Sec. 1 Minnesota Statutes 2018, section 256B.0659, subdivision 1, is amended to read:

 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to (r) have the meanings given unless otherwise provided in text.

(b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(c) "Behavior," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section. "Level I behavior" means physical aggression towards self, others, or destruction of property that requires the immediate response of another person.

(d) "Complex health-related needs," effective January 1, 2010, means a category to determine the home care rating and is based on the criteria found in this section.

1. “Commissioner” means the commissioner of human services.

(f) “Component value” means underlying factors that are part of the cost of providing services that are built in to the rate methodology to calculate service rates.

(g)~~(e)~~ "Critical activities of daily living," effective January 1, 2010, means transferring, mobility, eating, and toileting.

(h)~~(f)~~ "Dependency in activities of daily living" means a person requires assistance to begin and complete one or more of the activities of daily living.

(i) “Enhanced Care Personal Care Services” means personal care services provided within the scope of PCA services in subdivision 7, to:

(1) a recipient who qualifies for 10 or more hours per day of PCA services; and

(2) by a PCA who satisfies the current requirements of Medicare for training and competency or competency evaluation of home health aides or nursing assistants, as provided in the Code of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state approved training or competency requirements.

(j)~~(g)~~ "Extended personal care assistance service" means personal care assistance services included in a service plan under one of the home and community-based services waivers authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state plan personal care assistance services for participants who:

1. need assistance provided periodically during a week, but less than daily will not be able to remain in their homes without the assistance, and other replacement services are more expensive or are not available when personal care assistance services are to be reduced; or
2. need additional personal care assistance services beyond the amount authorized by the state plan personal care assistance assessment in order to ensure that their safety, health, and welfare are provided for​ in their homes.

(k)~~(h)~~"Health-related procedures and tasks" means procedures and tasks that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care assistant.

(l)~~(i)~~"Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments and to participate in the community.

(m)~~(j)~~"Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

(n) “Median” means the amount that divides distribution between two equal groups, one-half above the median and one-half below the median.

(o)~~(k)~~"Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

(p)~~(l)~~"Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes a personal care assistance provider organization, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

(q)~~(m)~~"Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

(r)~~(n)~~"Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

(s)~~(o)~~"Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(t)~~(p)~~"Self-administered medication" means medication taken orally, by injection, nebulizer, or insertion, or applied topically without the need for assistance.

(u)~~(q)~~"Service plan" means a written summary of the assessment and description of the services needed by the recipient.

(v)~~(r)~~"Wages and benefits" means wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts.

Sec. 2 Minnesota Statutes 2018, section 256B.0659, subdivision 11, is amended to read:

Subd. 11. **Personal care assistant; requirements.**

(a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age with the exception of persons who are 16 or 17 years of age with these additional requirements:

(i) supervision by a qualified professional every 60 days; and

(ii) employment by only one personal care assistance provider agency responsible for compliance with current labor laws;

(2) be employed by a personal care assistance provider agency;

(3) enroll with the department as a personal care assistant after clearing a background study. Except as provided in subdivision 11a, before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section [245C.14](https://www.revisor.mn.gov/statutes/cite/245C.14); or

(ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section [245C.22](https://www.revisor.mn.gov/statutes/cite/245C.22);

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) effective January 1, 2010, complete standardized training as determined by the commissioner before completing enrollment. The training must be available in languages other than English and to those who need accommodations due to disabilities. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, emergency preparedness, orientation to positive behavioral practices, fraud issues, and completion of time sheets. Upon completion of the training components, the personal care assistant must demonstrate the competency to provide assistance to recipients;

(9) complete training and orientation on the needs of the recipient; and

(10) be limited to providing and being paid for up to 275 hours per month of personal care assistance services regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Persons who do not qualify as a personal care assistant include parents, stepparents, and legal guardians of minors; spouses; paid legal guardians of adults; family foster care providers, except as otherwise allowed in section [256B.0625, subdivision 19a](https://www.revisor.mn.gov/statutes/cite/256B.0625#stat.256B.0625.19a); and staff of a residential setting.

(d) Persons providing enhanced care personal care services must satisfy the current requirements of Medicare for training and competency or competency evaluation of home health aides or nursing assistants, as provided in the Code of Federal Regulations, title 42, section 483.151 or 484.36, or alternative state approved training or competency requirements.

**EFFECTIVE DATE.** This section is January 1, 2020.

Sec. 3 Minnesota Statutes 2018, section 256B.0659, is amended by adding a subdivision to read:

Subd. 17. **Payment rates; application.**

The payment methodologies in subdivisions 17a to 17c apply to personal care assistance services and qualified professional services under 256B.0625 subdivision 19c.

