

1.1 ..... moves to amend H.F. No. 1638, the delete everything amendment  
1.2 (H1638DE1), as follows:

1.3 Page 97, after line 17, insert:

1.4 "Sec. .... Minnesota Statutes 2014, section 256B.0916, subdivision 2, is amended to  
1.5 read:

1.6 Subd. 2. **Distribution of funds; partnerships.** (a) Beginning with fiscal year 2000,  
1.7 the commissioner shall distribute all funding available for home and community-based  
1.8 waiver services for persons with developmental disabilities to individual counties or to  
1.9 groups of counties that form partnerships to jointly plan, administer, and authorize funding  
1.10 for eligible individuals. The commissioner shall encourage counties to form partnerships  
1.11 that have a sufficient number of recipients and funding to adequately manage the risk  
1.12 and maximize use of available resources.

1.13 (b) Counties must submit a request for funds and a plan for administering the  
1.14 program as required by the commissioner. The plan must identify the number of clients to  
1.15 be served, their ages, and their priority listing based on:

- 1.16 (1) requirements in Minnesota Rules, part 9525.1880; and
- 1.17 (2) statewide priorities identified in section 256B.092, subdivision 12.

1.18 The plan must also identify changes made to improve services to eligible persons and to  
1.19 improve program management.

1.20 (c) In allocating resources to counties, priority must be given to groups of counties  
1.21 that form partnerships to jointly plan, administer, and authorize funding for eligible  
1.22 individuals and to counties determined by the commissioner to have sufficient waiver  
1.23 capacity to maximize resource use.

1.24 (d) Within 30 days after receiving the county request for funds and plans, the  
1.25 commissioner shall provide a written response to the plan that includes the level of  
1.26 resources available to serve additional persons.

2.1 (e) Counties are eligible to receive medical assistance administrative reimbursement  
2.2 for administrative costs under criteria established by the commissioner.

2.3 (f) The commissioner shall manage waiver allocations in such a manner as to fully  
2.4 use available state and federal waiver funding.

2.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.6 Sec. .... Minnesota Statutes 2014, section 256B.0916, subdivision 11, is amended to  
2.7 read:

2.8 Subd. 11. **Excess spending.** County and tribal agencies are responsible for spending  
2.9 in excess of the allocation made by the commissioner. In the event a county or tribal agency  
2.10 spends in excess of the allocation made by the commissioner for a given allocation period,  
2.11 they must submit a corrective action plan to the commissioner for approval. The plan must  
2.12 state the actions the agency will take to correct their overspending for the year two years  
2.13 following the period when the overspending occurred. Failure to correct overspending  
2.14 shall result in recoupment of spending in excess of the allocation. The commissioner  
2.15 shall recoup spending in excess of the allocation only in cases where statewide spending  
2.16 exceeds the appropriation designated for the home and community-based services waivers.  
2.17 Nothing in this subdivision shall be construed as reducing the county's responsibility to  
2.18 offer and make available feasible home and community-based options to eligible waiver  
2.19 recipients within the resources allocated to them for that purpose.

2.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.21 Sec. .... Minnesota Statutes 2014, section 256B.0916, is amended by adding a  
2.22 subdivision to read:

2.23 Subd. 12. **Use of waiver allocations.** County and tribal agencies are responsible  
2.24 for spending the annual allocation made by the commissioner. In the event a county or  
2.25 tribal agency spends less than 97 percent of the allocation, while maintaining a list of  
2.26 persons waiting for waiver services, the county or tribal agency must submit a corrective  
2.27 action plan to the commissioner for approval. The commissioner may determine a  
2.28 plan is unnecessary given the size of the allocation and capacity for new enrollment.  
2.29 The plan must state the actions the agency will take to assure reasonable and timely  
2.30 access to home and community-based waiver services for persons waiting for services.  
2.31 If a county or tribe does not submit a plan when required or implement the changes  
2.32 required, the commissioner shall provide access to waiver services for those waiting who  
2.33 can be accommodated within the county or tribe's available allocation and take other

3.1 actions needed to assure that all waiver participants in that county or tribe are receiving  
 3.2 appropriate waiver services to meet their needs.

3.3 **EFFECTIVE DATE.** This section is effective the day following final enactment."

3.4 Page 101, after line 22, insert:

3.5 "Sec. .... Minnesota Statutes 2014, section 256B.49, subdivision 26, is amended to read:

3.6 Subd. 26. **Excess allocations spending.** (a) County and tribal agencies will be  
 3.7 responsible for ~~authorizations in excess of~~ spending the annual allocation made by the  
 3.8 commissioner.

