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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **1405**

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Authored by Thissen, Thao, Brod and Finstad

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 coverage of incidental nursing services
1.3 under the elderly waiver; providing rate exceptions; increasing elderly waiver
1.4 reimbursement rate limits; requiring a study and report; amending Minnesota
1.5 Statutes 2006, section 256B.0915, subdivision 3e, 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.0915, subdivision 3e, is amended to
1.8 read:

1.9 Subd. 3e. **Assisted living service rate.** (a) Payment for assisted living service
1.10 shall be a monthly rate negotiated and authorized by the county agency based on an
1.11 individualized service plan for each resident and may not cover direct rent or food costs.

1.12 (b) The individualized monthly negotiated payment for assisted living services as
1.13 described in section 256B.0913, subdivisions 5d to 5f, and residential care services as
1.14 described in section 256B.0913, subdivision 5c, shall not exceed the nonfederal share, in
1.15 effect on July 1 of the state fiscal year for which the rate limit is being calculated, of the
1.16 greater of either the statewide or any of the geographic groups' weighted average monthly
1.17 nursing facility rate of the case mix resident class to which the elderly waiver eligible
1.18 client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the
1.19 maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July
1.20 1 of the state fiscal year in which the resident assessment system as described in section
1.21 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the
1.22 state fiscal year in which the resident assessment system as described in section 256B.437
1.23 for nursing home rate determination is implemented and July 1 of each subsequent state
1.24 fiscal year, the individualized monthly negotiated payment for the services described
1.25 in this clause shall not exceed the limit described in this clause which was in effect on

2.1 June 30 of the previous state fiscal year and which has been adjusted by the greater of
 2.2 any legislatively adopted home and community-based services cost-of-living percentage
 2.3 increase or any legislatively adopted statewide percent rate increase for nursing facilities.

2.4 (c) The individualized monthly negotiated payment for assisted living services
 2.5 described in section 144A.4605 and delivered by a provider licensed by the Department
 2.6 of Health as a class A home care provider or an assisted living home care provider and
 2.7 provided in a building that is registered as a housing with services establishment under
 2.8 chapter 144D and that provides 24-hour supervision in combination with the payment for
 2.9 other elderly waiver services, including case management, must not exceed the limit
 2.10 specified in subdivision 3a.

2.11 (d) Subject to the requirements of this section, customized living services and
 2.12 24-hour customized living services include incidental nursing services that are provided
 2.13 directly by a licensed nurse under a Class A or Class F home care license issued under
 2.14 Minnesota Rules, chapter 4668, and that are not eligible to be covered by Medicare.
 2.15 For purposes of this paragraph, "incidental nursing services" means medication set-ups,
 2.16 injections, diabetic foot care, catheter insertion, monitoring of blood tests for therapeutic
 2.17 treatments, nursing assessments, and any other service identified by the commissioner
 2.18 of human services. If the commissioner determines that incidental nursing services, as
 2.19 defined, are not permitted under the terms of the federally approved elderly home and
 2.20 community-based services waiver, the commissioner shall apply to amend the waiver to
 2.21 permit coverage of the services within customized living and 24-hour customized living.

2.22 Sec. 2. Minnesota Statutes 2006, section 256B.0915, is amended by adding a
 2.23 subdivision to read:

2.24 Subd. 3h. **Individual rate exceptions authorized.** Based on the determination of
 2.25 the case manager, in consultation with the provider serving the elderly waiver client, if
 2.26 the client needs additional services for 30 days or less in order to avoid a hospitalization
 2.27 or nursing facility placement, the case manager may authorize additional elderly waiver
 2.28 services that exceed the client's monthly cost limit. For these clients, the total cost of all
 2.29 elderly waiver services may not exceed the monthly conversion limit for elderly waiver
 2.30 applicants who reside in a nursing facility, as defined in subdivision 3b.

2.31 Sec. 3. **ELDERLY WAIVER PROVIDER RATE INCREASE.**

2.32 The commissioner of human services shall increase reimbursement rate limits by
 2.33 seven percent for the rate period beginning October 1, 2007, and by six percent for the rate
 2.34 period beginning October 1, 2008, for home and community-based waived services for

3.1 the elderly under Minnesota Statutes, section 256B.0915, effective for services provided
3.2 on or after those dates. The commissioner and each county agency shall take steps
3.3 necessary to implement the increases required by this section on the dates specified, and
3.4 the increases must be effective on the dates specified, regardless of the client's service
3.5 authorization date and notwithstanding the terms of any provider contract, service
3.6 agreement, or schedule that limits when a county may increase payment rates.

3.7 **Sec. 4. STUDY AND REPORT ON ELDERLY WAIVER.**

3.8 The commissioner of human services, by January 15, 2008, shall present a report
3.9 to the legislature addressing the following aspects of the home and community-based
3.10 waivered services program for the elderly under Minnesota Statutes, section 256B.0915:

3.11 (1) the length of time it takes each county, or joint-county consultation team, as
3.12 applicable, to complete a long-term care consultation under Minnesota Statutes, section
3.13 256B.0911, for a person who is seeking to qualify for, or is a current recipient of, elderly
3.14 waiver services, including recommendations on how to improve the process, to the extent
3.15 counties or joint-county consultation teams are not achieving compliance with Minnesota
3.16 Statutes, section 256B.0911, subdivision 3a; and

3.17 (2) the methods and tools that county agencies use to establish the level of, and
3.18 payment rates for, customized living and 24-hour customized living services provided
3.19 under the elderly waiver program, including recommendations for how to achieve
3.20 consistency across these lead agencies in providing access to and funding for these
3.21 services.