



# 2023 Legislative Summary



ARRM Members,

2023 was a historic Legislative Session in so many ways. A record state surplus. Single-party control for the first time in a decade. Three of the four legislative caucuses were led by women. Record investment in education, infrastructure, the environment, housing, and human services.

For disability services, the 2023 Session was a 'make or break' moment. Providers statewide continued to feel the strain from the ongoing workforce crisis and stagnant reimbursement rates, and ARRM member-created legislative agenda was focused on alleviating some pressure.

We are beyond thrilled at the success we had this session, but the work is far from done. Our state has made a commitment to people with disabilities to give them the support and resources necessary to live fulfilling and rewarding lives, and that starts with a healthy and thriving support network around them.

As ARRM looks forward to the 2024 Legislative Session (and yes, crafting our 2024 legislative agenda has already begun), we must also look back and offer a big thank you to all of the members, providers, and advocates who supported ARRM's lobbying activities this past session. From attending Disability Services Day at the Capitol, to completing ARRM's Action Alerts, to testifying on important legislation, lobbying is a team sport and everyone plays an irreplaceable role in it. Thank You!

On to 2024,



*Sue Schettle*

Sue Schettle  
ARRM CEO



*Sara Grafstrom*

Sara Grafstrom  
Director, State and Federal Policy





# Human Services

## Disability Waiver Rate System Adjustments ( A R R M Legislative Priority )

### Rate Increases:

- Timing and data used for the wage component values were changed
  - Increases will begin on January 1, 2024, and January 1, 2026, instead of November 1, 2024 (10 months earlier) and July 1, 2026 (6 months earlier).
- BLS wage data used will be 1 year more current in both cases.
- Inflationary adjustments that apply to framework transportation, client programming & supports, and facility use component values had the same timing changes as stated above, and the data used will be 1 year more current for January 2024 and 6 months more current in January 2026.
- The competitive workforce factor (CWF) was increased by 2 percentage points, from 4.7% to 6.7%, beginning on January 1, 2024.
  - Impact on rates estimated to be 6.2%, on average, beginning in January 2024, and another 10.6%, on average, to rates in January 2026. Note: because the increases will be phased in over 12 months as authorizations renew, the actual revenue impact to provider organizations may be less. All this information is illustrated in the chart below.

Final Agreement Signed into Law	2023	FY2024	FY2025	FY2026*	FY2027*
Final DSP Wage:	\$15.60	\$16.47		\$18.66	
Final DSP Wage with CWF:	\$16.33	\$17.57		\$19.91	
Unweighted DWRS Wage Increase:		7.6%		13.3%	
Estimated Full Impact of Wage Increase on DWRS Costs:		5.7%		10.0%	
Estimated Impact of Wage on DWRS Costs Increase by FY:		1.7%	5.1%	4.3%	8.9%
Inflationary Adjustment from Previous:		4.6%		5.6%	
Estimated Full Impact of Inflationary Adjustment on DWRS Costs:		0.5%		0.6%	
Estimated Impact of Inflationary Adjustment on DWRS Costs by FY:		0.1%	0.4%	0.3%	0.5%
<b>Total Estimated Impact by Fiscal Year:</b>		<b>1.80%</b>	<b>5.52%</b>	<b>4.62%</b>	<b>9.45%</b>

FYs 2026 & 2027 are estimates. The data to be used is not yet available

### Standard Occupational Classification (SOC) Code Changes:

- One change to SOC codes used for the employment exploration (EmpEx) service wage component.
- Rehabilitation Counselor (SOC 21-1015) was changed to Education, Guidance, School, and Vocational Counselor (SOC 21-1012), and the EmpEx wage will increase from the current \$19.84 or \$20.77 including the CWF, to \$22.73, or \$24.25 with the new 6.7% CWF, which is 16.8% higher.
  - Effective Date for all provisions: January 1, 2024, or upon federal approval, whichever is later.