3.9 (b) In the event a county or tribal agency ~~authorizes~~ spends in excess of the allocation  
 3.10 made by the commissioner for a given allocation period, the county or tribal agency must  
 3.11 submit a corrective action plan to the commissioner for approval. The plan must state the  
 3.12 actions the agency will take to correct their overspending for the ~~year~~ two years following  
 3.13 the period when the overspending occurred. ~~Failure to correct overauthorizations shall~~  
 3.14 ~~result in recoupment of authorizations in excess of the allocation.~~ The commissioner shall  
 3.15 recoup funds spent in excess of the allocation only in cases where statewide spending  
 3.16 exceeds the appropriation designated for the home and community-based services waivers.  
 3.17 Nothing in this subdivision shall be construed as reducing the county's responsibility to  
 3.18 offer and make available feasible home and community-based options to eligible waiver  
 3.19 recipients within the resources allocated to them for that purpose. If a county or tribe does  
 3.20 not submit a plan when required or implement the changes required, the commissioner  
 3.21 shall provide access to waiver services for those waiting who can be accommodated  
 3.22 within the county or tribe's available allocation and take other actions needed to assure  
 3.23 that all waiver participants in that county or tribe are receiving appropriate waiver services  
 3.24 to meet their needs.

3.25 **EFFECTIVE DATE.** Paragraph (a) is effective July 1, 2016. Paragraph (b) is  
 3.26 effective the day following final enactment.

3.27 Sec. .... Minnesota Statutes 2014, section 256B.49, is amended by adding a subdivision  
 3.28 to read:

3.29 Subd. 27. **Use of waiver allocations.** (a) Effective until June 30, 2016, county  
 3.30 and tribal agencies are responsible for authorizing the annual allocation made by the  
 3.31 commissioner. In the event a county or tribal agency authorizes less than 97 percent of  
 3.32 the allocation, while maintaining a list of persons waiting for waiver services, the county  
 3.33 or tribal agency must submit a corrective action plan to the commissioner for approval.  
 3.34 The commissioner may determine a plan is unnecessary given the size of the allocation

4.1 and capacity for new enrollment. The plan must state the actions the agency will take  
4.2 to assure reasonable and timely access to home and community-based waiver services  
4.3 for persons waiting for services.

4.4 (b) Effective July 1, 2016, county and tribal agencies are responsible for spending  
4.5 the annual allocation made by the commissioner. In the event a county or tribal agency  
4.6 spends less than 97 percent of the allocation, while maintaining a list of persons waiting  
4.7 for waiver services, the county or tribal agency must submit a corrective action plan to the  
4.8 commissioner for approval. The commissioner may determine a plan is unnecessary given  
4.9 the size of the allocation and capacity for new enrollment. The plan must state the actions  
4.10 the agency will take to assure reasonable and timely access to home and community-based  
4.11 waiver services for persons waiting for services.

4.12 Sec. .... Minnesota Statutes 2014, section 256B.4913, subdivision 4a, is amended to  
4.13 read:

4.14 Subd. 4a. **Rate stabilization adjustment.** (a) For purposes of this subdivision,  
4.15 "implementation period" means the period beginning January 1, 2014, and ending on  
4.16 the last day of the month in which the rate management system is populated with the  
4.17 data necessary to calculate rates for substantially all individuals receiving home and  
4.18 community-based waiver services under sections 256B.092 and 256B.49. "Banding  
4.19 period" means the time period beginning on January 1, 2014, and ending upon the  
4.20 expiration of the 12-month period defined in paragraph (c), clause (5).

4.21 (b) For purposes of this subdivision, the historical rate for all service recipients means  
4.22 the individual reimbursement rate for a recipient in effect on December 1, 2013, except that:

4.23 (1) for a day service recipient who was not authorized to receive these waiver  
4.24 services prior to January 1, 2014; added a new service or services on or after January 1,  
4.25 2014; or changed providers on or after January 1, 2014, the historical rate must be the  
4.26 authorized rate for the provider in the county of service, effective December 1, 2013; or

4.27 (2) for a unit-based service with programming or a unit-based service without  
4.28 programming recipient who was not authorized to receive these waiver services prior to  
4.29 January 1, 2014; added a new service or services on or after January 1, 2014; or changed  
4.30 providers on or after January 1, 2014, the historical rate must be the weighted average  
4.31 authorized rate for each provider number in the county of service, effective December 1,  
4.32 2013; or

4.33 (3) for residential service recipients who change providers on or after January 1,  
4.34 2014, the historical rate must be set by each lead agency within their county aggregate  
4.35 budget using their respective methodology for residential services effective December 1,

5.1 2013, for determining the provider rate for a similarly situated recipient being served by  
5.2 that provider.

