

The elderly waiver program provides home and community-based services not normally covered under Medical Assistance (MA) to MA enrollees who are at risk of nursing facility placement. In addition, elderly waiver recipients are eligible for all standard MA-covered services.

In order to receive elderly waiver services, an enrollee must: (1) be age 65 or older; (2) need nursing facility level care as determined by the long-term care consultation process, and choose community care; and (3) meet the elderly waiver income standard.

The elderly waiver statutes were recodified in 2019 (Laws 2019, ch. 54). The table below shows the new coding and where the language was coded prior to August 1, 2019.

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
|---------------------------------|---|--|
| 256S.01 Generally | Subd. 1. Authority | Subd. 1, para. (a) |
| | Subd. 2. Transition plan compliance | Subd. 1, para. (b) |
| | Subd. 3. Services and supports requirements | Subd. 8, para. (a) and (b) |
| | Subd. 4. Payment for services | Subd. 3f, para. (b), first sentence |
| | Subd. 5. Expenditure forecast | Subd. 3f, para. (b), second sentence |
| | Subd. 6. Immunity; CDCS | Subd. 8, para. (c) |
| 256S.02 Definitions | Subd. 1. Application | New |
| | Subd. 2. Adjusted base wage | New |
| | Subd. 3. Annual average statewide percentage increase in nursing facility operating payment rates | Subd. 3a, para. (e) |
| | Subd. 4. Case mix classification | Subd. 3a, para. (a) |
| | Subd. 5. Commissioner | New |
| | Subd. 6. Component service | New |
| | Subd. 7. Component service rate | New |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
|--|---|--|
| | Subd. 8. Consumer-directed community supports | New |
| | Subd. 9. Customized living monthly service rate limit | New |
| | Subd. 10. Customized living service plan | New |
| | Subd. 11. Customized living service rate | New |
| | Subd. 12. Customized living services | New |
| | Subd. 13. Department | New |
| | Subd. 14. Elderly waiver | New |
| | Subd. 15. Lead agency | Subd. 1b, para. (a), last sentence of clause (5) |
| | Subd. 16. Maintenance needs allowance | New |
| | Subd. 17. Managed care organization | New |
| | Subd. 18. Monthly case mix budget cap | New |
| | Subd. 19. Nursing facility case mix adjusted total payment rate | New |
| | Subd. 20. Nursing facility level of care determination | Subd. 5, para. (a) |
| | Subd. 21. Private agency | Subd. 1a, last sentence of para. (f) |
| | Subd. 22. Service rate | New |
| | Subd. 23. Service rate limit | New |
| | Subd. 24. State plan home care services | New |
| | Subd. 25. 24-hour customized living monthly service rate limit | New |
| 256S.03 Administration by tribes | | Subd. 9 |
| 256S.04 Limits of elderly waiver cases | | Subd. 3 |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
|---|--|---|
| 256S.05 Eligibility | Subd. 1. Elderly waiver plan eligibility requirements | New |
| | Subd. 2. Nursing facility level of care determination required | Subd. 5, paras. (a) and (b) |
| | Subd. 3. Maintenance needs allowance | Subd. 1d |
| | Subd. 4. Spousal impoverishment policies | Subd. 2 |
| | Subd. 5. Managed care elderly waiver services | Subd. 7 |
| 256S.06 Assessments and reassessments | Subd. 1. Initial assessments | Subd. 5, para. (a), first sentence |
| | Subd. 2. Annual reassessments | Subd. 5, para. (a), second sentence |
| | Subd. 3. Change-in-condition reassessments | Subd. 5, para. (c) |
| 256S.07 Case management administration | Subd. 1. Elderly waiver case management provided by counties and tribes | Subd. 1a, para. (e) |
| | Subd. 2. Elderly waiver case management provided by managed care organizations | Subd. 1a, para. (h) |
| 256S.08 Case management provider qualifications and standards | Subd. 1. Provider requirements | Subd. 1a, para. (f) |
| | Subd. 2. Provider enrollment | Subd. 1b, para. (a), first two sentences |
| | Subd. 3. Provider qualifications | Subd. 1b, paras. (a), first four clauses of third sentence, and (b) |
| | Subd. 4. Delegation of certain case management activities | Subd. 1b, para. (a), last clause of third sentence |
| | Subd. 5. Case aides | Subd. 1a, para. (c) |
| 256S.09 Case management activities | Subd. 1. Choice of case management provider | Subd. 1a, para. (a), first sentence |
| | Subd. 2. Case management activities | Subd. 1a, paras. (b), first sentence, and (g) |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
|---|---|---|
| | Subd. 3. Coordinated service and support plan development, review, and monitoring | Subd. 1a, para. (b), second sentence, and para. (d) |
| 256S.10 Coordinated service and support plans | Subd. 1. Written plan required | Subd. 6, para. (a), portion |
| | Subd. 2. Plan development timeline | Subd. 6, para. (a), clause (1) |
| | Subd. 3. Plan content | Subd. 6, para. (a), clauses (2) to (9), and para. (b), first sentence |
| | Subd. 4. Immunity | Subd. 6, para. (b), second sentence |
| 256S.11 Approval required for certain state plan home care services | | Subd. 3c |
| 256S.12 Adult day services | Subd. 1. Adult day services authorization limits | Subd. 16, para. (o), second sentence |
| | Subd. 2. Adult day services bath authorization minimum | Subd. 16, para. (o), first sentence |
| 256S.13 Individual Community Living Supports | Subd. 1. Provider requirements | Subd. 3j, second sentence |
| | Subd. 2. Licensing standards | Subd. 3j, sixth sentence |
| | Subd. 3. Setting requirements | Subd. 3j, third sentence |
| | Subd. 4. Plan required | Subd. 3j, fourth sentence |
| | Subd. 5. ICLS rates | Subd. 3j, fifth sentence |
| 256S.14 Termination of elderly waiver services | | Subd. 4 |
