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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **3710**

02/24/2020 Authored by Mann, Morrison, Edelson, Acomb and Richardson
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; modifying and expanding medical assistance coverage of tobacco
1.3 and nicotine cessation treatment; amending Minnesota Statutes 2018, sections
1.4 256B.0625, by adding a subdivision; 256B.0631, subdivision 1; 256L.03,
1.5 subdivision 5.

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

1.7 Section 1. Minnesota Statutes 2018, section 256B.0625, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 67. Tobacco and nicotine cessation. (a) Medical assistance covers tobacco and
1.10 nicotine cessation services, drugs to treat tobacco and nicotine addiction or dependence,
1.11 and drugs to help individuals discontinue use of tobacco and nicotine products. Coverage
1.12 of services and drugs must be both as provided in this subdivision and must be consistent
1.13 with evidence-based or evidence-informed best practices.

1.14 (b) In-person individual and group tobacco and nicotine cessation education and
1.15 counseling services are covered if provided by a health care practitioner whose scope of
1.16 practice encompasses tobacco and nicotine cessation education and counseling. Service
1.17 providers include but are not limited to the following:

- 1.18 (1) mental health practitioners under section 245.462, subdivision 17;
1.19 (2) mental health professionals under section 245.462, subdivision 18;
1.20 (3) mental health certified peer specialists under section 256B.0615;
1.21 (4) alcohol and drug counselors licensed under chapter 148F;
1.22 (5) recovery peers as defined in section 245F.02, subdivision 21;

2.1 (6) certified tobacco treatment specialists;

2.2 (7) community health workers;

2.3 (8) physicians;

2.4 (9) physician assistants;

2.5 (10) advanced practice registered nurses; or

2.6 (11) other licensed or nonlicensed professionals or paraprofessionals with training in
2.7 providing tobacco and nicotine cessation education and counseling services.

2.8 (c) Both telephone cessation counseling services provided through a quitline service
2.9 operated by or under contract with a participating entity, and statewide quitline services
2.10 operated by or under contract with the commissioner of health under section 144.397 are
2.11 covered. Payments for quitline services must be made at a payment rate or level of funding
2.12 established by the commissioner, in consultation with the commissioner of health, consistent
2.13 with federal match requirements for state administrative and claims costs. The commissioner,
2.14 after consultation with the commissioner of health, may elect to provide all telephone
2.15 cessation counseling services through the statewide quitline service operated by or under
2.16 contract with the commissioner of health under section 144.397.

2.17 (d) All prescription and over-the-counter pharmacotherapy drugs approved by the United
2.18 States Food and Drug Administration for cessation of tobacco and nicotine use or treatment
2.19 of tobacco and nicotine dependence, and which are subject to a Medicaid drug rebate
2.20 agreement, are covered.

2.21 (e) Services covered under this subdivision may be provided by telemedicine.

2.22 (f) The commissioner must not:

2.23 (1) restrict or limit the type, duration, or frequency of tobacco and nicotine cessation
2.24 services;

2.25 (2) prohibit the simultaneous use of multiple cessation services including but not limited
2.26 to simultaneous use of counseling and drugs;

2.27 (3) require counseling prior to receiving drugs or as a condition of receiving drugs;

2.28 (4) limit pharmacotherapy drug dosage amounts or frequency, or impose duration or
2.29 quantity limits;

2.30 (5) prohibit simultaneous use of multiple drugs including prescription and
2.31 over-the-counter drugs;

3.1 (6) require or authorize step therapy; or

3.2 (7) require or utilize prior authorization or require a co-payment or deductible for any
 3.3 tobacco and nicotine cessation services and drugs covered under this subdivision.

3.4 (g) The commissioner must require all participating entities under contract with the
 3.5 commissioner to comply with this subdivision when providing coverage, services, or care
 3.6 management for medical assistance and MinnesotaCare enrollees. For purposes of this
 3.7 subdivision, "participating entity" means any of the following: a health carrier as defined
 3.8 in section 62A.011, subdivision 2; a county-based purchasing plan established under section
 3.9 256B.692; an accountable care organization or other entity participating as an integrated
 3.10 health partnership under section 256B.0755; an entity operating a county integrated health
 3.11 care delivery network pilot project authorized under section 256B.0756; a network of health
 3.12 care providers established to offer services under medical assistance or MinnesotaCare; or
 3.13 any other entity that has a contract with the commissioner to cover, provide, or manage
 3.14 health care services provided to medical assistance or MinnesotaCare enrollees on a capitated
 3.15 or risk-based payment arrangement or under a reimbursement methodology with substantial
 3.16 financial incentives to reduce the total cost of health care for a population of patients that
 3.17 is enrolled with or assigned or attributed to the entity.