5.3 (c) The commissioner shall adjust individual reimbursement rates determined under  
5.4 this section so that the unit rate is no higher or lower than:

5.5 (1) 0.5 percent from the historical rate for the implementation period;

5.6 (2) 0.5 percent from the rate in effect in clause (1), for the 12-month period  
5.7 immediately following the time period of clause (1);

5.8 (3) ~~1.0~~ 0.5 percent from the rate in effect in clause (2), for the 12-month period  
5.9 immediately following the time period of clause (2);

5.10 (4) 1.0 percent from the rate in effect in clause (3), for the 12-month period  
5.11 immediately following the time period of clause (3); ~~and~~

5.12 (5) 1.0 percent from the rate in effect in clause (4), for the 12-month period  
5.13 immediately following the time period of clause (4); ~~and~~

5.14 (6) no adjustment to the rate in effect in clause (5) for the 12-month period  
5.15 immediately following the time period of clause (5). During this banding rate period, the  
5.16 commissioner shall not enforce any rate decrease or increase that would otherwise result  
5.17 from the end of the banding period. The commissioner shall, upon enactment, seek federal  
5.18 approval for the addition of this banding period.

5.19 (d) The commissioner shall review all changes to rates that were in effect on  
5.20 December 1, 2013, to verify that the rates in effect produce the equivalent level of spending  
5.21 and service unit utilization on an annual basis as those in effect on October 31, 2013.

5.22 (e) By December 31, 2014, the commissioner shall complete the review in paragraph  
5.23 (d), adjust rates to provide equivalent annual spending, and make appropriate adjustments.

5.24 (f) During the banding period, the Medicaid Management Information System  
5.25 (MMIS) service agreement rate must be adjusted to account for change in an individual's  
5.26 need. The commissioner shall adjust the Medicaid Management Information System  
5.27 (MMIS) service agreement rate by:

5.28 (1) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for  
5.29 the individual with variables reflecting the level of service in effect on December 1, 2013;

5.30 (2) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or  
5.31 9, for the individual with variables reflecting the updated level of service at the time  
5.32 of application; and

5.33 (3) adding to or subtracting from the Medicaid Management Information System  
5.34 (MMIS) service agreement rate, the difference between the values in clauses (1) and (2).

6.1 (g) This subdivision must not apply to rates for recipients served by providers new  
6.2 to a given county after January 1, 2014. Providers of personal supports services who also  
6.3 acted as fiscal support entities must be treated as new providers as of January 1, 2014.

6.4 Sec. .... Minnesota Statutes 2014, section 256B.4913, subdivision 5, is amended to read:

6.5 Subd. 5. **Stakeholder consultation and county training.** (a) The commissioner  
6.6 shall continue consultation on regular intervals with the existing stakeholder group  
6.7 established as part of the rate-setting methodology process and others, to gather input,  
6.8 concerns, and data, to assist in the full implementation of the new rate payment system and  
6.9 to make pertinent information available to the public through the department's Web site.

6.10 (b) The commissioner shall offer training at least annually for county personnel  
6.11 responsible for administering the rate-setting framework in a manner consistent with this  
6.12 section and section 256B.4914.

6.13 (c) The commissioner shall maintain an online instruction manual explaining the  
6.14 rate-setting framework. The manual shall be consistent with this section and section  
6.15 256B.4914, and shall be accessible to all stakeholders including recipients, representatives  
6.16 of recipients, counties, tribal agencies, and license holders.

6.17 (d) The commissioner shall not defer to the county or tribal agency on matters of  
6.18 technical application of the rate-setting framework, and a county or tribal agency shall not  
6.19 set rates in a manner that conflicts with this section or section 256B.4914.

6.20 Sec. .... Minnesota Statutes 2014, section 256B.4914, subdivision 2, is amended to read:

6.21 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the  
6.22 meanings given them, unless the context clearly indicates otherwise.

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

6.24 (c) "Component value" means underlying factors that are part of the cost of providing  
6.25 services that are built into the waiver rates methodology to calculate service rates.

6.26 (d) "Customized living tool" means a methodology for setting service rates that  
6.27 delineates and documents the amount of each component service included in a recipient's  
6.28 customized living service plan.

