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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **3573**

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to human services; revising requirements for county-based purchasing
1.3 for state health care programs; requiring a mandated report; amending Minnesota
1.4 Statutes 2006, sections 256B.69, subdivision 3a; 256B.692, subdivisions 1, 2, 7;
1.5 Laws 2005, First Special Session chapter 4, article 8, section 84, as amended.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2006, section 256B.69, subdivision 3a, is amended to
1.8 read:

1.9 Subd. 3a. **County authority.** (a) The commissioner, when implementing the general
1.10 assistance medical care, MinnesotaCare, or medical assistance prepayment program and
1.11 other prepaid health care programs administered by the commissioner of human services
1.12 within a county, must include the county board in the process of development, approval,
1.13 and issuance of the request for proposals to provide services to eligible individuals
1.14 within the proposed county. County boards must be given reasonable opportunity to
1.15 make recommendations regarding the development, issuance, review of responses, and
1.16 changes needed in the request for proposals. The commissioner must provide county
1.17 boards the opportunity to review each proposal based on the identification of community
1.18 needs under chapters 145A and 256E and county advocacy activities. If a county board
1.19 finds that a proposal does not address certain community needs, the county board and
1.20 commissioner shall continue efforts for improving the proposal and network prior to the
1.21 approval of the contract. The county board shall make recommendations regarding the
1.22 approval of local networks and their operations to ensure adequate availability and access
1.23 to covered services. The provider or health plan must respond directly to county advocates
1.24 and the state prepaid medical assistance ombudsperson regarding service delivery and
1.25 must be accountable to the state regarding contracts with medical assistance and general

2.1 assistance medical care funds. The county board may recommend a maximum number of
2.2 participating health plans after considering the size of the enrolling population; ensuring
2.3 adequate access and capacity; considering the client and county administrative complexity;
2.4 and considering the need to promote the viability of locally developed health plans. The
2.5 county board or a single entity representing a group of county boards and the commissioner
2.6 shall mutually select health plans for participation at the time of initial implementation of
2.7 the state prepaid ~~medical assistance program~~ health care programs in that county or group
2.8 of counties and at the time of contract renewal. The commissioner shall also seek input
2.9 for contract requirements from the county or single entity representing a group of county
2.10 boards at each contract renewal and incorporate those recommendations into the contract
2.11 negotiation process. ~~The commissioner, in conjunction with the county board, shall~~
2.12 ~~actively seek to develop a mutually agreeable timetable prior to the development of the~~
2.13 ~~request for proposal, but counties must agree to initial enrollment beginning on or before~~
2.14 ~~January 1, 1999, in either the prepaid medical assistance and general assistance medical~~
2.15 ~~care programs or county-based purchasing under section 256B.692. At least 90 days~~
2.16 ~~before enrollment in the medical assistance and general assistance medical care prepaid~~
2.17 ~~programs begins in a county in which the prepaid programs have not been established, the~~
2.18 ~~commissioner shall provide a report to the chairs of senate and house committees having~~
2.19 ~~jurisdiction over state health care programs which verifies that the commissioner complied~~
2.20 ~~with the requirements for county involvement that are specified in this subdivision.~~

2.21 (b) At the option of the county board, the board may develop contract requirements
2.22 related to the achievement of local public health goals to meet the health needs of ~~medical~~
2.23 ~~assistance and general assistance medical care~~ enrollees in state prepaid health care
2.24 programs. These requirements must be reasonably related to the performance of health
2.25 plan functions and within the scope of the ~~medical assistance and general assistance~~
2.26 ~~medical care programs'~~ benefit sets. If the county board and the commissioner mutually
2.27 agree to such requirements, the department shall include such requirements in all health
2.28 plan contracts governing the prepaid ~~medical assistance and general assistance medical~~
2.29 ~~care~~ programs in that county at initial implementation of the program in that county and
2.30 at the time of contract renewal. The county board may participate in the enforcement of
2.31 the contract provisions related to local public health goals.

2.32 (c) For counties in which prepaid ~~medical assistance and general assistance medical~~
2.33 ~~care~~ programs have not been established, the commissioner shall not implement those
2.34 programs if a county board submits acceptable and timely preliminary and final proposals
2.35 under section 256B.692, until county-based purchasing is no longer operational in that
2.36 county. For counties in which prepaid ~~medical assistance and general assistance medical~~

3.1 ~~care~~ programs are in existence on or after September 1, 1997, the commissioner must
3.2 terminate contracts with health plans according to section 256B.692, subdivision 5, if
3.3 the county board submits and the commissioner accepts preliminary and final proposals
3.4 according to that subdivision. The commissioner is not required to terminate contracts that
3.5 begin on or after September 1, 1997, according to section 256B.692 until two years have
3.6 elapsed from the date of initial enrollment.

