

07 - 0315

MINNESOTA  
DEPARTMENT  
OF  
HUMAN  
SERVICES

DISABILITY  
SERVICES  
DIVISION

*Creating  
Service Options  
and Choice  
In  
Homes and  
Communities*

**The Appropriateness Of  
Per Diem Rates and  
Reasonableness for Lower  
Costs Rates for  
Day Training and  
Habilitation Services**

*A Report to the Minnesota Legislature*

March, 2007

For more information, contact:

Minnesota Department of Human Services  
Disability Services Division  
P.O. Box 6497  
St. Paul, MN 55164-0967  
(651) 431-2428

This information is available in other forms  
(such as Braille, large print or audiotape) by calling:

(651) 431-2428

Or contact us through the Minnesota Relay Service at:

1 (800) 627-3529 (TTY)  
1 (877) 627-3848 (speech-to-speech relay service)

The estimated cost of preparing this report is less than \$5,000.

*Printed with a minimum of 10 percent post-consumer material. Please recycle.*

## **I. Introduction**

This report was prepared for the legislature of the State of Minnesota in accordance with Laws of Minnesota 2006, chapter 282, article 22, section 2, subd. 4, (b) which states: The commissioner of the department of human services shall review the appropriateness of per diem rates for day training and habilitation services, including the reasonableness of rates paid to lower cost providers, and report the results to the legislature by January 15, 2007.

## II. Background

Day Training and Habilitation (DT&H) services provide adults with developmental and physical disabilities the training and supports needed to participate in employment and community activities. Service needs are identified by the county via a comprehensive assessment and planning process leading to the development of an Individual Service Plan (ISP). A DT&H provider then develops a support plan based on the ISP through which the individual may access needed services. The following list represents potential services that an individual may access:

1. Employment or work;
2. Self-care;
3. Communication skills;
4. Socialization;
5. Community orientation;
6. Transportation needs;
7. Emotional development;
8. Development of adaptive behavior;
9. Cognitive development; and/or
10. Physical mobility

DT&H services have existed for over 40 years in Minnesota. Currently there are more than 290 licensed vendors providing services to more than 13,000 persons with both developmental and physical disabilities as well as chronic health conditions. DT&H vendors must provide a minimum of 195 available service days per year.

In the 1980's, the Department instituted a payment rate structure based upon historical costs of each DT&H vendor. A daily program and transportation rate was established for each program based on the average cost to serve the individual in the program. Individuals living in Intermediate Care Facilities for Mentally Retarded (ICFs/MR) and individuals enrolled in Home and Community-based Waiver programs receive Medicaid funding for DT&H services. Individuals not funded by Medicaid are funded by counties using local tax dollars.

The legislature during the last several years has provided cost of living increases, however these rate enhancements may not be adequate to cover increased individual service needs and have not been consistently available based on budgetary constraints. A provider may seek a rate increase, however, the ability of the county to approve an increase may be limited due to the lack of available budget resources. Providers can request a time limited individual rate increase from the Department due to the increased needs of an individual. These special need rate exceptions (Rule 186) are available for persons residing in an ICF/MR or receiving waiver services and are limited to a maximum of one year.

### III. Rate Analysis Methodology

Staff from the Disability Services Division (DSD) conducted an analysis of per diem rates using two investigative strategies designed to obtain information regarding reasonableness and appropriateness. The first strategy incorporated an analysis of per diem rates that incorporated comparisons of regional and statewide rate ranges and median rates. The second strategy incorporated a comprehensive review of both historical and current information using peer and outside expert group evaluation (construct validity) reports and data obtained from surveys, licensing actions, appeals and general observations.

#### I. Comparison Analysis of Current Per Diem Rates

The following data provides a summary of regional (see attachment A for counties by region) and statewide comparison rates. Per diem was calculated using actual full day and partial day units (partial day is counted as  $\frac{3}{4}$  of the full day rate) of service data reported by DT&H providers in 2005. The per diem rate also includes the transportation rate.

