

EXISTING STATUTE**256B.4913 PAYMENT METHODOLOGY DEVELOPMENT.****~~Subdivision 1. Research period and rates.~~**

~~(a) For the purposes of this section, "research rate" means a proposed payment rate for the provision of home and community based waived services to meet federal requirements and assess the implications of changing resources on the provision of services and "research period" means the time period during which the research rate is being assessed by the commissioner.~~

~~(b) The commissioner shall determine and publish initial frameworks and values to generate research rates for individuals receiving home and community based services.~~

~~(c) The initial values issued by the commissioner shall ensure projected spending for home and community based services for each service area is equivalent to projected spending under current law in the most recent expenditure forecast.~~

~~(d) The initial values issued shall be based on the most updated information and cost data available on supervision, employee related costs, client programming and supports, programming planning supports, transportation, administrative overhead, and utilization costs. These service areas are:~~

~~(1) residential services, defined as corporate foster care, family foster care, residential care, supported living services, customized living, and 24 hour customized living;~~

~~(2) day program services, defined as adult day care, day training and habilitation, prevocational services, structured day services, and transportation;~~

~~(3) unit based services with programming, defined as in home family support, independent living services, supported living services, supported employment, behavior programming, and housing access coordination; and~~

~~(4) unit based services without programming, defined as respite, personal support, and night supervision.~~

~~(e) The commissioner shall make available the underlying assessment information, without any identifying information, and the statistical modeling used to generate the initial research rate and calculate budget neutrality.~~

~~Subd. 2. Framework values.~~

~~(a) The commissioner shall propose legislation with the specific payment methodology frameworks, process for calculation, and specific values to populate the frameworks by February 15, 2013.~~

~~(b) The commissioner shall provide underlying data and information used to formulate the final frameworks and values to the existing stakeholder workgroup by January 15, 2013.~~

~~(c) The commissioner shall provide recommendations for the final frameworks and values, and the basis for the recommendations, to the legislative committees with jurisdiction over health and human services finance by February 15, 2013.~~

~~(d) The commissioner shall review the following topics during the research period and propose, as necessary, recommendations to address the following research questions:~~

~~(1) underlying differences in the cost to provide services throughout the state;~~

~~(2) a data driven process for determining labor costs and customizations for staffing classifications included in each rate framework based on the services performed;~~

~~(3) the allocation of resources previously established under section 256B.501, subdivision 4b;~~

~~(4) further definition and development of unit based services;~~

~~(5) the impact of splitting the allocation of resources for unit based services for those with programming aspects and those without;~~

~~(6) linking assessment criteria to future assessment processes for determination of customizations;~~

~~(7) recognition of cost differences in the use of monitoring technology where it is appropriate to substitute for supervision;~~

~~(8) implications for day services of reimbursement based on a unit rate and a daily rate;~~

~~(9) a definition of shared and individual staffing for unit based services;~~

~~(10) the underlying costs of providing transportation associated with day services; and~~

~~(11) an exception process for individuals with exceptional needs that cannot be met under the initial research rate, and an alternative payment structure for those individuals.~~

~~(e) The commissioner shall develop a comprehensive plan based on information gathered during the research period that uses statistically reliable and valid assessment data to refine payment methodologies.~~

~~(f) The commissioner shall make recommendations and provide underlying data and information used to formulate these research recommendations to the existing stakeholder workgroup by January 15, 2013.~~

Subd. 3. ~~Data collection.~~

~~(a) The commissioner shall conduct any necessary research and gather additional data for the further development and refinement of payment methodology components. These include but are not limited to:~~

- ~~(1) levels of service utilization and patterns of use;~~
- ~~(2) staffing patterns for each service;~~
- ~~(3) profiles of individual service needs; and~~
- ~~(4) cost factors involved in providing transportation services.~~

~~(b) The commissioner shall provide this information to the existing stakeholder workgroup by January 15, 2013.~~

Subd. 4. Rate stabilization adjustment.

