

1.1 moves to amend H.F. No. 168, the first engrossment, as follows:

1.2 Page 4, after line 8, insert:

1.3 "(c) "Comparable occupations" means the occupations, excluding direct care staff, as
1.4 represented by the Bureau of Labor Statistics standard occupational classification codes
1.5 that have the same classification for:

1.6 (1) typical education needed for entry;

1.7 (2) work experience in a related occupation; and

1.8 (3) typical on-the-job training competency as the most predominant classification for
1.9 direct care staff."

1.10 Reletter the paragraphs in sequence

1.11 Page 7, line 22, delete "(g)" and insert "(h)" and delete "(m)" and insert "(n)"

1.12 Page 7, line 23, delete "(n)" and insert "(o)"

1.13 Page 10, after line 18, insert:

1.14 "(1) competitive workforce factor: 4.7 percent;"

1.15 Renumber the clauses in sequence

1.16 Page 10, after line 25, insert:

1.17 "(1) competitive workforce factor: 4.7 percent;"

1.18 Renumber the clauses in sequence

1.19 Page 11, after line 2, insert:

1.20 "(1) competitive workforce factor: 4.7 percent;"

1.21 Renumber the clauses in sequence

- 2.1 Page 11, after line 11, insert:
- 2.2 "(1) competitive workforce factor: 4.7 percent;"
- 2.3 Renumber the clauses in sequence
- 2.4 Page 11, after line 20, insert:
- 2.5 "(1) competitive workforce factor: 4.7 percent;"
- 2.6 Renumber the clauses in sequence
- 2.7 Page 12, after line 2, insert:
- 2.8 "(1) competitive workforce factor: 4.7 percent;"
- 2.9 Renumber the clauses in sequence
- 2.10 Page 12, after line 16, insert:
- 2.11 "(i) On January 1, 2022, and January 1, 2024, the commissioner shall increase paragraph
- 2.12 (b), clause (1); paragraph (c), clause (1); paragraph (d), clause (1); paragraph (e), clause
- 2.13 (1); paragraph (f), clause (1); and paragraph (g), clause (1) by two percentage points.
- 2.14 (j) Beginning January 1, 2026, the commissioner shall report to the chairs and ranking
- 2.15 minority members of the legislative committees and divisions with jurisdiction over health
- 2.16 and human services policy and finance an analysis of the competitive workforce factor. The
- 2.17 report must include recommendations to update the competitive workforce factor using:
- 2.18 (1) the most recently available wage data by SOC code for the weighted average wage
- 2.19 for direct care staff for residential services and direct care staff for day services;
- 2.20 (2) the most recently available wage data by SOC code of the weighted average wage
- 2.21 of comparable occupations; and
- 2.22 (3) workforce data as required under subdivision 10a, paragraph (g).
- 2.23 The commissioner shall not recommend an increase or decrease of the competitive workforce
- 2.24 factor from the current value by more than two percentage points. If, after a biennial analysis
- 2.25 for the next report, the competitive workforce factor is less than or equal to zero, the
- 2.26 commissioner shall recommend a competitive workforce factor of zero."
- 2.27 Reletter the paragraphs in sequence
- 2.28 Page 12, line 31, delete "automatic inflation adjustments" and insert "the updates"
- 2.29 Page 12, line 32, delete "(i)" and insert "(k)"
- 2.30 Page 13, line 5, delete "automatic inflation adjustments" and insert "the updates"

3.1 Page 13, line 6, delete "(i)" and insert "(k)"

3.2 Page 13, delete lines 10 to 14, and insert:

3.3 **"EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal
3.4 approval, except:

3.5 (1) paragraphs (h) and (k) are effective January 1, 2022, or upon federal approval,
3.6 whichever is later; and

3.7 (2) paragraph (l) is effective retroactively from July 1, 2018."

3.8 Page 13, delete section 6 and insert:

3.9 "Sec. Minnesota Statutes 2018, section 256B.4914, is amended by adding a subdivision
3.10 to read:

3.11 Subd. 5a. **Direct care staff; compensation.** (a) A provider paid with rates determined
3.12 under subdivision 6 must use a minimum of 66 percent of the revenue generated by rates
3.13 determined under subdivision 6 for direct care staff compensation.

3.14 (b) A provider paid with rates determined under subdivision 7 must use a minimum of
3.15 45 percent of the revenue generated by rates determined under subdivision 7 for direct care
3.16 staff compensation.

