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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE NO. **351**

January 29, 2009

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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; providing long-term care provider rate increases;
1.3 amending Minnesota Statutes 2008, sections 256B.441, by adding a subdivision;
1.4 256B.5012, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2008, section 256B.441, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 59. **Rate increases for October 1, 2009, and October 1, 2010.** (a) For the
1.9 rate years beginning October 1, 2009, and October 1, 2010, the commissioner shall make
1.10 available to each nursing facility reimbursed under this section an adjustment equal to
1.11 three percent of the total operating payment rate. These adjustments shall be applied after
1.12 the rebasing adjustment provided under subdivision 55.

1.13 (b) Seventy-five percent of the money resulting from the rate adjustment under
1.14 paragraph (a) must be used to increase wages and benefits and pay associated costs
1.15 for all employees, except management fees, the administrator, and central office staff.
1.16 Seventy-five percent of the money received by a facility as a result of the rate adjustment
1.17 provided in paragraph (a) must be used only for wage and benefit increases and payment
1.18 of associated costs, implemented on or after the effective date of the rate increase each
1.19 year, and must not be used for increases implemented prior to that date.

1.20 (c) Nursing facilities may apply for the portion of the rate adjustment under
1.21 paragraph (a) for employee wages and benefits and associated costs. The application
1.22 must be made to the commissioner and contain a plan by which the nursing facility
1.23 will distribute the funds according to paragraph (b). For nursing facilities in which the
1.24 employees are represented by an exclusive bargaining representative, an agreement

negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan. The commissioner shall not review and shall not require changes to the portion or portions of the plan covered by collective bargaining agreements. A negotiated agreement may constitute the plan only if the agreement is finalized after the date of enactment of all increases for the rate year and signed by both parties prior to submission to the commissioner. The commissioner shall review the plan to ensure that the rate adjustments are used as provided in paragraph (b). To be eligible, a facility must submit its distribution plan by March 31, 2010, and March 31, 2011, respectively. The commissioner may approve distribution plans on or before June 30, 2010, and June 30, 2011, respectively. If a facility's distribution plan is effective after the first day of the applicable rate period that the funds are available, the rate adjustments are effective the same date as the facility's plan.

(d) A copy of the approved distribution plan must be made available to all employees by giving each employee a copy or by posting a copy in an area of the nursing facility to which all employees have access. If an employee does not receive the wage and benefit adjustment described in the facility's approved plan and is unable to resolve the problem with the facility's management or through the employee's union representative, the employee may contact the commissioner at an address or telephone number provided by the commissioner and included in the approved plan.

Sec. 2. Minnesota Statutes 2008, section 256B.5012, is amended by adding a subdivision to read:

Subd. 8. **ICF/MR rate increases October 1, 2009, and October 1, 2010.** (a) For the rate periods beginning October 1, 2009, and October 1, 2010, the commissioner shall make available to each facility reimbursed under this section an adjustment to the total operating payment rate of three percent.

(b) Seventy-five percent of the money resulting from the rate adjustment under paragraph (a) must be used to increase wages and benefits and pay associated costs for employees, except for administrative and central office employees. Seventy-five percent of the money received by a facility as a result of the rate adjustment provided in paragraph (a) must be used only for wage, benefit, and staff increases implemented on or after the effective date of the rate increase each year, and must not be used for increases implemented prior to that date. The wage adjustment eligible employees may receive may vary based on merit, seniority, or other factors determined by the provider.

(c) For each facility, the commissioner shall make available an adjustment, based on occupied beds, using the percentage specified in paragraph (a) multiplied by the total

3.1 payment rate, including variable rate but excluding the property-related payment rate, in
3.2 effect on the preceding day. The total payment rate must include the adjustment provided
3.3 in section 256B.501, subdivision 12.

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

3.7 (e) A facility may apply for the portion of the payment rate adjustment provided
3.8 under paragraph (a) for employee wages and benefits and associated costs. The application
3.9 must be made to the commissioner and contain a plan by which the facility will distribute
3.10 the funds according to paragraph (b). For facilities in which the employees are represented
3.11 by an exclusive bargaining representative, an agreement negotiated and agreed to by
3.12 the employer and the exclusive bargaining representative constitutes the plan. The
3.13 commissioner shall not review, and shall not require changes, to the portion or portions
3.14 of the plan covered by collective bargaining agreements. A negotiated agreement may
3.15 constitute the plan only if the agreement is finalized after the date of enactment of all rate
3.16 increases for the rate year. The commissioner shall review the plan to ensure that the
3.17 payment rate adjustment per diem is used as provided in this subdivision. To be eligible,
3.18 a facility must submit its plan by March 31, 2010, and March 31, 2011, respectively. If
3.19 a facility's plan is effective for its employees after the first day of the applicable rate
3.20 period that the funds are available, the payment rate adjustment per diem is effective
3.21 the same date as its plan.

3.22 (f) A copy of the approved distribution plan must be made available to all employees
3.23 by giving each employee a copy or by posting it in an area of the facility to which all
3.24 employees have access. If an employee does not receive the wage and benefit adjustment
3.25 described in the facility's approved plan and is unable to resolve the problem with the
3.26 facility's management or through the employee's union representative, the employee
3.27 may contact the commissioner at an address or telephone number provided by the
3.28 commissioner and included in the approved plan.