Beginning January 1, 2014, the commissioner shall adjust individual rates determined by the new payment methodology so that the new unit rate varies no more than one percent per year from the rate effective on ~~December 31~~ November 1 of the prior calendar year. This adjustment is made annually and is effective for three calendar years from the date of implementation. This subdivision expires January 1, 2017.

Subd. 5. Stakeholder consultation.

The commissioner shall continue consultation on regular intervals with the existing stakeholder group established as part of the rate-setting methodology process to gather input, concerns, and data, and exchange ideas for to assist in development of the legislative proposals for full implementation of the new rate payment system and make pertinent information available to the public through the department's Web site.

Subd. 6. Implementation.

The commissioner may implement changes no sooner than January 1, 2014, to payment rates for individuals receiving home and community-based waived services after the enactment of legislation that establishes specific payment methodology frameworks, processes for rate calculations, and specific values to populate the payment methodology frameworks.

NEW LANGUAGE COMPONENTS

General Application for DWRS

Application. The payment methodologies in this section apply to home and community-based services waivers under sections 256B.092 and 256B.49, except that where the particular waiver limits the type, scope, or extent of service provided, the commissioner may not provide that service to an individual subject to that service restriction under this methodology.

Definitions. (a) For purposes of this section, the following terms have the meanings given them, unless the context clearly indicates otherwise.

(b) "Commissioner" means the commissioner of human services.

(c) "Payment" means reimbursement to an eligible provider for services provided to a qualified individual based on an approved service authorization.

Applicable services. Applicable services are those authorized under the state's home and community-based services waivers under sections 256B.092 and 256B.49 including as defined in the federally approved home and community-based services plan:

- (1) 24 hour customized living;
- (2) adult day care;
- (3) adult day care bath;
- (4) behavioral programming;
- (5) companion services;
- (6) customized living;
- (7) day training and habilitation;
- (8) housing access coordination;
- (9) independent living skills;
- (10) in-home family support;
- (11) night supervision;
- (12) personal support;
- (13) prevocational services;
- (14) residential care services;
- (15) residential support services;
- (16) respite services;
- (17) structured day services;
- (18) supported employment services;
- (19) hourly supported living services;
- (20) transportation services; and

(21) other services as approved by the federal government in the state home and community-based services plan.

Uniform payment methodology. The commissioner shall determine a standardized methodology to meet the individualized service plan for individuals with disabilities as funded under the waiver plan for home and community-based services under sections 256B.092 and 256B.49. The commissioner shall use those representative components, with consideration of recipient intensity, to determine the amount payable to a provider under this section.

Payments for residential services.

(a) Payments for residential support services in settings i and ii must be calculated as follows:

- (1) Determine the number of units of service used.
- (2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics National and Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b). This is the direct care rate
- (3) multiply the number of residential direct staff hours by the staff wage (in clause 10); and
- (4) multiply the number of direct staff hours by the product of the supervision span of control ratio (in clause 14) and the supervision wage (in clause 13).
- (5) combine (3),and (4) and multiply the result of by one plus the vacation, sick, training ratio (clause 14). This is the direct staffing cost;
- (6) for employee-related expenses multiply the direct staffing cost by one plus the employee related cost ratio in clause 14:
- (7) for client programming and supports the commissioner shall add \$XX per year adjusted to a daily rate
- (8) for transportation, if provided, the commissioner shall add \$XX, (or \$XX per year if customized for full-size adapted transport) adjusted to a daily rate
- (9) The total rate shall be calculated using the following steps:
- (10) subtotal clauses (6) through (8).

(11) sum the standard general and administrative rate, the program related expense ratio, the absence and utilization ratio.

(12) divide the result of step 10 by one minus the result of step 11.

(13) multiply the result of step 12 by XX%, the budget neutrality factor. This is the total payment amount.