3.17 (c) A provider paid with rates determined under subdivisions 8 or 9 must use a minimum
3.18 of 55 percent of the revenue generated by rates determined under subdivisions 8 and 9 for
3.19 direct care staff compensation.

3.20 (d) Applicable compensation under this subdivision includes:

3.21 (1) wages;

3.22 (2) Social Security and Medicare taxes;

3.23 (3) federal unemployment insurance tax;

3.24 (4) state unemployment insurance tax;

3.25 (5) workers' compensation insurance;

3.26 (6) health insurance;

3.27 (7) dental insurance;

3.28 (8) vision insurance;

3.29 (9) life insurance;

4.1 (10) short-term disability insurance;

4.2 (11) long-term disability insurance;

4.3 (12) retirement spending;

4.4 (13) tuition reimbursement;

4.5 (14) wellness programs;

4.6 (15) paid vacation time;

4.7 (16) paid sick time; or

4.8 (17) other items of monetary value provided to direct care staff.

4.9 **EFFECTIVE DATE.** This section is effective January 1, 2020."

4.10 Page 14, after line 9, insert:

4.11 "(3) multiply the result of clause (2) by the product of one plus the competitive workforce
 4.12 factor in subdivision 5, paragraph (b), clause (1). This is defined as the competitive direct-care
 4.13 rate;"

4.14 Renumber the clauses in sequence

4.15 Page 14, line 12, strike "(2)" and insert "(3)" and after "customized" insert "competitive"

4.16 Page 14, line 15, after the second comma insert "the competitive direct-care rate," and
 4.17 after "customized" insert "competitive"

4.18 Page 14, line 18, strike "(1)" and insert "(2)"

4.19 Page 14, line 20, strike "(4) and" and after "(5)" insert "and (6)"

4.20 Page 14, line 23, strike "(2)" and insert "(3)"

4.21 Page 14, line 26, strike "(3)" and insert "(4)"

4.22 Page 15, line 1, strike "(7) to (9)" and insert "(8) to (10)"

4.23 Page 15, line 3, strike "(7)" and insert "(8)"

4.24 Page 15, line 21, strike "after January 1, 2014,"

4.25 Page 15, line 23, after "2020" insert ", or upon federal approval, whichever is later. The
 4.26 commissioner of human services shall notify the revisor of statutes when federal approval
 4.27 is obtained"

4.28 Page 15, after line 23, insert:

5.1 "Sec. Minnesota Statutes 2018, section 256B.4914, subdivision 7, is amended to read:

5.2 Subd. 7. **Payments for day programs.** Payments for services with day programs
5.3 including adult day care, day treatment and habilitation, prevocational services, and structured
5.4 day services must be calculated as follows:

5.5 (1) determine the number of units of service and staffing ratio to meet a recipient's needs:

5.6 (i) the staffing ratios for the units of service provided to a recipient in a typical week
5.7 must be averaged to determine an individual's staffing ratio; and

5.8 (ii) the commissioner, in consultation with service providers, shall develop a uniform
5.9 staffing ratio worksheet to be used to determine staffing ratios under this subdivision;

5.10 (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics
5.11 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
5.12 5;

5.13 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
5.14 factor in subdivision 5, paragraph (d), clause (1). This is defined as the competitive direct-care
5.15 rate;

5.16 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
5.17 accessibility under subdivision 12, add the customization rate provided in subdivision 12
5.18 to the result of clause ~~(2)~~ (3). This is defined as the customized competitive direct-care rate;

5.19 ~~(4)~~ (5) multiply the number of day program direct staff hours and nursing hours by the
5.20 appropriate staff wage in subdivision 5, paragraph (a), the competitive direct-care rate, or
5.21 the customized competitive direct-care rate;

5.22 ~~(5)~~ (6) multiply the number of day direct staff hours by the product of the supervision
5.23 span of control ratio in subdivision 5, paragraph (d), clause ~~(1)~~ (2), and the appropriate
5.24 supervision wage in subdivision 5, paragraph (a), clause (21);

5.25 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ and (5) and (6), and multiply the result by one
5.26 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
5.27 (d), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

5.28 ~~(7)~~ (8) for program plan support, multiply the result of clause ~~(6)~~ (7) by one plus the
5.29 program plan support ratio in subdivision 5, paragraph (d), clause ~~(4)~~ (5);

