State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE NO. 3663

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

A bill for an act

relating to health; specifying certain aspects of prepaid health plan contracts entered into by the commissioner of human services or county-based purchasing plans; requiring use of certain accounting procedures; providing health care providers and others a right to audit under those contracts; providing for resolution of disputes; amending Minnesota Statutes 2008, section 256B.69, subdivisions 5i, 9, by adding a subdivision.

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

Section 1. Minnesota Statutes 2008, section 256B.69, subdivision 5i, is amended to read:

Subd. 5i. **Administrative expenses.** (a) Managed care plan and county-based purchasing plan administrative costs for a prepaid health plan provided under this section or section 256B.692 must not exceed by more than five percent that prepaid health plan's or county-based purchasing plan's actual calculated administrative spending for the previous calendar year as a percentage of total revenue. The penalty for exceeding this limit must be the amount of administrative spending in excess of 105 percent of the actual calculated amount. The commissioner may waive this penalty if the excess administrative spending is the result of unexpected shifts in enrollment or member needs or new program requirements.

(b) Expenses listed under section 62D.12, subdivision 9a, clause (4), are not allowable administrative expenses for rate-setting purposes under this section, unless approved by the commissioner.

(c) A prepaid health plan must meet a loss ratio of no less than 90 percent, calculated as specified in this paragraph. The loss ratio consists of a numerator consisting only of direct expenses of providing patient care to persons covered under the program, excluding

administrative expenses. The denominator consists of the total amount paid by the commissioner to the prepaid health plan, after subtraction of taxes and other mandatory government assessments directly attributable to the prepaid health plan's participation as a provider in the program being reported on. Payments by the prepaid health plan to unaffiliated third parties or to providers or other entities that own, are owned by, or under common control with the prepaid health plan must be divided into patient care expenses and administrative expenses and included in the appropriate category for determination of the loss ratio.

(d) A bid submitted by a prepaid health plan may include a provision obligating the bidder to provide extra services specified in the bid if necessary to meet the required loss ratio, to the extent that the loss ratio would otherwise exceed 90 percent as the year progresses.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 256B.69, subdivision 9, is amended to read:

Subd. 9. **Reporting.** (a) Each demonstration provider shall submit information as required by the commissioner, including data required for assessing client satisfaction, quality of care, cost, and utilization of services for purposes of project evaluation. The commissioner shall also develop methods of data reporting and collection in order to provide aggregate enrollee information on encounters and outcomes to determine access and quality assurance. Required information shall be specified before the commissioner contracts with a demonstration provider.

(b) Aggregate nonpersonally identifiable health plan encounter data, aggregate spending data for major categories of service as reported to the commissioners of health and commerce under section 62D.08, subdivision 3, clause (a), and criteria for service authorization and service use are public data that the commissioner shall make available and use in public reports. The commissioner shall require each health plan and county-based purchasing plan to provide:

(1) encounter data for each service provided, using standard codes and unit of service definitions set by the commissioner, in a form that the commissioner can report by age, eligibility groups, and health plan; and

(2) criteria, written policies, and procedures required to be disclosed under section 62M.10, subdivision 7, and Code of Federal Regulations, title 42, part 438.210(b)(1), used for each type of service for which authorization is required.

(c) All financial reporting, including administrative expenses, under this section or section 256B.92 must be reported in compliance with Generally Accepted Accounting Principals.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 256B.69, is amended by adding a subdivision to read:

Subd. 9c. **Rights to audit related to the loss ratio.** (a) Within 90 days after the end of each calendar year during the term of provider participation, each prepaid health plan used by the commissioner to provide services under this section or section 256B.692 shall furnish to each provider a statement in reasonable detail setting forth the computation of the total costs and expenses used in the calculation of the minimum loss ratio as well as all administrative expenses incurred in the prior calendar year. At the request of any provider, a prepaid health plan used by the commissioner to provide services under this section or section 256B.692 shall furnish to the provider all records of payments from the commissioner to the prepaid plan, all invoices, receipts, and all other data necessary for the provider to verify the amount of any administrative costs and expenses and the calculation of the minimum loss ratio.

(b) Any provider or group of providers has on its sole expense the right upon 14 days written notice to audit and inspect all of the prepaid health plan's records relating to the costs and expenses which are used in the calculation of the minimum loss ratio; provided, however, that upon the expiration of 24 months following the end of any calendar year, the health plan's records shall be deemed to be conclusive, and the providers have no further rights to audit and inspect them with regard to that calendar year. Appropriate adjustments shall be made for errors in the amount of the computations revealed by an audit or inspection. If an audit or inspection by a provider or group of providers indicates an excess in the amount of administrative costs and expenses by more than 2 percent, the cost incurred by the providers for the audit or inspection shall be paid to the providers by the health plan. If any excess of administrative expense by the plan is discovered by the audit, the prepaid health plan shall pay the amount of the excess above 10 percent to the health care access fund.

(c) Nothing in this subdivision requires the mandatory loss ratio in subdivision 5i to be applied to any prepaid plan's business other than that business awarded by the commissioner unless the prepaid health plan fails to keep a separate and distinct accounting for funds received from the commissioner.

(d) No prepaid health plan used by the commissioner may require any provider to waive this right to audit as a condition of participation with the prepaid health plan. No prepaid health plan may retaliate against any provider for exercising any rights related to the audit described in this subdivision.

(e) If a prepaid health plan and a provider or group of providers do not agree as to the result of an audit or inspection of records conducted under this subdivision, the commissioner shall refer the dispute to the attorney general for resolution. Each party shall pay its own expenses in connection with the process of resolving the dispute.

(f) An enrollee or group of enrollees has the right to conduct an audit and inspection of a prepaid health plan's records in the same basis granted under this subdivision to health care providers.

(g) The commissioner shall reference this subdivision in any request for proposal for services to which this subdivision applies.

EFFECTIVE DATE. This section is effective January 1, 2011.