(14) Add language about customization for individuals who are deaf or hard of hearing.

(15) Add language about customized living and residential care services

(b) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

Base wage index for residential

(a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services.

(b) The base wage shall be calculated using a composite of wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics, as defined in the 2009 edition of the Occupational Outlook Handbook. The base wage index shall be calculated as follows:

Residential direct care basic

50 percent of the median wage for personal and home health aide (SOC code 39-9021); 30 percent of the median wage for nursing aide (SOC code 31-1012); and 20 percent of the median wage for social and human services aide (SOC code 21-1093).

Residential direct care intensive

20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093).

Residential direct care asleep

The wage will be \$XX per hour except in a family foster care setting the wage will be \$XX per hour.

For supervisory staff: The wage will be \$XX per hour.

Component values for Residential support services in settings i and ii excluding family foster care the component values are:

- (a) Supervisory span of control ratio: XX %;
- (b) Employee vacation, sick and training allowance ratio: XX %
- (c) Employee related cost ratio: XX %
- (d) Other factors:
 - (i) General administrative support ratio: XX %
 - (ii) Program related expense ratio: XX %
 - (iii) Absence and Utilization factor ratio: XX %

Component values for family foster care the component values are:

- (a) Supervisory span of control ratio: XX %;
- (b) Employee vacation, sick and training allowance ratio: XX%
- (c) Employee related cost ratio: XX %
- (d) Other factors:
 - (i) General administrative support ratio: XX %
 - (ii) Program related expenses ratio: XX %

Payments for day programs

(a) Payments for services with day programs including adult day care, day treatment and habilitation, prevocational services, and structured day services must be calculated as follows:

- (1) Determine the number of units of service used.
- (2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics National and Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b).
- (3) multiply the number of day direct staff hours by the staff wage (in clause 10); and
- (4) multiply the number of day direct staff hours by the product of the supervision span of control ratio (in clause 14) and the supervision wage (in clause 13).
- (5) combine (3),and (4) and multiply the result by one plus the vacation, sick and training ratio (clause 14). This is the direct staffing rate;
- (6) for program plan support, multiply the result of step 5 with the one plus the program plan support ratio in clause 14;

(7) for employee-related expenses multiply the result of step (6) by one plus the employee related cost ratio (in clause 14):

(8) for client programming and supports the commissioner multiply the result of step 7 by one plus the client programming and supports ratio (in clause 14)

(9) for program facility costs, add \$XX per week with consideration of staffing ratios to meet individual needs

(10) this is the sub- total rate.

(11) sum the standard general and administrative rate, the program related expense ratio, the absence and utilization ratio.

(12) divide the result of step 10 by one minus the result of step 11.

(13) multiply the result of step 12 by XX%, the budget neutrality factor. This is the total payment amount.

(14) Add language about customization for individuals who are deaf or hard of hearing

(b) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

(15) adult day bath is reimbursed at \$XX per 15 minute unit

(16) add language about transportation here

Base wage index for day services

(a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services.

(b) The base wage shall be calculated using a composite of wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational Outlook Handbook. The base wage index shall be calculated as follows:

Direct care: 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services workers (SOC code 21-1093).

Supervisory staff: the wage will be \$XX per hour

Component values for day services for all services are:

- (a) Supervisory span of control ratio: XX %;
- (b) Employee vacation, sick and training allowance ratio: XX%
- (c) Employee related cost ratio: XX %
- (d) Program plan support ratio: XX %
- (e) Client programming and support ratio: XX %
- (f) Other factors:
 - (i) General administrative support ratio: XX %
 - (ii) Program related expenses ratio: XX %
 - (iii) Absence and Utilization factor ratio: XX %

Payments for unit-based with program services

(a) Payments for unit-based with program services including behavior programming, housing access coordination, in home family support, independent living skills training, hourly supported living services, and supported employment provided to an individual outside of any day or residential service plan must be calculated as follows unless the services are authorized separately under subdivisions 5:

- (1) Determine the number of units of service used.
- (2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics National and Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b).
- (3) multiply the number of day direct staff hours by the staff wage (in clause 10); and
- (4) multiply the number of day direct staff hours by the product of the supervision span of control ratio (in clause 14) and the supervision wage in (clause 13).
- (5) combine (3),and (4) and multiply the result by one plus the vacation, sick and training ratio (clause 14). This is the direct staffing rate;
- (6) for program plan support, multiply the result of step 5 with the one plus the program plan support ratio in clause 14;
- (7) for employee-related expenses multiply the result of step (6) by one plus the employee related cost ratio in clause 14:

(8) for client programming and supports the commissioner multiply the result of step 7 by one plus the client programming and supports ratio in clause 14

(9) This is the sub- total rate.

(10) sum the standard general and administrative rate, the program related expense ratio, the absence and utilization ratio.

(11) divide the result of step 9 by one minus the result of step 10.

(12) multiply the result of step 11 by XX%, the budget neutrality factor. This is the total payment amount.

(13) Add language about customization for individuals who are deaf or hard of hearing.

(b) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

Base wage index for unit-based with program services.

(a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services.

(b) The base wage shall be calculated using a composite of wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational Outlook Handbook. The base wage index shall be calculated as follows:

behavior program analyst; 100 percent of the median wage for mental health counselors (SOC code 21-1014).

behavior program professional; 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031).

behavior program specialist; 100 percent of the median wage for psychiatric technicians (SOC code 29-2053).

hourly supportive living services; 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093).

housing access coordinator; 50 percent of the median wage for community and social services specialist (SOC code 21-1099); and 50 percent of the median wage for social and human services aide (SOC code 21-1093)

in-home family support; 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of community social service specialist (SOC code 21-1099); 40 percent of the median wage for social and human services aide (SOC code 21-1093); and 10 percent of the median wage for psychiatric technician (SOC code 29-2053).

independent living skills; 40 percent of community social service specialist (SOC code 21-1099); 50 percent of the median wage for social and human services aide (SOC code 21-1093); and 10 percent of the median wage for psychiatric technician (SOC code 29-2053);

supported employment; 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

supervisor; the wage will be \$XX per hour.

Component values for unit-based services with programming are:

- (a) Supervisory span of control ratio: XX %;
- (b) Employee vacation, sick and training ratio: XX %
- (c) Employee related cost ratio: XX %
- (d) Program plan supports ratio: XX %
- (e) Client programming and supports ratio: XX %
- (f) Other factors:
 - (i) General administrative support ratio: XX %
 - (ii) Program related expenses ratio: XX %
 - (iii) Absence and Utilization factor ratio: XX %

Payments for unit-based without program services

(a) Payments for unit-based services without program services including night supervision, personal support, respite, and companion care provided to an individual outside of any day or residential service plan must be calculated as follows unless the services are authorized separately:

- (1) For all services except respite, determine the number of daily units of service used.
- (2) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics National and Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b).
- (3) multiply the number of unit-based direct staff hours by the staff wage (in clause 10); and