| 256S.15 Establishment of elderly waiver service rates and service rate limits | Subd. 1. Statewide service rates and service rate limits | Subd. 3g, para. (a) |
| | Subd. 2. Foster care limit | Subd. 3d |
| 256S.16 Authorization of elderly waiver services and service rates | | Subd. 3h, para. (a) |
| 256S.17 Costs excluded from elderly waiver service rates | | Subds. 3d (without last sentence), 3e, para. (c), and 3h, para. (e) |
| 256S.18 Monthly case mix budget caps; generally | Subd. 1. Case mix classifications | Subd. 3a, para. (b) |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
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| | Subd. 2. Costs included under monthly case mix budget cap | New (based on language in subd. 3b, para. (b), and subd. 3d) |
| | Subd. 3. Monthly case mix budget caps | Subd. 3a, para. (a) |
| | Subd. 4. Monthly case mix budget cap prorating for specialized supplies, equipment, or environmental modifications | Subd. 3a, para. (c) |
| | Subd. 5. Home and community-based rate adjustments; effect on monthly case mix budget caps | Subd. 3a, para. (a) |
| | Subd. 6. Nursing facility average operating payment rate increases; effect on monthly case mix budget caps | Subd. 3a, para. (e) |
| 256S.19 Monthly case mix budget caps; nursing facility residents | Subd. 1. Requests for elderly waiver monthly conversion budget caps | Subd. 3b, para. (a), first sentence |
| | Subd. 2. Eligibility for elderly waiver monthly conversion budget caps | Subd. 3b, para. (a), sixth sentence |
| | Subd. 3. Calculation of monthly conversion budget cap without CDCS | Subd. 3b, para. (a), second to fifth sentences |
| | Subd. 4. Calculation of monthly conversion budget cap with CDCS | Subd. 3b, para. (a), seventh sentence |
| 256S.20 Customized living services; policy | Subd. 1. Customized living services provider requirements | Subds. 3e, para. (f), and 3h, para. (h) |
| | Subd. 2. Customized living services requirements | Subds. 3e, para. (f), and 3h, para. (h) |
| | Subd. 3. Documented need required | Subds, 3e, para. (a) |
| | Subd. 4. 24-hour customized living services eligibility | Subd. 3h, paras. (a) and (b) |
| | Subd. 5. Billing for additional units of allowable services prohibited | Subds. 3e, para. (g), and 3h, para. (i) |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
|---|--|--|
| 256S.201 Customized living services; rates | Subd. 1. Authorized customized living service rates | Subds. 3e, para. (a), and 3h, para. (a) |
| | Subd. 2. Customized living service plan | Subds. 3e, para. (a), and 3h, para. (a) |
| | Subd. 3. Customized living service rates | Subds. 3e, para. (b), and subd. 3h, para. (c) |
| | Subd. 4. Component service rates | Subd. 3e, para. (c), and 3h, para. (d) |
| 256S.202 Customized living services; rate limits | Subd. 1. Customized living monthly service rate limits | Subd. 3e, paras. (d) and (h) |
| | Subd. 2. 24-hour customized living monthly service rate limits | Subd. 3h, paras. (f), and (j) |
| 256S.203 Customized living services; managed care rates | Subd. 1. Capitation payments | Subd. 10, first sentence |
| | Subd. 2. Reimbursement rates | Subd. 10, second sentence |
| 256S.204 Alternative rate system for 24-hour customized living services | | Subd. 3h, para. (g) |
| 256S.21 Rate setting; application | | Subd. 11 |
| 256S.2101 Rate setting; phase-in | | Subd. 12 |
| 256S.211 Rate setting; rate establishment | Subd. 1. Establishing base wages | Subd. 13, para. (a) |
| | Subd. 2. Establishing rates | Subd. 13, para. (b) |
| 256S.212 Rate setting; base wage index | Subd. 1. Updating SOC codes | Subd. 14, para. (d) |
| | Subd. 2. Home management and support services base wage | Subd. 14, para. (a), clause (1) |
| | Subd. 3. Home care aide base wage | Subd. 14, para. (a), clause (2) |
| | Subd. 4. Home health aide base wage | Subd. 14, para. (a), clause (3) |
| | Subd. 5. Medication setups by licensed nurse base wage | Subd. 14, para. (a), clause (4) |
| | Subd. 6. Chore services base wage | Subd. 14, para. (b), clause (1) |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
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| | Subd. 7. Companion services base wage | Subd. 14, para. (b), clause (2) |
| | Subd. 8. Homemaker services and assistance with personal care base wage | Subd. 14, para. (b), clause (3) |
| | Subd. 9. Homemaker services and cleaning base wage | Subd. 14, para. (b), clause (4) |
| | Subd. 10. Homemaker services and home management base wage | Subd. 14, para. (b), clause (5) |
| | Subd. 11. In-home respite care services base wage | Subd. 14, para. (b), clause (6) |
| | Subd. 12. Out-of-home respite care services base wage | Subd. 14, para. (b), clause (7) |
| | Subd. 13. Individual community living support base wage | Subd. 14, para. (b), clause (8) |
| | Subd. 14. Registered nurse base wage | Subd. 14, para. (c), clause (1) |
| | Subd. 15. Social worker base wage | Subd. 14, para. (c), clause (2) |
| 256S.213 Rate setting; factors | Subd. 1. Payroll taxes and benefits factor | Subd. 15, clause (1) |
| | Subd. 2. General and administrative factor | Subd. 15, clause (2) |
| | Subd. 3. Program plan support factor | Subd. 15, clause (3) |
| | Subd. 4. Registered nurse management and supervision factor | Subd. 15, clause (4) |
| | Subd. 5. Social worker supervision factor | Subd. 15, clause (5) |
| 256S.214 Rate setting; adjusted base wage | | Subd. 16, para. (a) |
| 256S.215 Rate setting; component rates | Subd. 1. Medication setups by licensed nurse component rate | Subd. 16, para. (b) (removed registered nurse and social worker services) |
| | Subd. 2. Home management and support services component rate | Subd. 16, para. (c) |