3.18 Sec. 2. Minnesota Statutes 2018, section 256B.0631, subdivision 1, is amended to read:

3.19 Subdivision 1. **Cost-sharing.** (a) Except as provided in subdivision 2, the medical
 3.20 assistance benefit plan ~~shall~~ must include the following cost-sharing for all recipients,
 3.21 effective for services provided on or after September 1, 2011:

3.22 (1) \$3 per nonpreventive visit, except as provided in paragraph (b) and except that a
 3.23 co-payment must not apply to tobacco and nicotine cessation services covered under section
 3.24 256B.0625, subdivision 67. For purposes of this subdivision, a visit means an episode of
 3.25 service which is required because of a recipient's symptoms, diagnosis, or established illness,
 3.26 and which is delivered in an ambulatory setting by a physician or physician assistant,
 3.27 chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or
 3.28 optometrist;

3.29 (2) \$3.50 for nonemergency visits to a hospital-based emergency room, except that this
 3.30 co-payment shall be increased to \$20 upon federal approval;

3.31 (3) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject
 3.32 to a \$12 per month maximum for prescription drug co-payments. ~~Co-payments shall~~

4.1 must not apply to antipsychotic drugs when used for the treatment of mental illness.

4.2 Co-payments must not apply to drugs when used for tobacco and nicotine cessation;

4.3 (4) a family deductible equal to \$2.75 per month per family and adjusted annually by
4.4 the percentage increase in the medical care component of the CPI-U for the period of
4.5 September to September of the preceding calendar year, rounded to the next higher five-cent
4.6 increment; and

4.7 (5) total monthly cost-sharing must not exceed five percent of family income. For
4.8 purposes of this paragraph, family income is the total earned and unearned income of the
4.9 individual and the individual's spouse, if the spouse is enrolled in medical assistance and
4.10 also subject to the five percent limit on cost-sharing. This paragraph does not apply to
4.11 premiums charged to individuals described under section 256B.057, subdivision 9.

4.12 (b) Recipients of medical assistance are responsible for all co-payments and deductibles
4.13 in this subdivision.

4.14 (c) Notwithstanding paragraph (b), the commissioner, through the contracting process
4.15 under sections 256B.69 and 256B.692, may allow managed care plans and county-based
4.16 purchasing plans to waive the family deductible under paragraph (a), clause (4). The value
4.17 of the family deductible ~~shall~~ must not be included in the capitation payment to managed
4.18 care plans and county-based purchasing plans. Managed care plans and county-based
4.19 purchasing plans ~~shall~~ must certify annually to the commissioner the dollar value of the
4.20 family deductible.

4.21 (d) Notwithstanding paragraph (b), the commissioner may waive the collection of the
4.22 family deductible described under paragraph (a), clause (4), from individuals and allow
4.23 long-term care and waived service providers to assume responsibility for payment.

4.24 (e) Notwithstanding paragraph (b), the commissioner, through the contracting process
4.25 under section 256B.0756 shall allow the pilot program in Hennepin County to waive
4.26 co-payments. The value of the co-payments ~~shall~~ must not be included in the capitation
4.27 payment amount to the integrated health care delivery networks under the pilot program.

4.28 Sec. 3. Minnesota Statutes 2018, section 256L.03, subdivision 5, is amended to read:

4.29 Subd. 5. **Cost-sharing.** (a) Co-payments, coinsurance, and deductibles do not apply to
4.30 children under the age of 21 and to American Indians as defined in Code of Federal
4.31 Regulations, title 42, section 600.5.

4.32 (b) The commissioner ~~shall~~ must adjust co-payments, coinsurance, and deductibles for
4.33 covered services in a manner sufficient to maintain the actuarial value of the benefit to 94

5.1 percent. The cost-sharing changes described in this paragraph do not apply to eligible
5.2 recipients or services exempt from cost-sharing under state law. The cost-sharing changes
5.3 described in this paragraph shall not be implemented prior to January 1, 2016.

5.4 (c) The cost-sharing changes authorized under paragraph (b) must satisfy the requirements
5.5 for cost-sharing under the Basic Health Program as set forth in Code of Federal Regulations,
5.6 title 42, sections 600.510 and 600.520.

5.7 (d) Cost-sharing must not apply to drugs used for tobacco and nicotine cessation or to
5.8 tobacco and nicotine cessation services covered under section 256B.0625, subdivision 67.