- (4) multiply the number of unit-based direct staff hours by the product of the supervision span of control ratio (in clause 14) and the supervision wage in (clause 13).
- (5) combine (3),and (4) and multiply the result by one plus the vacation, sick and training ratio(clause 14). This is the direct staffing rate;
- (6) for program plan support, multiply the result of step 5 with the one plus the program plan support ratio in clause 14;
- (7) for employee-related expenses multiply the result of step (6) by one plus the employee related cost ratio in clause 14:
- (8) for client programming and supports the commissioner multiply the result of step 7 by one plus the client programing and supports ratio in clause 14
- (9) This is the sub-total rate.
- (10) sum the standard general and administrative rate, the program related expense ratio, the absence and utilization ratio.
- (11) divide the result of step 9 by one minus the result of step 10.
- (12) multiply the result of step 11 by XX%, the budget neutrality factor. This is the total payment amount.
- (12) For respite, determine the number of daily units of service used.
- (13) Determine the direct staff wages. The personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics National and Minnesota-specific rates or rates derived by the commissioner as provided in paragraph (b).
- (14) multiply the number of unit-based direct staff hours by the staff wage (in clause 10); and
- (15) multiply the number of unit-based direct staff hours by the product of the supervision span of control ratio (in clause 14) and the supervision wage in (clause 13).
- (16) combine (14),and (15) and multiply the result by one plus the staff the vacation, absence and training ratio (clause 14). This is the direct staffing rate;
- (17) for employee-related expenses multiply the result of step (6) by one plus the employee related cost ratio in clause 14:
- (18) This is the sub-total rate.

(19) sum the standard general and administrative rate, the program related expense ratio, the absence and utilization ratio.

(20) divide the result of step 18 by one minus the result of step 19.

(21) multiply the result of step 20 by XX%, the budget neutrality factor. This is the total payment amount.

(22) Add language about customization for individuals who are deaf or hard of hearing

(b) The commissioner shall revise the wage rates under paragraph (a), clause (2), in the manner provided in subdivision 10.

Base wage index. (a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services.

(b) The base wage shall be calculated using a composite of wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics, as defined in the most recent edition of the Occupational Outlook Handbook. The base wage index shall be calculated as follows:

for adult companion staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

for night supervision staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide (SOC code 31-1012); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

for respite staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

for personal support staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants (SOC code 31-1012);

for supervisory staff, \$XX per hour.

Component values for unit-based services without programming except respite are:

- (a) Supervisory span of control ratio: XX %;
- (b) Employee vacation, sick and training allowance ratio: XX %
- (c) Employee related cost ratio: XX %
- (d) Program plan support ratio: XX %
- (e) Client programming and support ratio: XX %
- (f) Other factors:
 - (i) General administrative support ratio: XX %
 - (ii) Program related expenses ratio: XX %
 - (iii) Absence and Utilization factor ratio: XX %

Component values for unit-based services without programming for respite are:

- (a) Supervisory span of control ratio: XX %;
- (b) Employee vacation, sick and training allowance ratio: XX %
- (c) Employee related costs ratio: XX %
- (d) Other factors:
 - (i) General administrative support ratio: XX %
 - (ii) Program related expenses ratio: XX %
 - (iii) Absence and Utilization factor ratio: XX %

Updating or changing payment values.

(a) The commissioner shall develop and implement uniform procedures to refine terms and update or adjust values used to calculate payment rates in this section. For calendar year 2013, the commissioner shall use the initial values, terms, and procedures provided in this section.

(b) A commissioner's notice must be made available October 1 of each year starting October 1, 2013, and shall contain information detailing: calculation values including derived wage rates and related employee and administrative factors; service utilization; county and tribal allocation changes and, in even-numbered years, information on adjustments to be made to calculation values and the timing of those adjustments.

(c) The Commissioner will work with stakeholders and report back to the legislature with recommended revisions and or updates to the component values by February 15, 2014. The Commissioner will work with stakeholders to report back to the legislature with similar

recommendations by February 14, 2017. Subsequent reporting and recommendations will be provided every X years beginning February 15, 20XX.

Rate stabilization adjustment.

Beginning January 1, 2014, the commissioner shall adjust individual rates determined by the new payment methodology so that the new rate varies no more than one percent per year from the rate effective on December 31 of the prior calendar year. This adjustment is made annually and is effective for three calendar years from the date of implementation. This subdivision expires January 1, 2017.

Payment implementation.

Upon implementation of the payment methodologies under this section, those payment rates supersede rates established in county contracts for recipients receiving waiver services under sections 256B.092 and 256B.49.

Customization Section placeholder

Exceptions Section placeholder