# Human Services

## Life Sharing/Family Residential Services

Changes Include:

- Adds Life Sharing as an intensive support service under 245D
  - Effective Date: January 1, 2026 or upon federal approval, whichever is later
- Adds Life Sharing to the DWRS
  - Effective Date: January 1, 2026 or upon federal approval, whichever is later
- Excludes Family Residential Services and Life Sharing from rate exceptions: Language states that rates for family residential and life sharing services are no longer eligible for rate exceptions once the new established rates are put in place.
  - Effective Date: January 1, 2026 or upon federal approval, whichever is later
- Establishes new Family Residential Services and Life Sharing Rate Tiers: Language states that the commissioner shall establish rates for family residential services and life sharing services based on a person's assessed need, as described in the federally approved waiver plans. Language also stipulates that rates for life sharing services must be ten percent higher than the corresponding family residential rate.
  - Effective Date: January 1, 2026 or upon federal approval, whichever is later

## Alternative Overnight Supervision with Technology (AOST) ( ♦ A R R M Legislative Priority )

Changes Include:

- Language removes the need for a variance in a Community Residential Setting for AOS
  - Effective Date: January 1, 2024
- Language removes the need for a separate license in a Community Residential Setting for AOST
  - Effective Date: January 1, 2024
- Language adds new requirements in 245D for Community Residential Settings using Remote Overnight Supervision
  - Effective Date: January 1, 2024

## Shared Service Changes ( ♦ A R R M Legislative Priority )

Changes Include:

- IHS, IHS with Training and IHS with Family Training can now be shared by up to three people
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later.
- Night supervision can now be shared by up to two people.
  - Effective Date, January 1, 2024, or upon federal approval, whichever is later.
- Language directs the commissioner of human services to establish a rate system for shared homemaker and shared chore services. Direction includes:
  - For two person sharing services, the rate paid to a provider must not exceed 1 ½ times the rate paid for serving a single individual and for three persons sharing services, the rate paid to a provider must not exceed two times the rate paid for serving a single individual.
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later





# Human Services

## **Market Respite ( A R R M Legislative Priority )**

- Language removes Unit Based Respite from the DWRS, allowing the service to become a market rate service.
  - Effective Date: January 1, 2024 or upon federal approval, whichever is later

## **Licensing Moratorium Changes**

- Approval of Corporate Foster Care Moratorium Exception: Allows for the approval or denial of a corporate moratorium exception request prior to the approval of a service provider's home and community-based services license.
  - This language expires on December 31, 2023
  - Effective Date: The day following enactment
- Exception expanded to Customized Living Setting under the Elderly Waiver: Expands the licensing moratorium exception to customized living services under the elderly waiver plan. The language also removes the requirement that the setting was licensed before July 1, 2022 in order to be eligible for the exception.
  - This exception is available until December 31, 2023
  - Effective Date: The day following enactment

## **DSP Annual Labor Market Survey**

- Develops a survey for direct care staff to collect information about individual experience and other information necessary to assess the overall economic viability and well-being of the workforce. "The commissioner shall analyze data submitted under this section annually to assess the overall economic viability and well-being of the workforce and the impact of the state of the workforce on access to services."
  - Effective Date: Effective July 1, 2023

## **Case Management Training**

- Expands training requirements for Case Managers from 10 to 20 hours around person-centered planning, informed choice, cultural competency, employment planning, community living planning, self-direction options and use of technology supports.
  - By August 1, 2024, all case managers must complete an employment support training course identified by the commissioner of human services.
  - Effective Date: July 1, 2023
- Expands training requirements for Case Managers from 10 to 20 hours around person-centered planning, informed choice, cultural competency, employment planning, community living planning, self-direction options and use of technology supports.
  - Effective Date: July 1, 2023





# Human Services

## Direct Care Staff Compensation Threshold and Analysis

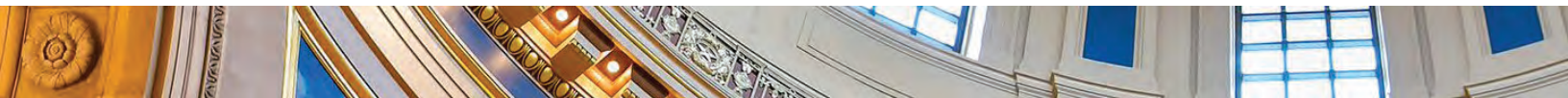
New Rate Thresholds for Direct Care Staff Compensation:

- New Rate Thresholds:
  - Residential Services: 66% of revenue generated by rates must be used for direct care staff compensation.
  - Day Services: 45% of revenue generated by rates must be used for direct care staff compensation.
  - Unit Based Services: 60% of revenue generated by rates must be used for direct care staff compensation.
  - Compensation includes wages, taxes and worker's compensation, health insurance, dental insurance, vision insurance, life insurance, short-term disability insurance, long-term disability insurance, retirement spending, tuition reimbursement, wellness programs, paid vacation time, paid sick time, other items of monetary value provided to direct care staff.
    - Effective Date: January 1, 2025
- Direction to the Commissioner:
  - Language includes direction to the commissioner to use data collected through cost reporting to determine provider compliance with the new direct care staff compensation thresholds. Language states that "the commissioner shall identify providers who have not met the thresholds on the Department of Human Services website for the year for which the provider reported their costs."
    - Effective Date: January 1, 2025

## ICF/DD Rate Changes ( A R R M Legislative Priority )

Rate Increases:

- The daily operating payment rate for Class A and Class B ICF/DD will be increased by \$40 per day
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later
- Minimum payment rates for ICF/DD are established
  - Class A: \$275 per day
  - Class B: \$316 per day
    - Effective Date: January 1, 2024, or upon federal approval, whichever is later
- Beginning January 1, 2025 and annually thereafter, the ICF/DD rates must be updated for the percentage change in the Consumer Price Index from the previous July 1 to the data available 12 months and one day prior.
  - Effective Date: January 1, 2025, or upon federal approval, whichever is later
- Rates for ICF/DD Day Training and Habilitation services are increased by 14.99% from the rates in effect on December 31, 2023
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later







# Human Services

## Homemaker Rate Increase

- Ties the Homemaker rate under the disability waivers to the Homemaker rate under the Elderly waiver

Effective Date: January 1, 2024 or upon federal approval, whichever is later

## Technology

- Specialized Equipment and Supplies Limit Increase: Increases the annual limit for specialized equipment and supplies under Minnesota's federally approved home and community-based service waiver plans, alternative care, and essential community supports to \$10,000
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later
- Language removes the need for a separate license in a Community Residential Setting for Alternative Overnight Supervision with Technology
  - Effective Date: January 1, 2024
- Language removes the need for a variance in a Community Residential Setting for Alternative Overnight Supervision
  - Effective Date: January 1, 2024
- Language adds new requirements in 245D for Community Residential Settings using Remote Overnight Supervision
  - Effective Date: January 1, 2024
- Technology for Home Grants: (See Grants section)

## MN Choice Assessment

- Expands who can be a MN Choice assessor, removing the requirement that they have at least one year of home and community-based experience
  - Effective Date: July 1, 2023

## Direct Care Service Corps Pilot Project

- MCIL must develop a pilot project establishing the Minnesota Direct Care Service Corps. The project must utilize financial incentives to attract postsecondary students to work as personal care assistants or direct support professionals.
  - Sites must include one postsecondary institution in the seven-county metropolitan area and at least one outside of the seven-county metropolitan area.