5.30 ~~(8)~~ (9) for employee-related expenses, multiply the result of clause ~~(7)~~ (8) by one plus
5.31 the employee-related cost ratio in subdivision 5, paragraph (d), clause ~~(3)~~ (4);

6.1 ~~(9)~~ (10) for client programming and supports, multiply the result of clause ~~(8)~~ (9) by
6.2 one plus the client programming and support ratio in subdivision 5, paragraph (d), clause
6.3 ~~(5)~~ (6);

6.4 ~~(10)~~ (11) for program facility costs, add \$19.30 per week with consideration of staffing
6.5 ratios to meet individual needs;

6.6 ~~(11)~~ (12) for adult day bath services, add \$7.01 per 15 minute unit;

6.7 ~~(12)~~ (13) this is the subtotal rate;

6.8 ~~(13)~~ (14) sum the standard general and administrative rate, the program-related expense
6.9 ratio, and the absence and utilization factor ratio;

6.10 ~~(14)~~ (15) divide the result of clause ~~(12)~~ (13) by one minus the result of clause ~~(13)~~ (14).
6.11 This is the total payment amount;

6.12 ~~(15)~~ (16) adjust the result of clause ~~(14)~~ (15) by a factor to be determined by the
6.13 commissioner to adjust for regional differences in the cost of providing services;

6.14 ~~(16)~~ (17) for transportation provided as part of day training and habilitation for an
6.15 individual who does not require a lift, add:

6.16 (i) \$10.50 for a trip between zero and ten miles for a nonshared ride in a vehicle without
6.17 a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a shared ride in a
6.18 vehicle with a lift;

6.19 (ii) \$15.75 for a trip between 11 and 20 miles for a nonshared ride in a vehicle without
6.20 a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88 for a shared ride in a
6.21 vehicle with a lift;

6.22 (iii) \$25.75 for a trip between 21 and 50 miles for a nonshared ride in a vehicle without
6.23 a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88 for a shared ride in a
6.24 vehicle with a lift; or

6.25 (iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift,
6.26 \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle
6.27 with a lift;

6.28 ~~(17)~~ (18) for transportation provided as part of day training and habilitation for an
6.29 individual who does require a lift, add:

6.30 (i) \$19.05 for a trip between zero and ten miles for a nonshared ride in a vehicle with a
6.31 lift, and \$15.05 for a shared ride in a vehicle with a lift;

7.1 (ii) \$32.16 for a trip between 11 and 20 miles for a nonshared ride in a vehicle with a
7.2 lift, and \$28.16 for a shared ride in a vehicle with a lift;

7.3 (iii) \$58.76 for a trip between 21 and 50 miles for a nonshared ride in a vehicle with a
7.4 lift, and \$58.76 for a shared ride in a vehicle with a lift; or

7.5 (iv) \$80.93 for a trip of 51 miles or more for a nonshared ride in a vehicle with a lift,
7.6 and \$80.93 for a shared ride in a vehicle with a lift.

7.7 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
7.8 whichever is later. The commissioner of human services shall notify the revisor of statutes
7.9 when federal approval is obtained.

7.10 Sec. Minnesota Statutes 2018, section 256B.4914, subdivision 8, is amended to read:

7.11 Subd. 8. **Payments for unit-based services with programming.** Payments for unit-based
7.12 services with programming, including behavior programming, housing access coordination,
7.13 in-home family support, independent living skills training, independent living skills specialist
7.14 services, individualized home supports, hourly supported living services, employment
7.15 exploration services, employment development services, supported employment, and
7.16 employment support services provided to an individual outside of any day or residential
7.17 service plan must be calculated as follows, unless the services are authorized separately
7.18 under subdivision 6 or 7:

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

7.20 (2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics
7.21 Minnesota-specific rates or rates derived by the commissioner as provided in subdivision
7.22 5;

7.23 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
7.24 factor in subdivision 5, paragraph (e), clause (1). This is defined as the competitive direct-care
7.25 rate;

7.26 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
7.27 accessibility under subdivision 12, add the customization rate provided in subdivision 12
7.28 to the result of clause ~~(2)~~(3). This is defined as the customized competitive direct-care rate;

7.29 ~~(4)~~ (5) multiply the number of direct staff hours by the appropriate staff wage in
7.30 subdivision 5, paragraph (a), the competitive direct-care rate, or the customized competitive
7.31 direct-care rate;

8.1 (5) ~~(6)~~ multiply the number of direct staff hours by the product of the supervision span
 8.2 of control ratio in subdivision 5, paragraph (e), clause ~~(1)~~ (2), and the appropriate supervision
 8.3 wage in subdivision 5, paragraph (a), clause (21);