6.29 (e) "Disability waiver rates system" means a statewide system that establishes rates  
6.30 that are based on uniform processes and captures the individualized nature of waiver  
6.31 services and recipient needs.

6.32 (f) "Individual staffing" means the time spent as a one-to-one interaction specific to  
6.33 an individual recipient by staff ~~brought in solely~~ to provide direct support and assistance  
6.34 with activities of daily living, instrumental activities of daily living, and training to

7.1 participants, and is based on the requirements in each individual's coordinated service and  
7.2 support plan under section 245D.02, subdivision 4b; any coordinated service and support  
7.3 plan addendum under section 245D.02, subdivision 4c; and an assessment tool; ~~and~~  
7.4 provider observation of an individual's needs must also be considered.

7.5 (g) "Lead agency" means a county, partnership of counties, or tribal agency charged  
7.6 with administering waived services under sections 256B.092 and 256B.49.

7.7 (h) "Median" means the amount that divides distribution into two equal groups,  
7.8 one-half above the median and one-half below the median.

7.9 (i) "Payment or rate" means reimbursement to an eligible provider for services  
7.10 provided to a qualified individual based on an approved service authorization.

7.11 (j) "Rates management system" means a Web-based software application that uses  
7.12 a framework and component values, as determined by the commissioner, to establish  
7.13 service rates.

7.14 (k) "Recipient" means a person receiving home and community-based services  
7.15 funded under any of the disability waivers.

7.16 (l) "Shared staffing" means time spent by employees, not defined under paragraph  
7.17 (f), providing or available to provide more than one individual with direct support and  
7.18 assistance with activities of daily living as defined under section 256B.0659, subdivision 1,  
7.19 paragraph (b); instrumental activities of daily living as defined under section 256B.0659,  
7.20 subdivision 1, paragraph (i); ancillary activities needed to support individual services; and  
7.21 training to participants, and is based on the requirements in each individual's coordinated  
7.22 service and support plan under section 245D.02, subdivision 4b; any coordinated service  
7.23 and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and  
7.24 provider observation of an individual's service need. Total shared staffing hours are divided  
7.25 proportionally by the number of individuals who receive the shared service provisions.

7.26 (m) "Staffing ratio" means the number of recipients a service provider employee  
7.27 supports during a unit of service based on a uniform assessment tool, provider observation,  
7.28 case history, and the recipient's services of choice, and not based on the staffing ratios  
7.29 under section 245D.31.

7.30 (n) "Unit of service" means the following:

7.31 (1) for residential support services under subdivision 6, a unit of service is a day.  
7.32 Any portion of any calendar day, within allowable Medicaid rules, where an individual  
7.33 spends time in a residential setting is billable as a day;

7.34 (2) for day services under subdivision 7:

7.35 (i) for day training and habilitation services, a unit of service is either:

8.1 (A) a day unit of service is defined as six or more hours of time spent providing  
8.2 direct services and transportation; or

8.3 (B) a partial day unit of service is defined as fewer than six hours of time spent  
8.4 providing direct services and transportation; and

8.5 (C) for new day service recipients after January 1, 2014, 15 minute units of  
8.6 service must be used for fewer than six hours of time spent providing direct services  
8.7 and transportation;

8.8 (ii) for adult day and structured day services, a unit of service is a day or 15 minutes.  
8.9 A day unit of service is six or more hours of time spent providing direct services;

8.10 (iii) for prevocational services, a unit of service is a day or an hour. A day unit of  
8.11 service is six or more hours of time spent providing direct service;

8.12 (3) for unit-based services with programming under subdivision 8:

8.13 (i) for supported living services, a unit of service is a day or 15 minutes. When a  
8.14 day rate is authorized, any portion of a calendar day where an individual receives services  
8.15 is billable as a day; and

8.16 (ii) for all other services, a unit of service is 15 minutes; and

8.17 (4) for unit-based services without programming under subdivision 9:

8.18 (i) for respite services, a unit of service is a day or 15 minutes. When a day rate is  
8.19 authorized, any portion of a calendar day when an individual receives services is billable  
8.20 as a day; and

8.21 (ii) for all other services, a unit of service is 15 minutes."