3.29 **Sec. 3. COMMUNITY SERVICES PROVIDER RATE INCREASES.**

3.30 (a) The commissioner of human services shall increase reimbursement rates or rate
3.31 limits, as applicable, by three percent for the rate period beginning October 1, 2009, and
3.32 the rate period beginning October 1, 2010, effective for services rendered on or after
3.33 those dates.

3.34 (b) The three percent annual rate increase described in this section must be provided
3.35 to:

4.1 (1) home and community-based waived services for persons with developmental
4.2 disabilities or related conditions under Minnesota Statutes, section 256B.501;

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

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

4.7 (4) community alternative care waived services under Minnesota Statutes, section
4.8 256B.49;

4.9 (5) traumatic brain injury waived services under Minnesota Statutes, section
4.10 256B.49;

4.11 (6) nursing services and home health services under Minnesota Statutes, section
4.12 256B.0625, subdivision 6a;

4.13 (7) personal care services and nursing supervision of personal care services under
4.14 Minnesota Statutes, section 256B.0625, subdivision 19a;

4.15 (8) private duty nursing services under Minnesota Statutes, section 256B.0625,
4.16 subdivision 7;

4.17 (9) day training and habilitation services for adults with developmental disabilities
4.18 or related conditions under Minnesota Statutes, sections 252.40 to 252.46;

4.19 (10) alternative care services under Minnesota Statutes, section 256B.0913;

4.20 (11) adult residential program grants under Minnesota Statutes, section 245.73;

4.21 (12) adult and children's mental health grants under Minnesota Rules, parts
4.22 9535.1700 to 9535.1760;

4.23 (13) the group residential housing supplementary service rate under Minnesota
4.24 Statutes, section 256I.05, subdivision 1a;

4.25 (14) adult mental health integrated fund grants under Minnesota Statutes, section
4.26 245.4661;

4.27 (15) semi-independent living services (SILS) under Minnesota Statutes, section
4.28 252.275, including SILS funding under county social services grants formerly funded
4.29 under Minnesota Statutes, chapter 256I;

4.30 (16) community support services for deaf and hard-of-hearing adults with mental
4.31 illness who use or wish to use sign language as their primary means of communication
4.32 under Minnesota Statutes, section 256.01, subdivision 2;

4.33 (17) living skills training programs for persons with intractable epilepsy who need
4.34 assistance in the transition to independent living under Laws 1988, chapter 689;

4.35 (18) physical therapy services under Minnesota Statutes, sections 256B.0625,
4.36 subdivision 8, and 256D.03, subdivision 4;

5.1 (19) occupational therapy services under Minnesota Statutes, sections 256B.0625,
5.2 subdivision 8a, and 256D.03, subdivision 4;

5.3 (20) speech-language therapy services under Minnesota Statutes, section 256D.03,
5.4 subdivision 4, and Minnesota Rules, part 9505.0390;

5.5 (21) respiratory therapy services under Minnesota Statutes, section 256D.03,
5.6 subdivision 4, and Minnesota Rules, part 9505.0295;

5.7 (22) aging grants under Minnesota Statutes, sections 256.975 to 256.977, 256B.0917,
5.8 and 256B.0928;

5.9 (23) deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233;
5.10 256C.25; Laws 1985, chapter 9; and Laws 1997, First Special Session chapter 5, section
5.11 20;

5.12 (24) children's therapeutic services and supports under Minnesota Statutes, section
5.13 256B.0943;

5.14 (25) tier I chemical health services under Minnesota Statutes, chapter 254B;

5.15 (26) consumer support grants under Minnesota Statutes, section 256.476;

5.16 (27) family support grants under Minnesota Statutes, section 252.32;

5.17 (28) continuation coverage for AIDS patients under Minnesota Statutes, section
5.18 256.9365; and

5.19 (29) prepayment demonstration project under Minnesota Statutes, section 256B.69.

5.20 (c) Providers that receive a rate increase under this section shall use 75 percent of
5.21 the additional revenue to increase wages and benefits and pay associated costs for all
5.22 employees, except for management fees, the administrator, and central office staff.

5.23 (d) For public employees, the increase for wages and benefits for certain staff is
5.24 available and pay rates must be increased only to the extent that they comply with laws
5.25 governing public employees' collective bargaining. Money received by a provider for pay
5.26 increases under this section may be used only for increases implemented on or after the
5.27 first day of the rate period in which the increase is available and must not be used for
5.28 increases implemented prior to that date.

5.29 (e) A copy of the provider's plan for complying with paragraph (c) must be made
5.30 available to all employees by giving each employee a copy or by posting a copy in an area
5.31 of the provider's operation to which all employees have access. If an employee does not
5.32 receive the adjustment, if any, described in the plan and is unable to resolve the problem
5.33 with the provider, the employee may contact the employee's union representative. If the
5.34 employee is not covered by a collective bargaining agreement, the employee may contact
5.35 the commissioner at a telephone number provided by the commissioner and included in
5.36 the provider's plan.

6.1 (f) The commissioner and each county agency shall take steps necessary to
6.2 implement the increases required by this section on the dates specified, and the increases
6.3 must be effective on the dates specified, regardless of the client's service authorization date
6.4 and notwithstanding the terms of any provider contract, service agreement, or schedule
6.5 that limits when a county may increase payment rates.