Subd. 17a **Payment rates. enhanced care personal care services rate eligibility**

The enhanced care personal care services rate shall be paid for services provided to persons who qualify for 10 or more hours of PCA service per day when provided by a PCA who meets the requirements of subdivision 11, paragraph (d). The enhanced care personal care services rate for PCA services includes, and is not in addition to, any enhanced rate adjustments implemented by the commissioner on July 1, 2018, that provide for rate increases for individual providers who serve participants assessed to need 10 or more hours of PCA per day.

Subd. 17b **Payment rates; base wage index.**

(a) When establishing the base wage component value, the commissioner shall use the Minnesota-specific median wage for the standard occupational classification (SOC) codes published by the Bureau of Labor Statistics in the most recent edition of the Occupational Handbook. The commissioner shall calculate the wage component values as follows:

1. For personal care assistance services, the base wage component value shall be the median wage for personal care aide (SOC code 39-9021).
2. For enhanced care personal care assistance services defined in subdivision 1 paragraph i, the base wage component value shall be the sum of 50 percent of the median wage for personal care aide (SOC code 39-9021) and 50 percent of the median wage for home health aide (SOC code 31-1011).
3. For qualified professional services, the base wage component value shall be the sum of 70 percent of the median wage for registered nurse (SOC code 29-1141), 15 percent of the median wage for healthcare social worker (SOC code 21-1022) and 15 percent of the median wage for social and human service assistant (SOC code 21-1093). This is the total wage component value.

(b) For personal care assistance services under paragraph a clause 1 and enhanced personal care assistance services under paragraph a clause 2, the base wage component value is multiplied by one plus the competitive workforce factor of 8 percent. This is the total wage component value.

Subd. 17c **Payment rates; standard component values.**

(a) The commissioner shall use the following component values:

(1) employee vacation, sick, and training factor: […] percent;

(3) program plan support factor: […] percent;

(4) employer taxes and workers’ compensation: […] percent;

(5) employee benefits: […] percent;

(6) client programming and supports: […] percent;

(7) general business and administrative expenses: […] percent; and

(8) absence and utilization factor: […] percent.

Subd. 17d **Payment rates; rate determination.**

The commissioner shall determine the rates for personal care assistance services, enhanced personal care assistance services, and qualified professional services as follows:

(1) multiply the total wage component value determined in subdivision 17b by one plus the employee vacation, sick, and training factor. This is defined as the direct staffing rate;

(2) for program plan support, multiply the result of clause (1) by one plus the program plan support factor;

(3) for employee-related expenses, combine the factors for employer taxes and workers compensation and employee benefits. This is defined as employee-related expenses. Multiply the result of clause (2) by one plus the value for employee-related expenses;

(4) for client programming and supports, multiply the result of clause (3) by one plus the client programming and support factor;

(5) this is the subtotal rate;

(6) sum the general and administrative factor and the absence and utilization factor factor;

(7) divide the result of clause (5) by one minus the result of clause (6). This is the total payment amount.

Subd. 17e.**Payment rates; shared services.**

The commissioner shall provide a rate system for shared personal care assistance services. For two persons sharing services, the rate paid to a provider must not exceed one and one-half times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider must not exceed twice the rate paid for serving a single individual. These rates apply only when all of the criteria for the shared care personal care assistance service have been met.

Subd. 17f. **Payment rates. Community first services and supports.**

The rate methodology in subdivisions 17b through 17e shall be applicable for community first services and supports under 256B.85 subdivisions 8 and 18a.

Subd. 17g. **Payment Rates; biennial determination.**

Notwithstanding 256B.0625 subdivision 19b, on January 1, 2022, and every two years thereafter, the commissioner shall:

1. determine the wage index in subd. 17b based on the wage data by standard occupational code (SOC) from the Bureau of Labor Statistics available on December 31 two years prior. The commissioner shall determine service rates and publish the identified values, and
2. determine the competitive workforce factor in subdivision 17b paragraph b with an updated factor, not to exceed a change of three percentage points with each biennial determination. The commissioner shall determine the updated factor by considering the difference in the wages for personal care aide (SOC code 39-9021) and the weighted average wage for all other SOC codes with the same BLS classifications for education, experience, and training required for job competency. The commissioner shall determine the service rates and publish the identified values.