8.22 Page 103, after line 12, insert:

8.23 "Sec. .... Minnesota Statutes 2014, section 256B.4914, subdivision 8, is amended to  
8.24 read:

8.25 Subd. 8. **Payments for unit-based services with programming.** Payments for  
8.26 unit-based ~~with program~~ services with programming, including behavior programming,  
8.27 housing access coordination, in-home family support, independent living skills training,  
8.28 hourly supported living services, and supported employment provided to an individual  
8.29 outside of any day or residential service plan must be calculated as follows, unless the  
8.30 services are authorized separately under subdivision 6 or 7:

8.31 (1) determine the number of units of service to meet a recipient's needs;

8.32 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics  
8.33 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision 5;

8.34 (3) for a recipient requiring customization for deaf and hard-of-hearing language  
8.35 accessibility under subdivision 12, add the customization rate provided in subdivision 12  
8.36 to the result of clause (2). This is defined as the customized direct-care rate;

9.1 (4) multiply the number of direct staff hours by the appropriate staff wage in  
9.2 subdivision 5, paragraph (a), or the customized direct-care rate;

9.3 (5) multiply the number of direct staff hours by the product of the supervision span  
9.4 of control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision  
9.5 wage in subdivision 5, paragraph (a), clause (16);

9.6 (6) combine the results of clauses (4) and (5), and multiply the result by one plus  
9.7 the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (e),  
9.8 clause (2). This is defined as the direct staffing rate;

9.9 (7) for program plan support, multiply the result of clause (6) by one plus the  
9.10 program plan supports ratio in subdivision 5, paragraph (e), clause (4);

9.11 (8) for employee-related expenses, multiply the result of clause (7) by one plus the  
9.12 employee-related cost ratio in subdivision 5, paragraph (e), clause (3);

9.13 (9) for client programming and supports, multiply the result of clause (8) by one plus  
9.14 the client programming and supports ratio in subdivision 5, paragraph (e), clause (5);

9.15 (10) this is the subtotal rate;

9.16 (11) sum the standard general and administrative rate, the program-related expense  
9.17 ratio, and the absence and utilization factor ratio;

9.18 (12) divide the result of clause (10) by one minus the result of clause (11). This is  
9.19 the total payment amount;

9.20 (13) for supported employment provided in a shared manner, divide the total  
9.21 payment amount in clause (12) by the number of service recipients, not to exceed three.

9.22 For independent living skills training provided in a shared manner, divide the total  
9.23 payment amount in clause (12) by the number of service recipients, not to exceed two; and

9.24 (14) adjust the result of clause (13) by a factor to be determined by the commissioner  
9.25 to adjust for regional differences in the cost of providing services.

9.26 Sec. .... Minnesota Statutes 2014, section 256B.4914, subdivision 10, is amended to  
9.27 read:

9.28 Subd. 10. **Updating payment values and additional information.** (a) From  
9.29 January 1, 2014, through December 31, 2017, the commissioner shall develop and  
9.30 implement uniform procedures to refine terms and adjust values used to calculate payment  
9.31 rates in this section.

9.32 (b) No later than July 1, 2014, the commissioner shall, within available resources,  
9.33 begin to conduct research and gather data and information from existing state systems or  
9.34 other outside sources on the following items:

9.35 (1) differences in the underlying cost to provide services and care across the state; and

10.1 (2) mileage, vehicle type, lift requirements, incidents of individual and shared rides,  
10.2 and units of transportation for all day services, which must be collected from providers  
10.3 using the rate management worksheet and entered into the rates management system; and

10.4 (3) the distinct underlying costs for services provided by a license holder under  
10.5 sections 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services  
10.6 provided by a license holder certified under section 245D.33.

10.7 (c) Using a statistically valid set of rates management system data, the commissioner,  
10.8 in consultation with stakeholders, shall analyze for each service the average difference  
10.9 in the rate on December 31, 2013, and the framework rate at the individual, provider,  
10.10 lead agency, and state levels. The commissioner shall issue semiannual reports to the  
10.11 stakeholders on the difference in rates by service and by county during the banding period  
10.12 under section 256B.4913, subdivision 4a. The commissioner shall issue the first report  
10.13 by October 1, 2014.