## Rate Increase for Chore and Home Delivered Meals

- Increase to the payment rates for Chore Services and Home Delivered Meals in effect December 31, 2023 by 14.99%
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later








# Human Services

## Grants

### New Grants Established to Support Disability Services

- **Workforce Incentive Grants:** Establishes a Long-Term Services and Supports Workforce Incentive Grant Fund (  A R R M **Legislative Priority** )
  - Eligible Employers include: HCBS Provider, ICF/DD facility, PCA and CFSS provider, EIDBI provider, Home Care Services Provider, Financial Management Services Provider through CDCS, Customized Living Services Provider
  - Eligible Worker: Someone who earns \$30 per hour or less and is currently employed or recruited to be employed by an eligible employer.
  - Grants can be used for recruitment, retention and incentive payments, postsecondary loan and tuition payments, childcare costs, transportation related costs, PCA background study costs, and other costs associated with retaining and recruiting workers as approved by the commissioner
  - The commissioner must develop a grant cycle distribution plan that allows for equitable distribution of money among eligible employers.
  - Allocation: \$90 million in FY 2024
- **Capacity Grants for Rural and Underserved Communities:** Grant dollars must be used to build organizational capacity to provide home and community-based services in the state and to build new or expanded infrastructure to access medical assistance reimbursement.
  - Allocation: \$18.8 million in FY 2024
- **New American Grants:** Grant dollars will be used for organizations that serve and support new Americans in seeking or maintaining legal or citizenship status to legally obtain or retain employment in any field or industry or to provide specialized services and supports to new Americans to enter the long-term care workforce.
  - Allocation: \$30 million in FY 2024
- **Technology for Home Grants:** Provides assistive technology consultations and resources for people with disabilities who want to stay in their own home, move to their own home, or remain in a less restrictive residential setting.
  - Eligible applicants are someone who uses or is eligible for home care services, home and community-based services, personal care services or community first services and supports and who meets one of the following conditions:
    - Lives in their own home and may benefit from assistive technology for safety, communication, community engagement or independence
    - Is currently seeking to live in their own home and needs assistive technology to meet that goal
    - Resides in a residential setting and is seeking to reduce reliance on paid staff to live more independently in the setting
  - Allocation: \$757,000 in FY 24/25 and \$810,000 in FY 26/27





# Human Services

## Customized Living

- Temporary grant established for customized living providers supporting six or fewer individuals in a single family home or for CRS or ICS providers who transitioned from a customized living setting on or after June 30, 2021.
  - Eligible providers can request a one time grant of up to \$50,000
  - Grant dollars can be used for physical plant updates, technical assistance needed to update business models and reimbursement for eligible costs.
- Exception expanded to Customized Living Setting under the Elderly Waiver: Expands the licensing moratorium exception to customized living services under the elderly waiver plan. The language also removes the requirement that the setting was licensed before July 1, 2022 in order to be eligible for the exception.
  - This exception is available until December 31, 2023
  - Effective Date: The day following enactment
- Language states that providers who received ineligible payments for customized living services under the CADI and BI waiver for people under the age of 55 who were not residing in the setting before January 11, 2021 must not be required to repay ineligible payments related to the age restrictions for customized living services between January 11, 2021 and July 1, 2023.
  - Effective Date: July 1, 2023
- All rates and rate components for CADI Customized Living and BI Customized Living must be the sum of 29.6% (previously 10%) of the rates calculated under sections 256S.211 to 256S.15 and 70.4% (previously 90%) of the rates calculated using the rate methodology in effect as of June 30, 2017.
  - Effective Date: January 1, 2024, or upon federal approval, whichever is later

## CDCS

- CDCS budgets will be increased by 8.49%
  - Effective January 1, 2024, or upon federal approval, whichever is later
- CDCS budgets will be increased by 4.53%
  - Effective January 1, 2025, or upon federal approval, whichever is later

## Acute Care Transition Advisory Council

- Establishes an Acute Care Transition Advisory Council to develop an action plan to create a systematic approach to acute care transitions for Minnesotans. The plan must include recommendations to improve regional capacity, recommendations for a measurement and evaluation system and a statewide strategy for improving access to transitioning from acute care settings.
  - The council expires October 2, 2024, or one day after submitting the action plan, whichever is earlier







# Human Services

## Licensing

- For suspensions issues to a licensed residential program as defined in 245A.02, subdivision 14, the effective date of the suspension may be delayed up to 30 days to ensure continuity of care for service recipients.
  - The suspension order will take effect when all service recipients have been transitioned to a new service provider, or 30 days after the order is issued, whichever is sooner.
  - Effective Date: July 1, 2023
- For a license holder that operates several sites under a single license a suspension order must be specific to the service site or sites, the suspension order must not apply to other service sites operated by the same license holder.
  - Effective Date: July 1, 2023


