Overview

This amendment contains provisions related to DHS long-term care programs and initiatives. Article 1 allows alternative care funding to be used for direct cash payments for recipients, makes the conversion of certain alternative care recipients to the elderly waiver optional, modifies procedures for setting and approving group residential housing rates, and makes other changes. Article 2 delays implementation of the new performance-based contract system for nursing facilities until July 1, 2001, and provides a salary adjustment for nursing facility staff.

Section

Article 1
Long-term Care

1  **Housing with services establishment or establishment.** Amends § 144D.01, subd. 4. Specifies that a housing with services establishment does not include a certified boarding care home.

2  **Payment for preadmission screening.** Amends § 256B.0911, subd. 6. Requires the commissioner to include payments made by nursing facilities for preadmission screening as operating costs under the cost-based and new performance-based contracting systems.

3  **Services covered under alternative care.** Amends § 256B.0913, subd. 5. Allows alternative care funding to be used for other services, including direct cash payments to clients. Limits payments for other services to the greater of 10 percent of a county's annual alternative care base allocation or $5,000. Allows for-profit organizations to provide companion services. Specifies requirements for using alternative care program allocations for other services. These include the requirement that a cash payment to a client not exceed 80 percent of the monthly payment limit for that client and that payments be used for expenses that meet the guidelines of the consumer support grant program.

4  **Allocation formula.** Amends § 256B.0913, subd. 10. Provides the methods for allocating alternative care funding to county agencies for the biennium ending June 30, 2001. Requires the
commissioner to distribute funding based on each county's proportion of current allocations, if
the appropriation for alternative care is inadequate to fund the combined county allocations.

5 **Client premiums.** Amends § 256B.0913, subd. 12. Raises from $6,000 to $10,000 the asset
limit above which alternative care clients must pay premiums.

6 **Conversion of enrollment.** Amends § 256B.0913, subd. 16. Makes the conversion of certain
alternative care recipients to the elderly waiver optional. Strikes language that makes alternative
care program applicants ineligible for that program, if they would qualify for the elderly waiver
with or without a spenddown.

7 **Duration and termination of contracts.** Amends § 256B.434, subd. 3. Extends the notice
period for termination of contracts under the alternative payment demonstration system from 30
to 90 days. Removes the four-year limit on the number of times a contract can be renewed for
one-year terms.

8 **Payment system reform advisory committee.** Amends § 256B.434, subd. 13. Removes the
June 30, 1997 sunset date for the payment system reform advisory committee and strikes
obsolete language related to a permanent managed care payment system.

9 **Nursing home services.** Amends § 256B.69, subd. 6a. Eliminates language requiring nursing
facility services to be covered under the prepaid medical assistance program.

10 **Elderly waiver services.** Amends § 256B.69, subd. 6b. Eliminates language requiring elderly
waiver services to be covered under the prepaid medical assistance program.

11 **Moratorium on the development of group residential housing beds.** Amends § 256I.04,
subd. 3. Provides an exemption from the moratorium on new GRH beds with rates higher than
the MSA equivalent rate for settings used by recipients receiving home and community-based
waiver services who resided in a nursing facility for the six months immediately prior to entry
into a GRH setting. Specifies rate limits.

12 **Maximum rates.** Amends § 256I.05, subd. 1. Allows counties to approve GRH supplementary
room and board rates. Limits the average supplementary room and board rate in a county for a
calendar year to the average supplementary room and board rate for that county in effect on
January 1, 2000. Allows counties with no facilities with supplementary room and board rates, or
counties with supplemental rates under $100 per person, to submit requests for these rates to the
commissioner.

13 **Supplementary service rates.** Amends § 256I.05, subd. 1a. Provides that the supplementary
service rate plus the supplementary room and board rate cannot exceed $426.37, unless
otherwise provided in law.

14 **Group residential housing study.** Requires the commissioner of human services to submit to
the legislature by November 1, 2000, a study of the cost of GRH payments and an analysis of
these costs to market rate costs.

15 **Repealer.** Repeals section 256B.434, subd. 17 (obsolete reference to a report on the alternative
payment demonstration project) and Laws 1997, chapter 203, article 4, section 55 (exemption
from PMAP for alternative care clients who move to the elderly waiver).