#### **Regional Average Per Diem Rates**

<b>Region</b>	<b>Average Per Diem Rate</b>	<b>80% of Average Per Diem Rate</b>
01	\$72.89	\$58.31
02	\$71.85	\$57.48
03	\$76.83	\$61.46
04	\$71.07	\$56.86
05	\$72.42	\$57.94
06	\$64.80	\$51.84
07	\$74.78	\$59.82
08	\$63.56	\$50.85
09	\$72.39	\$57.91
10	\$83.21	\$67.13
11	\$92.18	\$73.74

#### Statewide DT&H Per Diem Rates

Weighted Statewide Average Per Diem Rate:	\$79.46
80 % of Weighted Statewide Per Diem Rate:	\$63.56
Median Statewide Per Diem Rate:	\$74.18
Statewide Range of Per Diem Rates	\$36.98 to \$135.15

It should be noted that staffing serves as the primary expense for DT&H providers. As expected, staffing ratios vary even within programs depending on the activity occurring during that time of the day; however, generally a 1:6 ratio must be maintained to insure health and safety. Ratios can range from a high of 2:1 staffing per individual based on intensive behavioral needs to a low of 1: 6 for support/supervision that could be classified as monitoring with verbal reminders.

The next table below provides a comparison by region of those providers with per diems less than 80% of the state median. Data from this comparison shows that 17% of DT&H providers receive a per diem less than 80% of the state wide average. Region 10 was the only region with all providers above the statewide median and Region 6 had the highest percentage (61%) of providers below the statewide average.

### **Number of DT&H Providers by Region < Median Rate**

<b>Region</b>	<b>Number of DT&amp;H &lt; Median Rate</b>	<b>Total Providers in Region</b>
01	1	9
02	1	6
03	5	19
04	4	16
05	2	14
06	11	18
07	4	20
08	6	15
09	8	23
10	0	26
11	<u>2</u>	<u>91</u>
Totals	44	257

### II. Comparison Analysis Using Peer and Outside Expert Review, Negative Licensing Actions, Appeals and Serious Injury/Death Reports

The legislature has directed DHS to evaluate DT&H rate structures dating back to 1987. The Department with input from county staff, persons with disabilities, advocacy organization, professional organizations, DT&H providers, and contracted national vendors have convened several workgroups whose task was to evaluate the appropriateness of DT&H payment structures. In addition, the Department has collected data from counties and from other sources to assess program effectiveness as well as seeking strategies to enhance choice, flexibility and while maintaining health and safety. The following is a brief summary of those efforts:

### 1. Past Workgroup Analysis

The Legislature has directed DHS to explore rate mythology strategies that better meet the needs of persons with disabilities by creating workgroups and contracts that would evaluate current rate methodology. Findings from those efforts over a five year period support the need to change the DT&H rate structure based on feedback from the various workgroups, however as expected, differing suggestions have emerged on how to accomplish the restructuring effort. The findings of the various reports, study groups and contractor studies included:

- Address immediately current system barriers that restrict both provider flexibility in meeting changing consumer needs and choices;
- Current DT&H rate inequities should be addressed;
- Implement recommended pilot payment and rate restructure projects; and
- Support the concept of the maximization of federal financial participation through funding of DT&H service by Medicaid funds vs. county property tax revenues.

### 2. Host County Redetermination of Need

In 2005, host counties of DT&H providers completed a redetermination of need for this service. Counties identified the lack of rate structure flexibility as a primary barrier and identified the following as extremely important needs which again is consistent with past workgroup recommendations:

- Increase number of employment opportunities
- Increase wages of consumers
- Increase habilitation tasks
- Expansion of in-house employment opportunities
- Expansion of community employment placements
- Improvement on transportation (cost coverage and collaboration)
- Address staffing issues (hiring, retention)
- Increase service capacity
- Development of new services during the day
- Development of services during the day for seniors
- Address the issue of retirement
- Expansion of employment opportunities in the community
- Increase number of consumers in community employment

### 3. The Lewin Group Inc. Study

The Lewin Group, Inc. was hired by Minnesota's Department of Human Services Disability Services Division in 2006 to conduct a statewide review of the vocational and employment services for individuals with disabilities that are funded through the state's Home and Community-Based Service (HCBS) waivers, with particular focus on Day Training and Habilitation (DT&H). To provide a broader context for how the county-based system operates in Minnesota, the study also considers how employment supports for individuals with disabilities are funded at the federal and state level.