## Direct Care and Treatment

- Language creates the Department of Direct Care and Treatment
  - The department will include specialized inpatient programs at secure treatment facilities, community preparation services, regional treatment centers, enterprise services, consultative services, aftercare services, community-based services and programs, transition services and nursing services.
  - Effective Date: January 1, 2025



# Education

## K-12 Omnibus Education Bill

- Allows students in grades 11 or 12 to earn up to two elective credits each year toward graduation for working in one of the following:
    - Long-term care or licensed assisted living facility
    - Home and Community-Based services and supports provider.
    - Hospital or health system clinic
    - Childcare center
    - Effective Date: 2023-2024 school year and later
- 

# Human Service Policy

## Department Changes

- Establishes the Department of Human Services systemic critical incident review team.
  - “When reviewing a critical incident, the systemic critical incident review team shall identify systemic influences to the incident rather than determine the culpability of any actors involved in the incident.”
  - The systemic critical incident review will not replace the process for screening or investigating cases of alleged maltreatment.
  - By October 1 of each year, the commissioner will prepare an annual public report that includes the following information:
    - The number of cases reviewed.
    - An aggregate summary of the systemic themes
    - A synopsis of the conclusions
    - Recommendations made that could decrease the number and severity of critical incidents.
  - Effective Date: Day following final enactment.

## Statutory Language Changes

- Home and Community-Based Settings language added to MN Statutes 256B.492
  - Definitions of “Community-living setting,” “Controlling Individual” and “License Holder.”
  - Language further defines what direct and in-direct financial interest is defined to mean.
  - Language adds that process of co-signing a lease with an individual and the extension request requirements to 256B.492.



*ARRM Board Member and Hiawatha Homes CEO Cindy Ostrowski testifies with Rep. Kim Hicks on February 6, 2023.*



# HHS Finance

## Background Study Changes:

- For individuals without a driver's license or state identification card, they will be able to present an acceptable form of identification as determined by the commissioner.
  - Effective Date: July 1, 2023
- An entity must update contact information in NETStudy 2.0 for a background study subject on the entity's roster any time the entity receives new contact information from the study subject.
  - Effective Date: July 1, 2023
- The background study subject shall access background study-related documents electronically in the applicant portal. A background study subject may request for the commissioner to grant a variance to the requirement to access documents electronically in the NETStudy 2.0 applicant portal and may also request paper documentation of their background studies.
  - Effective Date: November 1, 2024
- Background study fees will increase from \$42 to \$44
  - Effective Date: July 1, 2023
- New language added to the 15-year and 5-year disqualification criteria
  - Effective Date: Effective for background studies requested on or after August 1, 2024
- Language allows the commissioner to increase background study fees as necessary, commensurate with an increase in state Bureau of Criminal Apprehension or the national criminal history record check fees.
  - Effective Date: July 1, 2023



Disability advocates fill the Minnesota State Capitol rotunda during Disability Services Day at the Capitol on March 28, 2023.

# Employment



## **Paid Family Leave**

- A family and medical benefit insurance program is created the day following final enactment of the legislation.
  - Payments of benefits begin on January 1, 2026
  - Benefits can be taken for up to 20 weeks.
  - Effective Date: November 1, 2025
- Employers may apply to the commissioner for approval to meet their obligations under the family and medical benefit insurance program through the substitution of a private plan that provides paid family, paid medical, or paid family and medical benefits.
- Employer premium rates begin on January 1, 2026
  - For an employer participating in both family and medical programs, the rate is 0.7%
  - Beginning January 1, 2026 and by July 31 of each year thereafter, the commissioner must adjust the rate using a formula laid out in statute. In no year shall the annual premium rate exceed 1.2%
  - Employers must pay a minimum of 50% of the annual premiums. Employees, through a deduction in their wages to the employer, must pay the remaining portion, if any of the premium not paid by the employer.
- Small Business Assistance Grants are established for employers with 30 or fewer employees and less than \$3 million in gross annual revenues.
  - Grants may be approved for up to \$3,000 to hire temporary workers or increase another existing worker's wages to substitute for an employee on leave.
  - An employer may receive up to \$5,000 in grants per calendar year
  - Effective Date: January 1, 2026
- \$20 million is allocated to the HCBS Workforce Incentive Fund in Fiscal Year 2026 to provide reimbursement for premiums incurred for Direct Care Providers.
  - This is a one-time appropriation available until June 30, 2027