Subd. 17h **Payment Rates; evaluation.**

1. The commissioner shall assess the cost components used in the rate methodology in subdivision 17d. The commissioner shall publish evaluation findings and recommended changes to the rate methodology in a report to the legislature on August 1, 2022.
2. The commissioner shall assess the long term impacts of the rate methodology implementation to personal care assistance workers and qualified professional workers, including but not limited to measuring changes in wages, benefits provided, hours worked, and retention. The commissioner shall publish evaluation findings in a report to the legislature on August 1, 2025.

**EFFECTIVE DATE.** This section is effective January 1, 2020 or upon federal approval whichever is later.

Sec. 4 Minnesota Statutes 2018, section 256B.0659, subdivision 21, is amended to read:

Subd. 21. **Requirements for provider enrollment of personal care assistance provider agencies.**

(a) All personal care assistance provider agencies must provide, at the time of enrollment, reenrollment, and revalidation as a personal care assistance provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the personal care assistance provider agency's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage. Upon new enrollment, or if the provider's Medicaid revenue in the previous calendar year is up to and including $300,000, the provider agency must purchase a surety bond of $50,000. If the Medicaid revenue in the previous year is over $300,000, the provider agency must purchase a surety bond of $100,000. The surety bond must be in a form approved by the commissioner, must be renewed annually, and must allow for recovery of costs and fees in pursuing a claim on the bond;

(3) proof of fidelity bond coverage in the amount of $20,000;

(4) proof of workers' compensation insurance coverage;

(5) proof of liability insurance;

(6) a description of the personal care assistance provider agency's organization identifying the names of all owners, managing employees, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

(7) a copy of the personal care assistance provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

(8) copies of all other forms the personal care assistance provider agency uses in the course of daily business including, but not limited to:

(i) a copy of the personal care assistance provider agency's time sheet if the time sheet varies from the standard time sheet for personal care assistance services approved by the commissioner, and a letter requesting approval of the personal care assistance provider agency's nonstandard time sheet;

(ii) the personal care assistance provider agency's template for the personal care assistance care plan; and

(iii) the personal care assistance provider agency's template for the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

(9) a list of all training and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

(10) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section, including the requirements under subdivision 11, paragraph (d), if enhanced care personal care services are provided and submitted for reimbursement under subdivision 17a;

(11) documentation of the agency's marketing practices;

(12) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services;

(13) documentation that the agency will use the following percentages of revenue generated from the medical assistance rate paid for personal care assistance services for employee personal care assistant wages and benefits: 72.5 percent of revenue in the personal care assistance choice option and 72.5 percent of revenue from other personal care assistance providers. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation; and

(14) effective May 15, 2010, documentation that the agency does not burden recipients' free exercise of their right to choose service providers by requiring personal care assistants to sign an agreement not to work with any particular personal care assistance recipient or for another personal care assistance provider agency after leaving the agency and that the agency is not taking action on any such agreements or requirements regardless of the date signed.

(b) Personal care assistance provider agencies shall provide the information specified in paragraph (a) to the commissioner at the time the personal care assistance provider agency enrolls as a vendor or upon request from the commissioner. The commissioner shall collect the information specified in paragraph (a) from all personal care assistance providers beginning July 1, 2009.

(c) All personal care assistance provider agencies shall require all employees in management and supervisory positions and owners of the agency who are active in the day-to-day management and operations of the agency to complete mandatory training as determined by the commissioner before enrollment of the agency as a provider. Employees in management and supervisory positions and owners who are active in the day-to-day operations of an agency who have completed the required training as an employee with a personal care assistance provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the past three years. By September 1, 2010, the required training must be available with meaningful access according to title VI of the Civil Rights Act and federal regulations adopted under that law or any guidance from the United States Health and Human Services Department. The required training must be available online or by electronic remote connection. The required training must provide for competency testing. Personal care assistance provider agency billing staff shall complete training about personal care assistance program financial management. This training is effective July 1, 2009. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of July 1, 2009. Any new owners or employees in management and supervisory positions involved in the day-to-day operations are required to complete mandatory training as a requisite of working for the agency. Personal care assistance provider agencies certified for participation in Medicare as home health agencies are exempt from the training required in this subdivision. When available, Medicare-certified home health agency owners, supervisors, or managers must successfully complete the competency test.