| New section coding and headnote | New subdivision coding and headnote | Coding prior to August 1, 2019 (Minn. Stat. § 256B.0915) |
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| | Subd. 3. Home care aide services component rate | Subd. 16, para. (c) |
| | Subd. 4. Home health aide services component rate | Subd. 16, para. (c) |
| | Subd. 5. Socialization component rate | Subd. 16, para. (d) |
| | Subd. 6. Transportation component rate | Subd. 16, para. (d) |
| | Subd. 7. Chore services rate | Subd. 16, para. (e) |
| | Subd. 8. Companion services rate | Subd. 16, para. (e) |
| | Subd. 9. Homemaker services and assistance with personal care rate | Subd. 16, para. (f) |
| | Subd. 10. Homemaker services and cleaning rate | Subd. 16, para. (f) |
| | Subd. 11. Homemaker services and home management rate | Subd. 16, para. (f) |
| | Subd. 12. In-home respite care services rates | Subd. 16, paras. (g) and (h) |
| | Subd. 13. Out-of-home respite care services rates | Subd. 16, paras. (i) and (j) |
| | Subd. 14. Individual community living support rate | Subd. 16, para. (k) |
| | Subd. 15. Home-delivered meals rate | Subd. 16, para. (l) |
| | Subd. 16. Adult day services rate | Subd. 16, para. (m) |
| | Subd. 17. Adult day services bath rate | Subd. 16, para. (n) |
| Repealed/removed – Minn. Stat. § 256B.0915, subd. 3a, para. (d); 3b, para. (b); 3e, para. (e); 3g, para. (b); subd. 3i, para. (b) | | |



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