3.7 (d) In the event that a county board or a single entity representing a group of county
3.8 boards and the commissioner cannot reach agreement regarding: (i) the selection of
3.9 participating health plans in that county; (ii) contract requirements; or (iii) implementation
3.10 and enforcement of county requirements including provisions regarding local public
3.11 health goals, the commissioner shall resolve all disputes after taking into account the
3.12 recommendations of a three-person mediation panel. The panel shall be composed of one
3.13 designee of the president of the association of Minnesota counties, one designee of the
3.14 commissioner of human services, and one ~~designee of the commissioner of health~~ person
3.15 selected jointly by the designee of the commissioner of human services and the designee
3.16 of the Association of Minnesota Counties. The person selected must not be an employee
3.17 of either the commissioner of human services or the Association of Minnesota Counties.
3.18 Within a reasonable period of time before the hearing the panelists must be provided all
3.19 documents and information relevant to the mediation. The parties to the mediation must
3.20 be given 30 days' notice of a hearing before the mediation panel.

3.21 (e) If a county which elects to implement county-based purchasing ceases to
3.22 implement county-based purchasing, it is prohibited from assuming the responsibility of
3.23 county-based purchasing for a period of five years from the date it discontinues purchasing.

3.24 ~~(f) Notwithstanding the requirement in this subdivision that a county must agree to~~
3.25 ~~initial enrollment on or before January 1, 1999, the commissioner shall grant a delay in~~
3.26 ~~the implementation of the county-based purchasing authorized in section 256B.692 until~~
3.27 ~~federal waiver authority and approval has been granted, if the county or group of counties~~
3.28 ~~has submitted a preliminary proposal for county-based purchasing by September 1, 1997,~~
3.29 ~~has not already implemented the prepaid medical assistance program before January 1,~~
3.30 ~~1998, and has submitted a written request for the delay to the commissioner by July~~
3.31 ~~1, 1998. In order for the delay to be continued, the county or group of counties must~~
3.32 ~~also submit to the commissioner the following information by December 1, 1998. The~~
3.33 ~~information must:~~

3.34 ~~(1) identify the proposed date of implementation, as determined under section~~
3.35 ~~256B.692, subdivision 5;~~

4.1 ~~(2) include copies of the county board resolutions which demonstrate the continued~~
4.2 ~~commitment to the implementation of county-based purchasing by the proposed date.~~

4.3 ~~County board authorization may remain contingent on the submission of a final proposal~~
4.4 ~~which meets the requirements of section 256B.692, subdivision 5, paragraph (b);~~

4.5 ~~(3) demonstrate actions taken for the establishment of a governance structure~~
4.6 ~~between the participating counties and describe how the fiduciary responsibilities of~~
4.7 ~~county-based purchasing will be allocated between the counties, if more than one county~~
4.8 ~~is involved in the proposal;~~

4.9 ~~(4) describe how the risk of a deficit will be managed in the event expenditures are~~
4.10 ~~greater than total capitation payments. This description must identify how any of the~~
4.11 ~~following strategies will be used:~~

4.12 ~~(i) risk contracts with licensed health plans;~~

4.13 ~~(ii) risk arrangements with providers who are not licensed health plans;~~

4.14 ~~(iii) risk arrangements with other licensed insurance entities; and~~

4.15 ~~(iv) funding from other county resources;~~

4.16 ~~(5) include, if county-based purchasing will not contract with licensed health plans~~
4.17 ~~or provider networks, letters of interest from local providers in at least the categories of~~
4.18 ~~hospital, physician, mental health, and pharmacy which express interest in contracting~~
4.19 ~~for services. These letters must recognize any risk transfer identified in clause (4), item~~
4.20 ~~(ii); and~~

4.21 ~~(6) describe the options being considered to obtain the administrative services~~
4.22 ~~required in section 256B.692, subdivision 3, clauses (3) and (5).~~

4.23 ~~(g) For counties which receive a delay under this subdivision, the final proposals~~
4.24 ~~required under section 256B.692, subdivision 5, paragraph (b), must be submitted at~~
4.25 ~~least six months prior to the requested implementation date. Authority to implement~~
4.26 ~~county-based purchasing remains contingent on approval of the final proposal as required~~
4.27 ~~under section 256B.692.~~

4.28 ~~(h) If the commissioner is unable to provide county-specific, individual-level~~
4.29 ~~fee-for-service claims to counties by June 4, 1998, the commissioner shall grant a delay~~
4.30 ~~under paragraph (f) of up to 12 months in the implementation of county-based purchasing;~~
4.31 ~~and shall require implementation not later than January 1, 2000. In order to receive an~~
4.32 ~~extension of the proposed date of implementation under this paragraph, a county or group~~
4.33 ~~of counties must submit a written request for the extension to the commissioner by August~~
4.34 ~~1, 1998, must submit the information required under paragraph (f) by December 1, 1998;~~
4.35 ~~and must submit a final proposal as provided under paragraph (g).~~