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

Sec. 5 Minnesota Statutes 2018, section 256B.0659, subdivision 24, is amended to read:

Subd. 24. **Personal care assistance provider agency; general duties.**

A personal care assistance provider agency shall:

(1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;

(2) comply with general medical assistance coverage requirements;

(3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;

(4) comply with background study requirements;

(5) verify and keep records of hours worked by the personal care assistant and qualified professional;

(6) not engage in any agency-initiated direct contact or marketing in person, by phone, or other electronic means to potential recipients, guardians, or family members;

(7) pay the personal care assistant and qualified professional based on actual hours of services provided;

(8) withhold and pay all applicable federal and state taxes;

(9) effective January 1, 2010, document that the agency uses a minimum of 72.5 percent of the revenue generated by the medical assistance rate for personal care assistance services for employee personal care assistant wages and benefits. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation;

(10) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(11) enter into a written agreement under subdivision 20 before services are provided;

(12) report suspected neglect and abuse to the common entry point according to section [256B.0651](https://www.revisor.mn.gov/statutes/cite/256B.0651);

(13) provide the recipient with a copy of the home care bill of rights at start of service; ~~and~~

(14) request reassessments at least 60 days prior to the end of the current authorization for personal care assistance services, on forms provided by the commissioner; and

(15) document that the agency uses the additional revenue due to the enhanced rate under subdivision 17a for the wages and benefits of the PCAs whose services meet the requirements under subdivision 11, paragraph (d).

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

Sec. 6 Minnesota Statutes 2018, section 256B.0659, subdivision 28, is amended to read:

Subd. 28. **Personal care assistance provider agency; required documentation.**

(a) Required documentation must be completed and kept in the personal care assistance provider agency file or the recipient's home residence. The required documentation consists of:

(1) employee files, including:

(i) applications for employment;

(ii) background study requests and results;

(iii) orientation records about the agency policies;

(iv) trainings completed with demonstration of competence, including verification of the completion of training required under subdivision 11, paragraph (d), for any billing of the enhanced rate under subdivision 17a;

(v) supervisory visits;

(vi) evaluations of employment; and

(vii) signature on fraud statement;

(2) recipient files, including:

(i) demographics;

(ii) emergency contact information and emergency backup plan;

(iii) personal care assistance service plan;

(iv) personal care assistance care plan;

(v) month-to-month service use plan;

(vi) all communication records;

(vii) start of service information, including the written agreement with recipient; and

(viii) date the home care bill of rights was given to the recipient;

(3) agency policy manual, including:

(i) policies for employment and termination;

(ii) grievance policies with resolution of consumer grievances;

(iii) staff and consumer safety;

(iv) staff misconduct; and

(v) staff hiring, service delivery, staff and consumer safety, staff misconduct, and resolution of consumer grievances;

(4) time sheets for each personal care assistant along with completed activity sheets for each recipient served; and

(5) agency marketing and advertising materials and documentation of marketing activities and costs.

(b) The commissioner may assess a fine of up to $500 on provider agencies that do not consistently comply with the requirements of this subdivision.

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

Sec. 7 Minnesota Statutes 2018, section 256B.0659 is amended to read by adding a new subdivision:

Subd. XX **Personal care assistance provider agency; required reporting and analysis of cost data.**

(a) The commissioner must evaluate, on an ongoing basis, whether the wage component values and component values in subdivisions 17b and 17c appropriately address the cost to provide the service. The commissioner must make recommendations to adjust the rate methodology as indicated by the evaluation. As determined by the commissioner, in consultation with stakeholders, personal care assistance agencies enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner. Requested cost data may include, but is not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(b) At least once in any five-year period, a provider must submit cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner shall provide each provider a 90-day notice prior to its submission due date. If a provider fails to submit required reporting data, the commissioner shall provide notice to providers that have not provided required data 30 days after the required submission date, and a second notice for providers who have not provided required data 60 days after the required submission date. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments shall be made once data is received by the commissioner.

(c) The commissioner shall conduct a random validation of data submitted under paragraph (a) to ensure data accuracy. The commissioner shall analyze cost documentation in paragraph (a) and provide recommendations for adjustments to cost components.

(d) The commissioner shall analyze cost documentation in paragraph (a) may submit recommendations on component values and inflationary factor adjustments to the chairs and ranking minority members of the legislative committees with jurisdiction over human services in conjunction with reports submitted to the legislature according to Minnesota statutes 256B.4914 subdivision 10a. The commissioner shall release cost data in an aggregate form, and cost data from individual providers shall not be released except as provided for in current law.

(e) The commissioner, in consultation with stakeholders, shall develop and implement a process for providing training and technical assistance necessary to support provider submission of cost documentation required under paragraph (a).