8.4 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ and (5) and (6), and multiply the result by one
 8.5 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
 8.6 (e), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

8.7 ~~(7)~~ (8) for program plan support, multiply the result of clause ~~(6)~~ (7) by one plus the
 8.8 program plan supports ratio in subdivision 5, paragraph (e), clause ~~(4)~~ (5);

8.9 ~~(8)~~ (9) for employee-related expenses, multiply the result of clause ~~(7)~~ (8) by one plus
 8.10 the employee-related cost ratio in subdivision 5, paragraph (e), clause ~~(3)~~ (4);

8.11 ~~(9)~~ (10) for client programming and supports, multiply the result of clause ~~(8)~~ (9) by
 8.12 one plus the client programming and supports ratio in subdivision 5, paragraph (e), clause
 8.13 ~~(5)~~ (6);

8.14 ~~(10)~~ (11) this is the subtotal rate;

8.15 ~~(11)~~ (12) sum the standard general and administrative rate, the program-related expense
 8.16 ratio, and the absence and utilization factor ratio;

8.17 ~~(12)~~ (13) divide the result of clause ~~(10)~~ (11) by one minus the result of clause ~~(11)~~ (12).
 8.18 This is the total payment amount;

8.19 ~~(13)~~ (14) for supported employment provided in a shared manner, divide the total payment
 8.20 amount in clause ~~(12)~~ (13) by the number of service recipients, not to exceed three. For
 8.21 employment support services provided in a shared manner, divide the total payment amount
 8.22 in clause ~~(12)~~ (13) by the number of service recipients, not to exceed six. For independent
 8.23 living skills training and individualized home supports provided in a shared manner, divide
 8.24 the total payment amount in clause ~~(12)~~ (13) by the number of service recipients, not to
 8.25 exceed two; and

8.26 ~~(14)~~ (15) adjust the result of clause ~~(13)~~ (14) by a factor to be determined by the
 8.27 commissioner to adjust for regional differences in the cost of providing services.

8.28 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
 8.29 whichever is later. The commissioner of human services shall notify the revisor of statutes
 8.30 when federal approval is obtained.

9.1 Sec. Minnesota Statutes 2018, section 256B.4914, subdivision 9, is amended to read:

9.2 Subd. 9. **Payments for unit-based services without programming.** Payments for
9.3 unit-based services without programming, including night supervision, personal support,
9.4 respite, and companion care provided to an individual outside of any day or residential
9.5 service plan must be calculated as follows unless the services are authorized separately
9.6 under subdivision 6 or 7:

9.7 (1) for all services except respite, determine the number of units of service to meet a
9.8 recipient's needs;

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

9.11 (3) multiply the result of clause (2) by the product of one plus the competitive workforce
9.12 factor in subdivision 5, paragraph (f), clause (1). This is defined as the competitive direct-care
9.13 rate;

9.14 ~~(3)~~ (4) for a recipient requiring customization for deaf and hard-of-hearing language
9.15 accessibility under subdivision 12, add the customization rate provided in subdivision 12
9.16 to the result of clause ~~(2)~~ (3). This is defined as the customized competitivedirect care rate;

9.17 ~~(4)~~ (5) multiply the number of direct staff hours by the ~~appropriate staff wage in~~
9.18 ~~subdivision 5~~ competitive direct-care rate or the customized competitive direct care rate;

9.19 ~~(5)~~ (6) multiply the number of direct staff hours by the product of the supervision span
9.20 of control ratio in subdivision 5, paragraph (f), clause ~~(1)~~ (2), and the appropriate supervision
9.21 wage in subdivision 5, paragraph (a), clause (21);

9.22 ~~(6)~~ (7) combine the results of clauses ~~(4)~~ and (5) and (6), and multiply the result by one
9.23 plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph
9.24 (f), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

9.25 ~~(7)~~ (8) for program plan support, multiply the result of clause ~~(6)~~ (7) by one plus the
9.26 program plan support ratio in subdivision 5, paragraph (f), clause ~~(4)~~ (5);

9.27 ~~(8)~~ (9) for employee-related expenses, multiply the result of clause ~~(7)~~ (8) by one plus
9.28 the employee-related cost ratio in subdivision 5, paragraph (f), clause ~~(3)~~ (4);