10.14 (d) No later than July 1, 2014, the commissioner, in consultation with stakeholders,  
10.15 shall begin the review and evaluation of the following values already in subdivisions 6 to  
10.16 9, or issues that impact all services, including, but not limited to:

- 10.17 (1) values for transportation rates for day services;  
10.18 (2) values for transportation rates in residential services;  
10.19 (3) values for services where monitoring technology replaces staff time;  
10.20 (4) values for indirect services;  
10.21 (5) values for nursing;  
10.22 (6) component values for independent living skills;  
10.23 (7) component values for family foster care that reflect licensing requirements;  
10.24 (8) adjustments to other components to replace the budget neutrality factor;  
10.25 (9) remote monitoring technology for nonresidential services;  
10.26 (10) values for basic and intensive services in residential services;  
10.27 (11) ~~values for the facility use rate in day services~~ the weightings used in the day  
10.28 service ratios and adjustments to those weightings;  
10.29 (12) values for workers' compensation as part of employee-related expenses;  
10.30 (13) values for unemployment insurance as part of employee-related expenses;  
10.31 (14) a component value to reflect costs for individuals with rates previously adjusted  
10.32 for the inclusion of group residential housing rate 3 costs, only for any individual enrolled  
10.33 as of December 31, 2013; and  
10.34 (15) any changes in state or federal law with an impact on the underlying cost of  
10.35 providing home and community-based services.

11.1 (e) The commissioner shall report to the chairs and the ranking minority members of  
11.2 the legislative committees and divisions with jurisdiction over health and human services  
11.3 policy and finance with the information and data gathered under paragraphs (b) to (d)  
11.4 on the following dates:

11.5 (1) January 15, 2015, with preliminary results and data;

11.6 (2) January 15, 2016, with a status implementation update, and additional data  
11.7 and summary information;

11.8 (3) January 15, 2017, with the full report; and

11.9 (4) January 15, 2019, with another full report, and a full report once every four  
11.10 years thereafter.

11.11 (f) Based on the commissioner's evaluation of the information and data collected in  
11.12 paragraphs (b) to (d), the commissioner shall make recommendations to the legislature by  
11.13 January 15, 2015, to address any issues identified during the first year of implementation.  
11.14 After January 15, 2015, the commissioner may make recommendations to the legislature  
11.15 to address potential issues.

11.16 (g) The commissioner shall implement a regional adjustment factor to all rate  
11.17 calculations in subdivisions 6 to 9, effective no later than January 1, 2015. Prior to  
11.18 implementation, the commissioner shall consult with stakeholders on the methodology to  
11.19 calculate the adjustment.

11.20 (h) The commissioner shall provide a public notice via LISTSERV in October of  
11.21 each year beginning October 1, 2014, containing information detailing legislatively  
11.22 approved changes in:

11.23 (1) calculation values including derived wage rates and related employee and  
11.24 administrative factors;

11.25 (2) service utilization;

11.26 (3) county and tribal allocation changes; and

11.27 (4) information on adjustments made to calculation values and the timing of those  
11.28 adjustments.

11.29 The information in this notice must be effective January 1 of the following year.

11.30 (i) No later than July 1, 2016, the commissioner shall develop and implement, in  
11.31 consultation with stakeholders, a methodology sufficient to determine the shared staffing  
11.32 levels necessary to meet, at a minimum, health and welfare needs of individuals who  
11.33 will be living together in shared residential settings, and the required shared staffing  
11.34 activities described in section 256B.4914, subdivision 2, paragraph (l). This determination  
11.35 methodology must ensure staffing levels are adaptable to meet the needs and desired  
11.36 outcomes for current and prospective residents in shared residential settings. When the

12.1 available shared staffing hours in a residential setting are insufficient to meet the needs of  
12.2 an individual who enrolled in residential services after January 1, 2014, or insufficient  
12.3 to meet the needs of an individual with a service agreement adjustment described in  
12.4 section 256B.4913, subdivision 4a, paragraph (f), then individual staffing hours may be  
12.5 used. Effective the day following final enactment, until this determination methodology  
12.6 is developed and implemented, the calculation for shared staffing will be based on the  
12.7 available shared hours divided by the number of individuals served.

12.8 Sec. .... Minnesota Statutes 2014, section 256B.4914, subdivision 14, is amended to  
12.9 read:

12.10 Subd. 14. **Exceptions.** (a) In a format prescribed by the commissioner, lead  
12.11 agencies must identify individuals with exceptional needs that cannot be met under the  
12.12 disability waiver rate system. The commissioner shall use that information to evaluate  
12.13 and, if necessary, approve an alternative payment rate for those individuals. Whether  
12.14 granted, denied, or modified, the commissioner shall respond to all exception requests in  
12.15 writing. The commissioner shall include in the written response the basis for the action  
12.16 and provide notification of the right to appeal under paragraph (h).