Results of that study identified similar barriers, but also recognized the need for any new payment system to reflect services most important to consumers, those being creating innovative employment opportunities. Once expertise in the provider community is established, build a rate structure that promotes capacity and choice in the system. Meaningful choice for consumers should include a broad array of employment services for those individuals with complex needs (e.g., linguistic minorities, acute medical needs, complex behaviors) to supports that maintain a person through retirement age. see report at [http://www.dhs.state.mn.us/main/dhs\\_id\\_057670.pdf](http://www.dhs.state.mn.us/main/dhs_id_057670.pdf)

Review of Minnesota's Vocational and Employment Services for Individuals with Disabilities: Focus on Day Training and Habilitation, (February 2006)

#### 4. Study of Negative Licensing Actions, and Appeals

Data regarding negative DT&H licensing actions, appeals, and serious injury and death reports was reviewed and did not reveal any trends or specific issues which would indicate any pattern of lack of funding related to lack of service. The primary area that requires improvement relates to the need for DT&H providers to enhance training opportunities for staff. This could be interpreted to be related to lack of funding because of the time needed to train when staff are required to provide supervision. Providers have reported that they would like to be able to mentor new staff, however the lack of funds makes this option difficult.

A study of appeals data for persons in DT&H also did not reveal any trends in disputes regarding the failure to provide needed DT&H services. It should be noted that several appeals occurred regarding disputes related to the need to receive full day versus partial DT&H services.

### III. Conclusion

This legislative report identifies regional differences in rates as well as the numerous attempts to consider alternative methodologies for a new DT&H rate system restructuring. As documented, attempts at rate restructuring have encountered barriers to implementation which include the lack of a clear strategy to achieve consensus on how to develop and implement a new rate structure as well as limited federal, state and county funds to achieve all the desired changes.

In an attempt to develop a rate methodology and implementation strategy that address previously identified barriers, DSD has developed a new day services and supports payment structure model Request for Proposal that is intended to address rate restructuring. The selected contractor/vendor will be charged with developing a new payment structure model that can be implemented in Minnesota. Day services, including DT&H, will be included in this new payment structure model. The new payment structure model recommendation will be completed by December 31, 2008.

Finally, DSD is planning a five part state wide video-conferencing series directed at innovations in supporting employment. This series will serve to promote supporting innovative employment strategies as well as recommending policy changes to better support persons with disabilities who want to work. This series is also intended to create

motivation and interest in seeking out work rather than activities provided during the day that limit opportunities to earn income. This five part series will build on the recommendations of the 2006 Lewin Group report which provided DHS with an excellent summary of both opportunities as well as barriers to Minnesota's current DT&H system. The report concluded that several key components of the service delivery system must support innovation.

# Attachment A

## COUNTIES BY REGION

### Region 1

Kittson  
Marshall  
Norman  
Pennington  
Polk  
Red Lake  
Roseau

### Region 2

Beltrami  
Clearwater  
Hubbard  
Lake of the Woods  
Mahnomn

### Region 3

Aitkin  
Carlton  
Cook  
Itasca  
Koochiching  
Lake  
St. Louis

### Region 4

Becker  
Clay  
Douglas  
Grant  
Otter Tail  
Pope  
Stevens  
Traverse  
Wilkin

### Region 5

Cass  
Crow Wing  
Morrison  
Todd  
Wadena

### Region 6

Big Stone  
Chippewa  
Kandiyohi  
Lac Qui Parle  
Meeker  
McLeod  
Renville  
Swift  
Yellow Medicine

### Region 7

Benton  
Chisago  
Isanti  
Kanabec  
Mille Lacs  
Pine  
Sherburne  
Stearns  
Wright

### Region 8

Cottonwood  
Jackson  
Lincoln  
Lyon  
Murray  
Nobles  
Pipestone  
Redwood  
Rock

### Region 9

Blue Earth  
Brown  
Faribault  
LeSeuer  
Martin  
Nicollet  
Sibley  
Waseca  
Watowwan

### Region 10

Dodge  
Fillmore  
Freeborn  
Goodhue  
Houston  
Mower  
Olmsted  
Rice  
Steele  
Wabasha  
Winona

### Region 11

Anoka  
Carver  
Dakota  
Hennepin  
Ramsey  
Scott  
Washington