5.1 ~~(i) Notwithstanding other requirements of this subdivision, the commissioner~~
 5.2 ~~shall not require the implementation of the county-based purchasing authorized in~~
 5.3 ~~section 256B.692 until six months after federal waiver approval has been obtained for~~
 5.4 ~~county-based purchasing, if the county or counties have submitted the final plan as~~
 5.5 ~~required in section 256B.692, subdivision 5. The commissioner shall allow the county or~~
 5.6 ~~counties which submitted information under section 256B.692, subdivision 5, to submit~~
 5.7 ~~supplemental or additional information which was not possible to submit by April 1, 1999.~~
 5.8 ~~A county or counties shall continue to submit the required information and substantive~~
 5.9 ~~detail necessary to obtain a prompt response and waiver approval. If amendments to~~
 5.10 ~~the final plan are necessary due to the terms and conditions of the waiver approval, the~~
 5.11 ~~commissioner shall allow the county or group of counties 60 days to make the necessary~~
 5.12 ~~amendments to the final plan and shall not require implementation of the county-based~~
 5.13 ~~purchasing until six months after the revised final plan has been submitted.~~

5.14 (f) The commissioner shall not require that contractual disputes between
 5.15 county-based purchasing entities and the commissioner be mediated by a panel that
 5.16 includes a representative of the Minnesota Council of Health Plans.

5.17 (g) At the request of a county-purchasing entity, the commissioner shall adopt a
 5.18 contract reprourement or renewal schedule under which all counties included in the
 5.19 entity's service area are reprocured or renewed at the same time.

5.20 (h) The commissioner shall provide a written report under section 3.195 to the chairs
 5.21 of the legislative committees having jurisdiction over human services in the senate and the
 5.22 house of representatives describing in detail the activities undertaken by the commissioner
 5.23 to ensure full compliance with this section. The report must also provide an explanation
 5.24 for any decisions of the commissioner not to accept the recommendations of a county or
 5.25 group of counties required to be consulted under this section. The report must be provided
 5.26 at least 30 days prior to the effective date of a new or renewed prepaid or managed care
 5.27 contract in a county.

5.28 Sec. 2. Minnesota Statutes 2006, section 256B.692, subdivision 1, is amended to read:

5.29 Subdivision 1. **In general.** County boards or groups of county boards may elect
 5.30 to purchase or provide health care services on behalf of persons eligible for medical
 5.31 assistance ~~and, MinnesotaCare, general assistance medical care, and other prepaid~~
 5.32 health care programs administered by the commissioner of human services who would
 5.33 otherwise be required to or may elect to participate in the prepaid ~~medical assistance or~~
 5.34 ~~prepaid general assistance medical care~~ state health care programs according to sections
 5.35 256B.69 and 256D.03. Counties that elect to purchase or provide health care under this

6.1 section must provide all services included in prepaid managed care programs according to
6.2 sections 256B.69, subdivisions 1 to 22, and 256D.03. County-based purchasing under this
6.3 section is governed by section 256B.69, unless otherwise provided for under this section.

6.4 Sec. 3. Minnesota Statutes 2006, section 256B.692, subdivision 2, is amended to read:

6.5 Subd. 2. **Duties of commissioner of health.** (a) Notwithstanding chapters 62D and
6.6 62N, a county that elects to purchase health care services for persons eligible for medical
6.7 assistance and, MinnesotaCare, general assistance medical care, and other prepaid health
6.8 care programs administered by the commissioner of human services in return for a fixed
6.9 sum without regard to the frequency or extent of services furnished to any particular
6.10 enrollee is not required to obtain a certificate of authority under chapter 62D or 62N.
6.11 The county board of commissioners is the governing body of a county-based purchasing
6.12 program. In a multicounty arrangement, the governing body is a joint powers board
6.13 established under section 471.59.

6.14 (b) A county that elects to purchase ~~medical assistance and general assistance~~
6.15 ~~medical~~ health care services under this section must ~~satisfy~~ assure the commissioner of
6.16 health that the requirements for assurance of consumer protection, provider protection,
6.17 and fiscal solvency of chapter 62D, applicable to health maintenance organizations, or
6.18 chapter 62N, applicable to community integrated service networks, will be met.

6.19 (c) A county must also assure the commissioner of health that the requirements of
6.20 sections 62J.041; 62J.48; 62J.71 to 62J.73; 62M.01 to 62M.16; all applicable provisions
6.21 of chapter 62Q, including sections 62Q.075; 62Q.1055; 62Q.106; 62Q.12; 62Q.135;
6.22 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.43; 62Q.47; 62Q.50; 62Q.52 to
6.23 62Q.56; 62Q.58; 62Q.68 to 62Q.72; and 72A.201 will be met.