12.17 (b) Lead agencies must act on an exception request within 30 days and notify the  
12.18 initiator of the request of their recommendation in writing. A lead agency shall submit all  
12.19 exception requests along with its recommendation to the state commissioner .

12.20 (c) An application for a rate exception may be submitted for the following criteria:

12.21 (1) an individual has service needs that cannot be met through additional units  
12.22 of service; ~~or~~

12.23 (2) an individual's rate determined under subdivisions 6, 7, 8, and 9 ~~results is so~~  
12.24 insufficient that it has resulted in an individual being discharged. receiving a notice of  
12.25 discharge from the individual's provider; or

12.26 (3) an individual's service needs, including behavioral changes, require a level of  
12.27 service which necessitates a change in provider or which requires the current provider to  
12.28 propose service changes beyond those currently authorized.

12.29 (d) Exception requests must include the following information:

12.30 (1) the service needs required by each individual that are not accounted for in  
12.31 subdivisions 6, 7, 8, and 9;

12.32 (2) the service rate requested and the difference from the rate determined in  
12.33 subdivisions 6, 7, 8, and 9;

12.34 (3) a basis for the underlying costs used for the rate exception and any accompanying  
12.35 documentation; and

13.1 (4) ~~the duration of the rate exception; and~~

13.2 ~~(5) any contingencies for approval.~~

13.3 (e) Approved rate exceptions shall be managed within lead agency allocations under  
13.4 sections 256B.092 and 256B.49.

13.5 (f) Individual disability waiver recipients, an interested party, or the license holder  
13.6 that would receive the rate exception increase may request that a lead agency submit an  
13.7 exception request. A lead agency that denies such a request shall notify the individual  
13.8 waiver recipient, the interested party, or the license holder of its decision and the reasons for  
13.9 denying the request in writing no later than 30 days after the individual's request has been  
13.10 made and shall submit its denial to the commissioner in accordance with paragraph (b).  
13.11 The reasons for the denial must be based on the failure to meet the criteria in paragraph (c).

13.12 (g) The commissioner shall determine whether to approve or deny an exception  
13.13 request no more than 30 days after receiving the request. If the commissioner denies the  
13.14 request, the commissioner shall notify the lead agency ~~and~~, the individual disability waiver  
13.15 recipient, the interested party, and the license holder in writing of the reasons for the denial.

13.16 (h) The individual disability waiver recipient may appeal any denial of an exception  
13.17 request by either the lead agency or the commissioner, pursuant to sections 256.045 and  
13.18 256.0451. When the denial of an exception request results in the proposed demission of a  
13.19 waiver recipient from a residential or day habilitation program, the commissioner shall  
13.20 issue a temporary stay of demission, when requested by the disability waiver recipient,  
13.21 consistent with the provisions of section 256.045, subdivisions 4a and 6, paragraph (c).  
13.22 The temporary stay shall remain in effect until the lead agency can provide an informed  
13.23 choice of appropriate, alternative services to the disability waiver.

13.24 (i) Providers may petition lead agencies to update values that were entered  
13.25 incorrectly or erroneously into the rate management system, based on past service level  
13.26 discussions and determination in subdivision 4, without applying for a rate exception.

13.27 (j) The starting date for the rate exception will be the later of the date of the  
13.28 recipient's change in support or the date of the request to the lead agency for an exception.

13.29 (k) The commissioner shall track all exception requests received and their  
13.30 dispositions. The commissioner shall issue quarterly public exceptions statistical reports  
13.31 categorized by lead agency, including the number of exception requests received and  
13.32 the numbers granted, denied, withdrawn, and pending. The report shall include the  
13.33 average amount of time required to process exceptions by each lead agency and by the  
13.34 commissioner.

14.1 (l) No later than January 15, 2016, the commissioner shall provide research  
14.2 findings on the estimated fiscal impact, the primary cost drivers, and common population  
14.3 characteristics of recipients with needs that cannot be met by the framework rates.

14.4 (m) No later than July 1, 2016, the commissioner shall develop and implement,  
14.5 in consultation with stakeholders, a process to determine eligibility for rate exceptions  
14.6 for individuals with rates determined under the methodology in section 256B.4913,  
14.7 subdivision 4a. Determination of the eligibility for an exception will occur for all  
14.8 individuals as annual service renewals are completed.

14.9 (n) Approved rate exceptions will remain in effect in all cases until an individual's  
14.10 needs change as defined in paragraph (c), and remain in effect in all cases until an  
14.11 individual's needs change as defined in paragraph (c).

