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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3009**

February 14, 2008

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

March 17, 2008

Committee Recommendation and Adoption of Report:

Re-referred to the Committee on Finance without further recommendation

1.1 A bill for an act  
1.2 relating to human services; providing for treatment of certain nursing facility  
1.3 employee pension benefit costs; amending Minnesota Statutes 2006, section  
1.4 256B.431, subdivision 28.

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

1.6 Section 1. Minnesota Statutes 2006, section 256B.431, subdivision 28, is amended to  
1.7 read:

1.8 Subd. 28. **Nursing facility rate increases beginning July 1, 1999, and July 1,**  
1.9 **2000.** (a) For the rate years beginning July 1, 1999, and July 1, 2000, the commissioner  
1.10 shall make available to each nursing facility reimbursed under this section or section  
1.11 256B.434 an adjustment to the total operating payment rate. For nursing facilities  
1.12 reimbursed under this section or section 256B.434, the July 1, 2000, operating payment  
1.13 rate increases provided in this subdivision shall be applied to each facility's June 30,  
1.14 2000, operating payment rate. For each facility, total operating costs shall be separated  
1.15 into costs that are compensation related and all other costs. Compensation-related costs  
1.16 include salaries, payroll taxes, and fringe benefits for all employees except management  
1.17 fees, the administrator, and central office staff.

1.18 (b) For the rate year beginning July 1, 1999, the commissioner shall make available  
1.19 a rate increase for compensation-related costs of 4.843 percent and a rate increase for  
1.20 all other operating costs of 3.446 percent.

1.21 (c) For the rate year beginning July 1, 2000, the commissioner shall make available:

1.22 (1) a rate increase for compensation-related costs of 3.632 percent;

1.23 (2) an additional rate increase for each case mix payment rate which must be used to  
1.24 increase the per-hour pay rate of all employees except management fees, the administrator,

2.1 and central office staff by an equal dollar amount and to pay associated costs for FICA,  
2.2 the Medicare tax, workers' compensation premiums, and federal and state unemployment  
2.3 insurance, to be calculated according to clauses (i) to (iii):

2.4 (i) the commissioner shall calculate the arithmetic mean of the 11 June 30, 2000,  
2.5 operating rates for each facility;

2.6 (ii) the commissioner shall construct an array of nursing facilities from highest to  
2.7 lowest, according to the arithmetic mean calculated in clause (i). A numerical rank shall be  
2.8 assigned to each facility in the array. The facility with the highest mean shall be assigned  
2.9 a numerical rank of one. The facility with the lowest mean shall be assigned a numerical  
2.10 rank equal to the total number of nursing facilities in the array. All other facilities shall be  
2.11 assigned a numerical rank in accordance with their position in the array;

2.12 (iii) the amount of the additional rate increase shall be \$1 plus an amount equal to  
2.13 \$3.13 multiplied by the ratio of the facility's numeric rank divided by the number of  
2.14 facilities in the array; and

2.15 (3) a rate increase for all other operating costs of 2.585 percent.

2.16 Money received by a facility as a result of the additional rate increase provided  
2.17 under clause (2) shall be used only for wage increases implemented on or after July 1,  
2.18 2000, and shall not be used for wage increases implemented prior to that date.

2.19 (d) The payment rate adjustment for each nursing facility must be determined  
2.20 under clause (1) or (2):

2.21 (1) for each nursing facility that reports salaries for registered nurses, licensed  
2.22 practical nurses, aides, orderlies, and attendants separately, the commissioner shall  
2.23 determine the payment rate adjustment using the categories specified in paragraph  
2.24 (a) multiplied by the rate increases specified in paragraph (b) or (c), and then dividing  
2.25 the resulting amount by the nursing facility's actual resident days. In determining the  
2.26 amount of a payment rate adjustment for a nursing facility reimbursed under section  
2.27 256B.434, the commissioner shall determine the proportions of the facility's rates that  
2.28 are compensation-related costs and all other operating costs based on the facility's most  
2.29 recent cost report; and

2.30 (2) for each nursing facility that does not report salaries for registered nurses,  
2.31 licensed practical nurses, aides, orderlies, and attendants separately, the payment rate  
2.32 adjustment shall be computed using the facility's total operating costs, separated into the  
2.33 categories specified in paragraph (a) in proportion to the weighted average of all facilities  
2.34 determined under clause (1), multiplied by the rate increases specified in paragraph (b) or  
2.35 (c), and then dividing the resulting amount by the nursing facility's actual resident days.