**EFFECTIVE DATE.** This section is effective upon enactment.

Sec. 8 Minnesota Statutes 2018, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. **Elderly waiver cost limits.**

(a) Effective on the first day of the state fiscal year in which the resident assessment system as described in section [256R.17](https://www.revisor.mn.gov/statutes/cite/256R.17) for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waivered services to an individual elderly waiver client shall be the monthly limit of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts [9549.0051](https://www.revisor.mn.gov/rules/?id=9549.0051) to [9549.0059](https://www.revisor.mn.gov/rules/?id=9549.0059), in effect on the last day of the previous state fiscal year, adjusted by any legislatively adopted home and community-based services percentage rate adjustment. If a legislatively authorized increase is service-specific, the monthly cost limit shall be adjusted based on the overall average increase to the elderly waiver program.

(b) The monthly limit for the cost of waivered services under paragraph (a) to an individual elderly waiver client assigned to a case mix classification A with:

(1) no dependencies in activities of daily living; or

(2) up to two dependencies in bathing, dressing, grooming, walking, and eating when the dependency score in eating is three or greater as determined by an assessment performed under section [256B.0911](https://www.revisor.mn.gov/statutes/cite/256B.0911) shall be $1,750 per month effective on July 1, 2011, for all new participants enrolled in the program on or after July 1, 2011. This monthly limit shall be applied to all other participants who meet this criteria at reassessment. This monthly limit shall be increased annually as described in paragraphs (a) and (e).

(c) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waivered services exceeds the monthly limit established in paragraph (a), (b), (d), or (e), the annual cost of all waivered services shall be determined. In this event, the annual cost of all waivered services shall not exceed 12 times the monthly limit of waivered services as described in paragraph (a), (b), (d), or (e).

(d) Effective July 1, 2013, the monthly cost limit of waiver services, including any necessary home care services described in section [256B.0651, subdivision 2](https://www.revisor.mn.gov/statutes/cite/256B.0651#stat.256B.0651.2), for individuals who meet the criteria as ventilator-dependent given in section [256B.0651](https://www.revisor.mn.gov/statutes/cite/256B.0651), subdivision 1, paragraph (g), shall be the average of the monthly medical assistance amount established for home care services as described in section [256B.0652, subdivision 7](https://www.revisor.mn.gov/statutes/cite/256B.0652#stat.256B.0652.7), and the annual average contracted amount established by the commissioner for nursing facility services for ventilator-dependent individuals. This monthly limit shall be increased annually as described in paragraphs (a) and (e).

(e) Effective January 1, 2018, and each January 1 thereafter, the monthly cost limits for elderly waiver services in effect on the previous December 31 shall be increased by the difference between any legislatively adopted home and community-based provider rate increases effective on January 1 or since the previous January 1 and the average statewide percentage increase in nursing facility operating payment rates under chapter 256R, effective the previous January 1. This paragraph shall only apply if the average statewide percentage increase in nursing facility operating payment rates is greater than any legislatively adopted home and community-based provider rate increases effective on January 1, or occurring since the previous January 1.

(f) The commissioner shall approve an exception to the monthly case mix budget cap
in paragraph (a) to pay for an enhanced rate under section 256B.0659, subdivision 17a. The commissioner shall calculate the difference between the rate for personal care services and enhanced personal care services. The additional budget amount approved under an
exception shall not exceed this difference.

**EFFECTIVE DATE.** Paragraph (f) is effective July 1, 2019, or upon federal approval,
whichever is later. The commissioner of human services shall notify the revisor of statutes
when federal approval is obtained.

Sec. 9 Minnesota Statutes 2018, section 256B.69, subdivision 5a, is amended to read:

Subd 5a. (d) The commissioner shall require that managed care plans:

(1)  use the assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies consistent with medical assistance fee-for-service or the Department of Human Services contract requirements for all personal care assistance services under section [256B.0659](https://protect-us.mimecast.com/s/9NYZCkR67zfOnwOKI2uOsD?domain=revisor.mn.gov) and

(2)  by January 30 of each year in which a rate increase is legislatively authorized for any aspect of PCA services,  inform the commissioner and the chairs of the legislative committees with jurisdiction over PCA rates of the amount of the rate increase which is paid to each  PCA agency with which the plan has a contract.

Sec. 10 Minnesota Statutes 2018, section 256B Section XXXX is amended to read:

**Direct care workforce report**

The commissioner of human services shall annually assess the direct care workforce and publish findings in a Direct Care Workforce Report each August beginning August 1, 2020. This report shall consider the number of workers employed, the number of regular hours, the number of overtime hours, the regular wages and benefits paid, the overtime wages paid, retention rates, and job vacancies across providers of HCBS disability waiver services, state plan home care services, and state plan personal care assistance services.

**EFFECTIVE DATE:** This section is effective upon enactment.

4825-4203-0202, v. 6