14.12 Sec. .... Minnesota Statutes 2014, section 256B.4914, subdivision 15, is amended to  
14.13 read:

14.14 Subd. 15. **County or tribal allocations.** (a) Upon implementation of the disability  
14.15 waiver rates management system on January 1, 2014, the commissioner shall establish  
14.16 a method of tracking and reporting the fiscal impact of the disability waiver rates  
14.17 management system on individual lead agencies.

14.18 (b) Beginning January 1, 2014, the commissioner shall make annual adjustments to  
14.19 lead agencies' home and community-based waived service budget allocations to adjust  
14.20 for rate differences and the resulting impact on county allocations upon implementation of  
14.21 the disability waiver rates system.

14.22 ~~(c) During the first two years of implementation under section 256B.4913, Lead~~  
14.23 ~~agencies exceeding their allocations shall be subject to the provisions under sections~~  
14.24 ~~256B.092 and 256B.49 shall only not be held liable for spending in excess of their~~  
14.25 ~~allocations after a reallocation of resources by the commissioner under paragraph (b). The~~  
14.26 ~~commissioner shall reallocate resources under sections 256B.092, subdivision 12, and~~  
14.27 ~~256B.49, subdivision 11a. The commissioner shall notify lead agencies of this process by~~  
14.28 ~~July 1, 2014.~~

14.29 Sec. .... Minnesota Statutes 2014, section 256B.4914, subdivision 16, is amended to  
14.30 read:

14.31 Subd. 16. **Budget neutrality adjustments.** (a) The commissioner shall use the  
14.32 following adjustments to the rate generated by the framework to assure budget neutrality  
14.33 until the rate information is available to implement paragraph (b). The rate generated by  
14.34 the framework shall be multiplied by the appropriate factor, as designated below:

15.1 (1) for residential services: 1.003;

15.2 (2) for day services: 1.000;

15.3 (3) for unit-based services with programming: 0.941; and

15.4 (4) for unit-based services without programming: 0.796.

15.5 (b) ~~Within 12 months of January 1, 2014~~ Annually during the banding period, the  
15.6 commissioner shall compare estimated spending for all home and community-based  
15.7 waiver services under the new payment rates defined in subdivisions 6 to 9 with estimated  
15.8 spending for the same recipients and services under the rates in effect on July 1, 2013.  
15.9 This comparison must distinguish spending under each of subdivisions 6, 7, 8, and 9.  
15.10 The comparison must be based on actual recipients and services for one or more service  
15.11 months after the new rates have gone into effect. The commissioner shall consult with  
15.12 the commissioner of management and budget on this analysis to ensure budget neutrality.  
15.13 If estimated spending under the new rates for services under one or more subdivisions,  
15.14 notwithstanding adjustments for the rate stabilization provisions of section 256B.4913,  
15.15 subdivision 4a, paragraph (c), clauses (1) to (6), differs in this comparison by 0.3 percent  
15.16 or more, the commissioner shall assure aggregate budget neutrality across all service areas  
15.17 by adjusting the budget neutrality factor in paragraph (a) in each subdivision so that total  
15.18 estimated spending for each subdivision under the new rates matches estimated spending  
15.19 under the rates in effect on July 1, 2013.

15.20 **EFFECTIVE DATE.** The amendment to paragraph (a), clause (3), is effective  
15.21 July 1, 2015."

15.22 Page 117, after line 33, insert:

15.23 "Sec. .... **DIRECTION TO COMMISSIONER; REPORT REQUIRED.**

15.24 The commissioner of human services shall develop and submit a report to the chairs  
15.25 and ranking minority members of the house of representatives and senate committees and  
15.26 divisions with jurisdiction over health and human services policy and finance on the  
15.27 implementation of Minnesota Statutes, sections 256B.0916, subdivisions 2, 11, and 12,  
15.28 and 256B.49, subdivisions 26 and 27. The commissioner shall submit two reports, one by  
15.29 February 15, 2016, and the second report by February 15, 2017.

15.30 Sec. .... **DIRECTION TO COMMISSIONER; DAY TRAINING AND**  
15.31 **HABILITATION.**

15.32 For service agreements renewed or entered into on or after January 1, 2016, the  
15.33 commissioner of human services shall calculate the transportation portion of the payment

- 16.1 for day training and habilitation programs using payments factors found in Minnesota
- 16.2 Statutes, section 256B.4914, subdivision 7, clauses (16) and (17)."
- 16.3       Renumber the sections in sequence and correct the internal references
- 16.4       Amend the title accordingly