

Subject Disability Waiver Rate System

Authors Schultz

Analyst Danyell A. Punelli

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## Overview

This bill makes various changes to the Disability Waiver Rate System (DWRS) including removing the seventh year of banding (permission for this was recently denied by the federal Centers for Medicare and Medicaid Services), defining “direct care staff,” adding a competitive workforce factor, modifying the frequency of the automatic inflationary adjustments under DWRS, requiring providers to use a certain percentage of revenue generated by MA rates to compensate direct care staff, requiring providers to annually submit labor market data to the commissioner of human services, and requiring the Department of Human Services (DHS) to annually publish a report on provider and state-level labor market data.

The DWRS was enacted by the legislature in 2013 in order to comply with federal requirements that medical assistance (MA) rates be determined according to a statewide methodology. Prior to the implementation of DWRS, counties contracted with providers and set reimbursement rates. DHS administers the DWRS.

The DWRS is a statewide framework for calculating reimbursement rates for services provided under the MA home and community-based services (HCBS) disability waivers. One element of the DWRS framework is a periodic inflationary increase, which requires DHS to: (1) update the base wage index component of the DWRS framework using data from the Bureau of Labor Statistics; and (2) update certain other DWRS component values based on changes in the Consumer Price Index-All Items, United States city average. The first inflationary increase occurred on July 1, 2017.

## Summary

Section	Description
1	<p><b>Rate stabilization adjustment.</b></p> <p>Amends § 256B.4913, subd. 4a. Removes obsolete language and the seventh year of banding, which was not approved by the federal Centers for Medicare and Medicaid Services (CMS). Makes this section effective the day following final enactment.</p>

Section	Description
2	<p><b>Stakeholder consultation and county training.</b></p> <p>Amends § 256B.4913, subd. 5. Makes technical changes. Makes this section effective January 1, 2020.</p>
3	<p><b>Definitions.</b></p> <p>Amends § 256B.4914, subd. 2. Defines “comparable occupations” and “direct care staff.”</p>
4	<p><b>Data collection for rate determination.</b></p> <p>Amends § 256B.4914, subd. 4. Removes obsolete language related to banding, which will end on December 31, 2019. Makes this section effective January 1, 2020.</p>
5	<p><b>Base wage index and standard component values.</b></p> <p>Amends § 256B.4914, subd. 5. Paragraphs (b) to (g) add a competitive workforce factor of 4.7 percent.</p> <p>Paragraphs (h) and (k) remove obsolete language related to the 2017 automatic inflationary adjustment, change the date of the next inflationary adjustment from July 1, 2022, to January 1, 2022, and change the frequency of future adjustments from once every five years to once every two years.</p> <p>Paragraph (i) requires the commissioner to adjust the competitive workforce factor by two percent on January 1, 2022, and January 1, 2024.</p> <p>Paragraph (j) requires the commissioner to report to the legislature with an analysis of the competitive workforce factor on January 1, 2026. Specifies the information that must be included in the report.</p> <p>Adds paragraph (l), which removes the 2014 and 2015 out-of-framework adjustments from rates calculated under DWRS. (On February 15, 2018, CMS notified DHS that these adjustments were duplicative of the inflationary adjustments built into DWRS and CMS would not allow the duplication; therefore, Minnesota was not eligible for federal matching funds for the duplicative adjustments. DHS paid both the state and federal share of the value of the out-of-framework adjustments for the remainder of fiscal year 2018, but removed these adjustments from the DWRS rates beginning on July 1, 2018.)</p> <p>Adds paragraph (m), which specifies that any rate adjustments made outside of the DWRS rate framework that apply to rates calculated under DWRS are removed from rate calculations upon implementation of automatic inflation adjustments under paragraphs (h) and (k).</p> <p>Makes this section effective January 1, 2020, except: (1) paragraphs (h) and (k) are effective January 1, 2022, or upon federal approval, whichever is later; and (2) paragraph (l) is effective retroactively from July 1, 2018. Requires the commissioner of human services to notify the revisor of statutes when federal approval is obtained.</p>