16 **Effective date.** Provides effective dates.

**Article 2
Nursing Facilities**

1 **Operating costs after July 1, 1988.** Amends § 256B.431, subd. 2i. Updates language
authorizing a previous salary adjustment, to provide a 5 percent salary adjustment for nursing
facility staff for the rate years July 1, 1999 and July 1, 2000. Specifies that for the July 1, 1999
rate year, contract facilities will receive the 5 percent salary increase but will not receive
Nursing facility reimbursement system effective July 1, 2001. Amends § 256B.435. The amendment to subdivision 1 requires the commissioner to implement a performance-based contracting system for nursing facilities on July 1, 2001 (current law requires implementation July 1, 2000). States that the laws and rules for the cost-based system will be used to establish operating cost payment rates for new facilities. Requires funding for incentive-based payments to be included as a budget change request in each biennial budget.

Requires the commissioner to present recommendations to the legislature by February 15, 2000 in the following areas:

(a) development of an interim default payment mechanism for: facilities that do not respond to the state's RFP but wish to continue in MA, facilities that the state does not select in the RFP process; and facilities whose contract has been canceled;

(b) development of criteria for facilities to earn performance-based incentive payments;

(c) development of criteria and a process under which facilities can request rate adjustments for low base rates, geographic disparities, or other reasons;

(d) development of a dispute resolution mechanism for nursing facilities;

(e) development of a property payment system that will be funded with additional appropriations;

(f) establishment of a transitional plan to move from dual assessment instruments to the federally mandated resident assessment system;

(g) identification of net cost implications for facilities and DHS of preparing for and implementing performance-based contracting or any proposed alternative system;

(h) identification of facility financial and statistical reporting requirements; and

(i) identification of exemptions from current regulations and laws applicable to performance-based contracting.

A new subdivision 1a requires the commissioner to issue, before July 1, 2001, a request for proposals by facilities operating under the cost-based system to provide nursing facility services under the new performance-based contract system. Sets requirements for the RFP process and criteria for the commissioner to use in developing contract terms. Directs the commissioner to renegotiate contracts for facilities reimbursed under the alternative payment system on January 1, 2001, without requiring an RFP.

The amendment to subdivision 2 requires performance-based contracts to require facilities to specify the method for resolving disputes, and allows the commissioner to negotiate different contract terms for different facilities. Strikes language requiring contracts to establish additional penalties for facilities not meeting contract standards.

A new subdivision 2a establishes criteria related to the duration and termination of contracts.

The amendments to subdivision 3 provide additional criteria for payment rates. The
amendments:

specify that the payment rate to be inflated is the total payment rate in effect on June 30, 2001, minus the property rate and the per diem for preadmission screening costs;
require a per diem for preadmission screening to be added to the contract rate;
allow the commissioner to implement a new method of payment for property-related costs, for rate years beginning on or after July 1, 2001.

A new subdivision 4 allows an interim rate to be calculated, if cost-based rates used to calculate the rate under the performance-based system are under appeal, and requires a retroactive adjustment once the appeal is resolved.

A new subdivision 5 provides standards for residence grievance procedures and requires facilities to make available to residents and families a copy of the performance-based contract and the outcomes to be achieved.

A new subdivision 6 specifies that participation of nursing facilities in MA is voluntary and that the terms and procedures governing performance-based contracts are determined under this section and through negotiation between the commissioner and the nursing facility.

A new subdivision 7 requires the commissioner to implement the new system subject to any required federal waivers or approval and in a manner consistent with federal requirements. Provides that federal law supersedes any inconsistent state provisions. Directs the commissioner to seek federal approval and request waivers as necessary to implement the new system.

3 Termination. Amends § 256B.48, subd. 1a. Strikes unnecessary language.
4 Exception. Amends § 256B.48, subd. 1b. Strikes obsolete language.
6 Attorney's fees and costs. Amends § 256B.50, subd. 1e. Requires fees and costs awarded to providers as a result of appeals to be reimbursed to them within 120 days of the final decision on the award of attorney fees and costs. Strikes references to inclusion of these fees and costs in cost reports.
7 Effective date. Specifies effective dates.