3.1 (e) A nursing facility may apply for the compensation-related payment rate  
3.2 adjustment calculated under this subdivision. The application must be made to the  
3.3 commissioner and contain a plan by which the nursing facility will distribute the  
3.4 compensation-related portion of the payment rate adjustment to employees of the nursing  
3.5 facility. For nursing facilities in which the employees are represented by an exclusive  
3.6 bargaining representative, an agreement negotiated and agreed to by the employer and  
3.7 the exclusive bargaining representative constitutes the plan. For the second rate year, a  
3.8 negotiated agreement constitutes the plan only if the agreement is finalized after the date of  
3.9 enactment of all rate increases for the second rate year. The commissioner shall review the  
3.10 plan to ensure that the payment rate adjustment per diem is used as provided in paragraphs  
3.11 (a) to (c). To be eligible, a facility must submit its plan for the compensation distribution  
3.12 by December 31 each year. A facility may amend its plan for the second rate year by  
3.13 submitting a revised plan by December 31, 2000. If a facility's plan for compensation  
3.14 distribution is effective for its employees after July 1 of the year that the funds are  
3.15 available, the payment rate adjustment per diem shall be effective the same date as its plan.

3.16 (f) A copy of the approved distribution plan must be made available to all  
3.17 employees. This must be done by giving each employee a copy or by posting it in an  
3.18 area of the nursing facility to which all employees have access. If an employee does not  
3.19 receive the compensation adjustment described in their facility's approved plan and is  
3.20 unable to resolve the problem with the facility's management or through the employee's  
3.21 union representative, the employee may contact the commissioner at an address or phone  
3.22 number provided by the commissioner and included in the approved plan.

3.23 (g) If the reimbursement system under section 256B.435 is not implemented until  
3.24 July 1, 2001, the salary adjustment per diem authorized in subdivision 2i, paragraph (c),  
3.25 shall continue until June 30, 2001.

3.26 (h) For the rate year beginning July 1, 1999, the following nursing facilities shall be  
3.27 allowed a rate increase equal to 67 percent of the rate increase that would be allowed if  
3.28 subdivision 26, paragraph (a), was not applied:

3.29 (1) a nursing facility in Carver County licensed for 33 nursing home beds and four  
3.30 boarding care beds;

3.31 (2) a nursing facility in Faribault County licensed for 159 nursing home beds on  
3.32 September 30, 1998; and

3.33 (3) a nursing facility in Houston County licensed for 68 nursing home beds on  
3.34 September 30, 1998.

4.1 (i) For the rate year beginning July 1, 1999, the following nursing facilities shall be  
4.2 allowed a rate increase equal to 67 percent of the rate increase that would be allowed if  
4.3 subdivision 26, paragraphs (a) and (b), were not applied:

4.4 (1) a nursing facility in Chisago County licensed for 135 nursing home beds on  
4.5 September 30, 1998; and

4.6 (2) a nursing facility in Murray County licensed for 62 nursing home beds on  
4.7 September 30, 1998.

4.8 (j) For the rate year beginning July 1, 1999, a nursing facility in Hennepin County  
4.9 licensed for 134 beds on September 30, 1998, shall:

4.10 (1) have the prior year's allowable care-related per diem increased by \$3.93 and the  
4.11 prior year's other operating cost per diem increased by \$1.69 before adding the inflation in  
4.12 subdivision 26, paragraph (d), clause (2); and

4.13 (2) be allowed a rate increase equal to 67 percent of the rate increase that would be  
4.14 allowed if subdivision 26, paragraphs (a) and (b), were not applied.

4.15 The increases provided in paragraphs (h), (i), and (j) shall be included in the facility's  
4.16 total payment rates for the purposes of determining future rates under this section or  
4.17 any other section.

4.18 (k) For the rate years beginning on or after July 1, 2000, a nursing home facility  
4.19 in Goodhue County that was licensed for 104 beds on February 1, 2000, shall have its  
4.20 employee pension benefit costs reported on its Rule 50 cost report treated as PERA  
4.21 contributions for the purpose of computing its payment rates.

4.22 (l) For rate years beginning on or after October 1, 2008, a nursing facility in  
4.23 Sibley County that was licensed for 54 beds on August 1, 2007, shall have its employee  
4.24 pension benefit costs reported on its cost report treated as Public Employees Retirement  
4.25 Association (PERA) contributions for the purpose of computing its payment rates.