

S.F. No. 991, as introduced - 87th Legislative Session (2011-2012) [11-1779]

2.1 given as part of the application process for MinnesotaCare or medical assistance under
2.2 section 256B.08, subdivision 1; and

2.3 (3) a statement that a decision to revoke consent for schools to share information
2.4 from education records does not impact a parent's eligibility for MinnesotaCare or medical
2.5 assistance.

2.6 (c) The district shall give the parent or legal representative annual written notice of:

2.7 (1) the district's intent to seek reimbursement from medical assistance or
2.8 MinnesotaCare for individual education plan health-related services provided by the
2.9 district;

2.10 (2) the right of the parent or legal representative to request a copy of all records
2.11 concerning individual education plan health-related services disclosed by the district to
2.12 any third party; and

2.13 (3) the right of the parent or legal representative to withdraw consent for disclosure
2.14 of a child's records at any time without consequence, including consent that was initially
2.15 given as part of the application process for MinnesotaCare or medical assistance under
2.16 section 256B.08, subdivision 1.

2.17 The written notice shall be provided as part of the written notice required by Code of
2.18 Federal Regulations, title 34, section 300.504. The Department of Education must ensure
2.19 that the notice requirements under this paragraph are included in the notice of procedural
2.20 safeguards.

2.21 (d) In order to access the private health care coverage of a child who is covered by
2.22 private health care coverage in whole or in part, a district must:

2.23 (1) obtain annual written informed consent from the parent or legal representative, in
2.24 compliance with subdivision 5; and

2.25 (2) inform the parent or legal representative that a refusal to permit the district
2.26 or state Medicaid agency to access their private health care coverage does not relieve
2.27 the district of its responsibility to provide all services necessary to provide free and
2.28 appropriate public education at no cost to the parent or legal representative.

2.29 (e) If the commissioner of human services obtains federal approval to exempt
2.30 covered individual education plan health-related services from the requirement that private
2.31 health care coverage refuse payment before medical assistance may be billed, paragraphs
2.32 (b), (c), and (d) shall also apply to students with a combination of private health care
2.33 coverage and health care coverage through medical assistance or MinnesotaCare.

2.34 (f) In the event that Congress or any federal agency or the Minnesota legislature
2.35 or any state agency establishes lifetime limits, limits for any health care services,
2.36 cost-sharing provisions, or otherwise provides that individual education plan health-related

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3.1 services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the
3.2 amendments to this subdivision adopted in 2002 are repealed on the effective date of any
3.3 federal or state law or regulation that imposes the limits. In that event, districts must
3.4 obtain informed consent consistent with this subdivision as it existed prior to the 2002
3.5 amendments and subdivision 5, before seeking reimbursement for children enrolled in
3.6 medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have
3.7 no other health care coverage.

3.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.9 Sec. 2. Minnesota Statutes 2010, section 125A.21, subdivision 3, is amended to read:

3.10 Subd. 3. **Use of reimbursements.** Of the reimbursements received, districts may:

3.11 (1) retain an amount sufficient to compensate the district for its administrative costs
3.12 of obtaining reimbursements;

3.13 (2) regularly obtain from education- and health-related entities training and other
3.14 appropriate technical assistance designed to improve the district's ability to ~~determine~~
3.15 ~~which services are reimbursable and to seek timely reimbursement in a cost-effective~~
3.16 ~~manner~~ access third-party payments for individualized education program health-related
3.17 services; or

3.18 (3) reallocate reimbursements for the benefit of students with ~~special needs~~
3.19 individualized education programs or individual family service plans in the district.

3.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.21 Sec. 3. Minnesota Statutes 2010, section 125A.21, subdivision 5, is amended to read:

3.22 Subd. 5. **Informed consent.** When obtaining informed consent, consistent with
3.23 sections 13.05, subdivision 4a, ~~and~~, 256B.77, subdivision 2, paragraph (p), and Code of
3.24 Federal Regulations, title 34, parts 99 and 300, to bill health plans for covered services, the
3.25 school district must notify the legal representative (1) that the cost of the person's private
3.26 health insurance premium may increase due to providing the covered service in the school
3.27 setting, (2) that the school district may pay certain enrollee health plan costs, including
3.28 but not limited to, co-payments, coinsurance, deductibles, premium increases or other
3.29 enrollee cost-sharing amounts for health and related services required by an individual
3.30 service plan, or individual family service plan, and (3) that the school's billing for each
3.31 type of covered service may affect service limits and prior authorization thresholds. The
3.32 informed consent may be revoked in writing at any time by the person authorizing the
3.33 billing of the health plan.

4.1 EFFECTIVE DATE. This section is effective the day following final enactment.

4.2 Sec. 4. Minnesota Statutes 2010, section 125A.21, subdivision 7, is amended to read:

4.3 Subd. 7. **District disclosure of information.** A school district may disclose
4.4 information contained in a student's individual education plan, consistent with section
4.5 13.32, subdivision 3, paragraph (a), and Code of Federal Regulations, title 34, part 99;
4.6 including records of the student's diagnosis and treatment, to a health plan company only
4.7 with the signed and dated consent of the student's parent, or other legally authorized
4.8 individual. The school district shall disclose only that information necessary for the health
4.9 plan company to decide matters of coverage and payment. A health plan company may
4.10 use the information only for making decisions regarding coverage and payment, and for
4.11 any other use permitted by law.

4.12 EFFECTIVE DATE. This section is effective the day following final enactment.

4.13 Sec. 5. THIRD-PARTY BILLING.

4.14 To allow the cost-effective billing of medical assistance for covered services that
4.15 are not reimbursed by other legally liable third parties, the commissioner of human
4.16 services must:

4.17 (1) summarize and document school district efforts to secure reimbursement from
4.18 legally liable third parties; and

4.19 (2) request initial and continuing waiver of the requirement to seek payment from a
4.20 student's private health plan as allowed in Code of Federal Regulations, title 42, section
4.21 433.139, chapter IV, part 433, based on the determination that this requirement is not
4.22 cost-effective from the Centers for Medicare and Medicaid Services to allow school
4.23 districts to bill Medicaid alone, without first billing private payers, when a child has
4.24 both public and private coverage.

4.25 EFFECTIVE DATE. This section is effective the day following final enactment.