# Employment

## Earned Sick and Safe Time

- Mandates an employee accrues a minimum of one hour of earned sick and safe time for every 30 hours worked up to a maximum of 48 hours of earned sick and safe time in a year. Employees may not accrue more than 48 hours of earned sick and safe time in a year unless the employer agrees to a higher amount.
- An employee may carry over accrued but unused sick and safe time into the following year, not to exceed 80 hours at any time, unless the employer agrees to a higher amount.
  - In lieu of permitting the carryover of accrued but unused sick and safe time into the following year, an employer may provide an employee with earned sick and safe time for the year that meets or exceeds the requirements of this law that is available for the employee's immediate use at the beginning of the subsequent year as follows:
    - 48 hours, if an employer pays an employee for accrued but unused sick and safe time at the end of a year at the same hourly rate as an employee earns from employment or
    - 80 hours if an employer does not pay an employee for accrued but unused sick and safe time at the end of a year at the same or greater hourly rate as an employee earns from employment.
  - Eligible uses for sick and safe time include:
    - Mental or physical illness, injury or other health condition
    - Need for medical diagnosis, care or treatment
    - Need for preventative medical or health care
    - Care of a family member
    - Absence due to domestic abuse, sexual assault or stalking of the employee or employee's family member
    - Closure of the employee's place of business due to weather or other public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency
    - The employee's inability to work or telework because the employee is prohibited from working by the employer due to health concerns related to potential transmission of a communicable illness or seeking or awaiting the results of a diagnostic test.
  - Earned sick and safe time may be used in the smallest increment of time tracked by the employer's payroll system, provided such increment is not more than four hours.
  - Employers must give notice to all employees that they are entitled to earned sick and safe time

# Of Interest

## Cannabis

- Legalizes adult use of cannabis for individual 21 or older
- An employer may not refuse to hire a job applicant or discipline or discharge an employee because of lawful consumption of cannabis
  - The employer does have the ability to discipline or discharge an employee for cannabis use, procession, impairment, sale, or transfer during working hours, on working premises or while operating an employer's vehicle.
- An employer may request or require an employee to undergo cannabis testing if the employer has a reasonable suspicion that the employee:
  - Is under the influence of drugs or alcohol
  - Has violated the employer's written work rules prohibiting the use, procession, sale or transfer of cannabis products
- An employer must not request or require a job applicant to undergo cannabis testing solely for the purpose of determining the presence or absence of cannabis as a condition of employment.
- For the following positions, cannabis is considered a drug and subject to the drug and alcohol testing provisions:
  - a safety sensitive position
  - a peace officer position
  - a firefighter position
  - a position requiring face-to-face care, training, education, supervision, counseling, consultation, or medical assistance to:
    - Children
    - Vulnerable Adults
    - Patients who receive health care services from a provider for the treatment, examination, or emergency care of a medical, psychiatric, or mental condition
  - A position requiring a commercial driver's license
  - A position of employment funded by a federal grant
- For Medical Cannabis language establishes a patient registry program
  - If the patient requires assistance in administering medical cannabis flower or medical cannabinoid products or in obtaining medical cannabis flower, medical cannabinoid products or medical cannabis paraphernalia a designated caregiver must be registered.
    - The designated caregiver cannot serve as the designated caregiver for more than six registered patients at one time. Patients who reside in the same residence count as one patient.