125 percent of the care related limit and 105 percent  
2.30 of the other operating cost limit established by rule; and

2.31 (2) exempt nursing facilities licensed on July 1, 1983, by the commissioner to  
2.32 provide residential services for the physically disabled under Minnesota Rules, parts  
2.33 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other  
2.34 operating cost limit established by rule.

3.1 For the purpose of calculating the other operating cost efficiency incentive for  
3.2 nursing facilities referred to in clause (1) or (2), the commissioner shall use the other  
3.3 operating cost limit established by rule before application of the 105 percent.

3.4 (e) The commissioner shall establish a composite index or indices by determining  
3.5 the appropriate economic change indicators to be applied to specific operating cost  
3.6 categories or combination of operating cost categories.

3.7 (f) Each nursing facility shall receive an operating cost payment rate equal to the  
3.8 sum of the nursing facility's operating cost payment rates for each operating cost category.  
3.9 The operating cost payment rate for an operating cost category shall be the lesser of the  
3.10 nursing facility's historical operating cost in the category increased by the appropriate  
3.11 index established in paragraph (e) for the operating cost category plus an efficiency  
3.12 incentive established pursuant to paragraph (d) or the limit for the operating cost category  
3.13 increased by the same index. If a nursing facility's actual historic operating costs are  
3.14 greater than the prospective payment rate for that rate year, there shall be no retroactive  
3.15 cost settle-up. In establishing payment rates for one or more operating cost categories,  
3.16 the commissioner may establish separate rates for different classes of residents based on  
3.17 their relative care needs.

3.18 (g) The commissioner shall include the reported actual real estate tax liability or  
3.19 payments in lieu of real estate tax of each nursing facility as an operating cost of that  
3.20 nursing facility. Allowable costs under this subdivision for payments made by a nonprofit  
3.21 nursing facility that are in lieu of real estate taxes shall not exceed the amount which the  
3.22 nursing facility would have paid to a city or township and county for fire, police, sanitation  
3.23 services, and road maintenance costs had real estate taxes been levied on that property  
3.24 for those purposes. For rate years beginning on or after July 1, 1987, the reported actual  
3.25 real estate tax liability or payments in lieu of real estate tax of nursing facilities shall be  
3.26 adjusted to include an amount equal to one-half of the dollar change in real estate taxes  
3.27 from the prior year. The commissioner shall include a reported actual special assessment,  
3.28 and reported actual license fees required by the Minnesota Department of Health, for each  
3.29 nursing facility as an operating cost of that nursing facility. For rate years beginning  
3.30 on or after July 1, 1989, the commissioner shall include a nursing facility's reported  
3.31 Public Employee Retirement Act contribution for the reporting year as apportioned to the  
3.32 care-related operating cost categories and other operating cost categories multiplied by  
3.33 the appropriate composite index or indices established pursuant to paragraph (e) as costs  
3.34 under this paragraph. Total adjusted real estate tax liability, payments in lieu of real  
3.35 estate tax, actual special assessments paid, the indexed Public Employee Retirement Act  
3.36 contribution, and license fees paid as required by the Minnesota Department of Health,

4.1 for each nursing facility (1) shall be divided by actual resident days in order to compute  
4.2 the operating cost payment rate for this operating cost category, (2) shall not be used to  
4.3 compute the care-related operating cost limits or other operating cost limits established  
4.4 by the commissioner, and (3) shall not be increased by the composite index or indices  
4.5 established pursuant to paragraph (e), unless otherwise indicated in this paragraph.

4.6 (h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust  
4.7 the rates of a nursing facility that meets the criteria for the special dietary needs of its  
4.8 residents and the requirements in section 31.651. The adjustment for raw food cost shall  
4.9 be the difference between the nursing facility's allowable historical raw food cost per  
4.10 diem and 115 percent of the median historical allowable raw food cost per diem of the  
4.11 corresponding geographic group.

4.12 The rate adjustment shall be reduced by the applicable phase-in percentage as  
4.13 provided under subdivision 2h.

4.14 **Sec. 2. COMMISSIONER DIRECTIVE.**

4.15 Pursuant to Minnesota Statutes, section 3.195, the commissioner of human services  
4.16 is directed to provide a report to the legislature which outlines the steps taken to implement  
4.17 Minnesota Statutes, section 256B.431, subdivision 2b.