9.29 ~~(9)~~ (10) for client programming and supports, multiply the result of clause ~~(8)~~ (9) by
9.30 one plus the client programming and support ratio in subdivision 5, paragraph (f), clause
9.31 ~~(5)~~ (6);

9.32 ~~(10)~~ (11) this is the subtotal rate;

10.1 ~~(11)~~ (12) sum the standard general and administrative rate, the program-related expense
10.2 ratio, and the absence and utilization factor ratio;

10.3 ~~(12)~~ (13) divide the result of clause ~~(10)~~ (11) by one minus the result of clause ~~(11)~~ (12).
10.4 This is the total payment amount;

10.5 ~~(13)~~ (14) for respite services, determine the number of day units of service to meet an
10.6 individual's needs;

10.7 ~~(14)~~ (15) personnel hourly wage rates must be based on the 2009 Bureau of Labor
10.8 Statistics Minnesota-specific rate or rates derived by the commissioner as provided in
10.9 subdivision 5;

10.10 (16) multiply the result of clause (15) by the product of one plus the competitive
10.11 workforce factor in subdivision 5, paragraph (g), clause (1). This is defined as the competitive
10.12 direct-care rate;

10.13 ~~(15)~~ (17) for a recipient requiring deaf and hard-of-hearing customization under
10.14 subdivision 12, add the customization rate provided in subdivision 12 to the result of clause
10.15 ~~(14)~~ (16). This is defined as the customized competitive direct care rate;

10.16 ~~(16)~~ (18) multiply the number of direct staff hours by the ~~appropriate staff wage in~~
10.17 ~~subdivision 5, paragraph (a)~~ competitive direct-care rate or the customized competitive
10.18 direct-care rate;

10.19 ~~(17)~~ (19) multiply the number of direct staff hours by the product of the supervisory
10.20 span of control ratio in subdivision 5, paragraph (g), clause ~~(1)~~ (2), and the appropriate
10.21 supervision wage in subdivision 5, paragraph (a), clause (21);

10.22 ~~(18)~~ (20) combine the results of clauses ~~(16)~~ (18) and ~~(17)~~ (19), and multiply the result
10.23 by one plus the employee vacation, sick, and training allowance ratio in subdivision 5,
10.24 paragraph (g), clause ~~(2)~~ (3). This is defined as the direct staffing rate;

10.25 ~~(19)~~ (21) for employee-related expenses, multiply the result of clause ~~(18)~~ (20) by one
10.26 plus the employee-related cost ratio in subdivision 5, paragraph (g), clause ~~(3)~~ (4);

10.27 ~~(20)~~ (22) this is the subtotal rate;

10.28 ~~(21)~~ (23) sum the standard general and administrative rate, the program-related expense
10.29 ratio, and the absence and utilization factor ratio;

10.30 ~~(22)~~ (24) divide the result of clause ~~(20)~~ (22) by one minus the result of clause ~~(21)~~ (23).
10.31 This is the total payment amount; and

11.1 ~~(23)~~ (25) adjust the result of clauses ~~(12)~~ (13) and ~~(22)~~ (24) by a factor to be determined
11.2 by the commissioner to adjust for regional differences in the cost of providing services.

11.3 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
11.4 whichever is later. The commissioner of human services shall notify the revisor of statutes
11.5 when federal approval is obtained."

11.6 Page 17, line 15, delete "three" and insert "six"

11.7 Page 22, after line 14, insert:

11.8 "Sec. **DIRECTION TO COMMISSIONER; DIRECT CARE STAFF**
11.9 **COMPENSATION REPORT.**

11.10 By January 15, 2022, the commissioner of human services, in consultation with
11.11 stakeholders, shall report to the chairs and ranking minority members of the legislative
11.12 committees and divisions with jurisdiction over health and human services policy and finance
11.13 with recommendations for:

11.14 (1) the implementation of penalties for providers who do not meet the compensation
11.15 levels identified in Minnesota Statutes, section 256B.4914, subdivision 5a;

11.16 (2) the implementation of good cause exemptions for providers who have not met the
11.17 compensation levels identified in Minnesota Statutes, section 256B.4914, subdivision 5a;
11.18 and

11.19 (3) the rebasing of compensation levels identified in Minnesota Statutes, section
11.20 256B.4914, subdivision 5a, using data reported under Minnesota Statutes, section 256B.4914,
11.21 subdivision 10a."

11.22 Renumber the sections in sequence and correct the internal references

11.23 Amend the title accordingly