6.24 (d) All enforcement and rulemaking powers available under chapters 62D, 62J,
6.25 62M, 62N, and 62Q are hereby granted to the commissioner of health with respect to
6.26 counties that purchase ~~medical assistance and general assistance~~ medical health care
6.27 services under this section.

6.28 (e) The commissioner, in consultation with county government, shall develop
6.29 administrative and financial reporting requirements for county-based purchasing programs
6.30 relating to sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and 62N.31,
6.31 and other sections as necessary, that are specific to county administrative, accounting, and
6.32 reporting systems and consistent with other statutory requirements of counties.

6.33 Sec. 4. Minnesota Statutes 2006, section 256B.692, subdivision 7, is amended to read:

7.1 Subd. 7. **Dispute resolution.** In the event the commissioner rejects a proposal
 7.2 under subdivision 6, the county board may request the recommendation of a three-person
 7.3 mediation panel. The commissioner shall resolve all disputes after taking into account
 7.4 the recommendations of the mediation panel. The panel shall be composed of one
 7.5 designee of the president of the Association of Minnesota Counties, one designee of the
 7.6 commissioner of human services, and one ~~designee of the commissioner of health~~ person
 7.7 selected jointly by the designee of the commissioner of human services and the designee
 7.8 of the Association of Minnesota Counties. The person selected must not be an employee
 7.9 of either the commissioner of human services or the Association of Minnesota Counties.
 7.10 Within a reasonable period of time before the hearing the panelists must be provided all
 7.11 documents and information relevant to the mediation. The parties to the mediation must
 7.12 be given 30 days' notice of a hearing before the mediation panel.

7.13 Sec. 5. Laws 2005, First Special Session chapter 4, article 8, section 84, as amended by
 7.14 Laws 2006, chapter 264, section 15, is amended to read:

7.15 Sec. 84. ~~SOLE-SOURCE OR SINGLE-PLAN MANAGED CARE~~
 7.16 **CONTRACT.**

7.17 (a) Notwithstanding Minnesota Statutes, section 256B.692, subdivision 6, clause
 7.18 (1), paragraph (c), the commissioner of human services shall approve a county-based
 7.19 purchasing health plan proposal, submitted on behalf of Cass, Crow Wing, Morrison,
 7.20 Todd, and Wadena Counties, that requires county-based purchasing on a single-plan basis
 7.21 contract if the implementation of the single-plan purchasing proposal does not limit an
 7.22 enrollee's provider choice or access to services and all other requirements applicable to
 7.23 health plan purchasing are satisfied. The commissioner shall continue to use single health
 7.24 plan purchasing arrangements with county-based purchasing entities in the service areas
 7.25 in existence on May 1, 2006, including arrangements for which a proposal was submitted
 7.26 by May 1, 2006, on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, in
 7.27 response to a request for proposals issued by the commissioner 2008. The requirement
 7.28 to continue to use single-plan purchasing arrangements in these counties applies to
 7.29 all managed care or prepaid health care programs administered by the commissioner
 7.30 and applies to procurement or renewal of arrangements, provided the county-based
 7.31 purchasing entity continues to meet the commissioner's contracting requirements that are
 7.32 applicable to county-based purchasing arrangements under chapters 256B and 256D.

7.33 (b) The commissioner shall consider, and may approve, contracting on a
 7.34 single-health plan basis with other county-based purchasing plans, or with other qualified
 7.35 health plans that have coordination arrangements with counties, to serve persons with a

8.1 disability who voluntarily enroll, in order to promote better coordination or integration of
8.2 health care services, social services and other community-based services, provided that all
8.3 requirements applicable to health plan purchasing, including those in Minnesota Statutes,
8.4 section 256B.69, subdivision 23, are satisfied. ~~By January 15, 2007, the commissioner~~
8.5 ~~shall report to the chairs of the appropriate legislative committees in the house and senate~~
8.6 ~~an analysis of the advantages and disadvantages of using single health plan purchasing~~
8.7 ~~to serve persons with a disability who are eligible for health care programs. The report~~
8.8 ~~shall include consideration of the impact of federal health care programs and policies~~
8.9 ~~for persons who are eligible for both federal and state health care programs and shall~~
8.10 ~~consider strategies to improve coordination between federal and state health care programs~~
8.11 ~~for those persons~~ Nothing in this paragraph supersedes or modifies the requirements in
8.12 paragraph (a).

8.13 Sec. 6. **REVISOR'S INSTRUCTION.**

8.14 The revisor of statutes shall codify section 5 as a new subdivision of Minnesota
8.15 Statutes, section 256B.692.