<b>Section</b>	<b>Description</b>
6	<p><b>Direct care staff; compensation.</b></p> <p>Amends § 256B.4914, by adding subd. 5a. Paragraphs (a) to (c) require providers paid with rates determined under DWRS to use a certain percentage of the revenue generated by rates determined under the DWRS for direct care staff compensation.</p> <p>Paragraph (d) lists applicable compensation.</p> <p>Makes this section effective January 1, 2020.</p>
7	<p><b>Payments for residential support services.</b></p> <p>Amends § 256B.4914, subd. 6. Modifies the rate calculation for residential support services to include the competitive workforce factor and removes obsolete language related to banding and the implementation period. Makes this section effective January 1, 2020, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor when federal approval has been obtained.</p>
8	<p><b>Payments for day programs.</b></p> <p>Amends § 256B.4914, subd. 7. Modifies the rate calculation for day programs to include the competitive workforce factor. Makes this section effective January 1, 2020, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor when federal approval has been obtained.</p>
9	<p><b>Payments for unit-based services with programming.</b></p> <p>Amends § 256B.4914, subd. 8. Modifies the rate calculation for unit-based services with programming to include the competitive workforce factor. Makes this section effective January 1, 2020, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor when federal approval has been obtained.</p>
10	<p><b>Payments for unit-based services without programming.</b></p> <p>Amends § 256B.4914, subd. 9. Modifies the rate calculation for unit-based services without programming to include the competitive workforce factor. Makes this section effective January 1, 2020, or upon federal approval, whichever is later. Requires the commissioner of human services to notify the revisor when federal approval has been obtained.</p>
11	<p><b>Updating payment values and additional information.</b></p> <p>Amends § 256B.4914, subd. 10. Removes obsolete language related to outdated reporting and implementation requirements and banding. Adds direct care workforce labor market measures to the list of items DHS must review and evaluate under the DWRS. Modifies the frequency of adjustments to the regional variance factors. Requires the commissioner, in consultation with others, to study value-based models and outcome-based payment strategies for fee-for-service home and community-based services and report to the legislature by October 1, 2020, with recommended strategies to improve the quality, efficiency, and effectiveness of services. Makes this section</p>

<b>Section</b>	<b>Description</b>
	effective the day following final enactment, except for paragraph (f), which is effective January 1, 2020.
12	<p><b>Reporting and analysis of cost data.</b></p> <p>Amends § 256B.4914, subd. 10a. Adds paragraph (f), which requires providers with rates determined under DWRS to submit labor market data to the commissioner annually beginning November 1, 2019.</p> <p>Adds paragraph (g), which requires the commissioner to publish annual reports on provider and state-level labor market data, beginning February 1, 2020.</p> <p>Adds paragraph (h), which requires the commissioner to: (1) temporarily suspend payments to a provider if data requested under paragraph (f) is not received 90 days after the required submission date; and (2) make withheld payments once data is received by the commissioner.</p> <p>Makes this section effective the day following final enactment.</p>
13	<p><b>Exceptions.</b></p> <p>Amends § 256B.4914, subd. 14. Removes obsolete language related to commissioner’s reporting requirements and banding. Makes this section effective January 1, 2020.</p>
14	<p><b>Direction to commissioner; direct care staff compensation report.</b></p> <p>By January 15, 2022, requires the commissioner, in consultation with stakeholders, to report to the legislature with recommendations to implement: (1) penalties for providers who do not meet the direct care staff compensation requirements; (2) good cause exemptions for providers who do not meet the direct care staff compensation requirements; and (3) rebasing of the direct care staff compensation requirements.</p>
15	<p><b>Revisor instruction.</b></p> <p>Instructs the revisor of statutes to renumber Minnesota Statutes, section 256B.4913, subd. 5 (county training), as a subdivision in Minnesota Statutes, section 256B.4914, and to make necessary cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the renumbering. (This is a technical instruction to move the remaining language of section 256B.4913 into section 256B.4914 once the banding period is completed on December 31, 2019).</p>
16	<p><b>Repealer.</b></p> <p>Repeals Minnesota Statutes, section 256B.4913, subdivisions 4a (rate stabilization adjustment), 6 (implementation), and 7 (new services), effective January 1, 2020 (these subdivisions all become obsolete once the banding period is completed on December 31, 2019).</p>



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