A bill for an act

relating to human services; modifying medical assistance dental coverage; modifying eligibility criteria for the critical access dental program; setting criteria for designating and terminating critical access dental providers; amending Minnesota Statutes 2008, section 256B.76, subdivision 4, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 256B.0625, subdivision 9.

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

Section 1. Minnesota Statutes 2009 Supplement, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. **Dental services.** (a) Medical assistance covers dental services.

(b) Medical assistance dental coverage for nonpregnant adults <u>who are not age 65 or older, blind, or disabled,</u> is limited to the following services:

(1) comprehensive exams, limited to once every five years;

(2) periodic exams, limited to one per year;

(3) limited exams;

(4) bitewing x-rays, limited to one per year;

(5) periapical x-rays;

(6) panoramic x-rays <u>or full-mouth radiographs</u>, limited to one every five years, and only if provided in conjunction with a posterior extraction or scheduled outpatient facility procedure, or as medically necessary for the diagnosis and follow-up of oral and maxillofacial pathology and trauma. Panoramic x-rays may be taken once every two years for patients who cannot cooperate for intraoral film due to a developmental disability or medical condition that does not allow for intraoral film placement;

(7) prophylaxis, limited to one per year;

(8) application of fluoride varnish, limited to one per year;

(9) posterior fillings, all at the amalgam rate;

(10) anterior fillings;

(11) endodontics, limited to root canals on the anterior and premolars only, and molar root canal therapy as deemed medically necessary for patients that are at high risk of osteonecrosis from molar extractions;

(12) removable prostheses, each dental arch limited to one every six years~~;~~ including:

(i) relines of full dentures once every six years;

(ii) repair of acrylic bases of full dentures and acrylic partial dentures; and

(iii) adding a maximum of two denture teeth and two wrought wire clasps per year to partial dentures;

(13) oral surgery, limited to extractions, biopsies, and incision and drainage of abscesses;

(14) palliative treatment and sedative fillings for relief of pain; ~~and~~

(15) full-mouth ~~debridement~~ periodontal scaling and root planing, limited to one every five years; and

(16) sedation, limited to when provided by a board-certified or board-eligible oral maxillofacial surgeon when medically necessary to allow the surgical management of acute oral and maxillofacial pathology which cannot be accomplished safely with local anesthesia alone and would otherwise require operating room services.

(c) In addition to the services specified in paragraph (b), medical assistance covers the following services for adults, if provided in an outpatient hospital setting or freestanding ambulatory surgical center as part of outpatient dental surgery:

(1) periodontics, limited to periodontal scaling and root planing once every two years;

(2) general anesthesia; and

(3) full-mouth survey once every ~~five~~ two years.

(d) Medical assistance covers dental services for children that are medically necessary. The following guidelines apply:

(1) posterior fillings are paid at the amalgam rate;

(2) application of sealants once every five years per permanent molar; and

(3) application of fluoride varnish once every six months.

Sec. 2. Minnesota Statutes 2008, section 256B.76, subdivision 4, is amended to read:

Subd. 4. **Critical access dental providers.** Effective for dental services rendered on or after January 1, 2002, the commissioner shall increase reimbursements to dentists

and dental clinics deemed by the commissioner to be critical access dental providers. For dental services rendered on or after July 1, 2007, the commissioner shall increase reimbursement by 30 percent above the reimbursement rate that would otherwise be paid to the critical access dental provider. The commissioner shall pay the health plan companies in amounts sufficient to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare ~~as their primary source of coverage~~, with at least 40 percent patient encounters from patients enrolled in these programs; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within ~~the~~ a geographic service area, and to ensure that the maximum travel distance or travel time is the lesser of 60 miles or 60 minutes.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.

Sec. 3. Minnesota Statutes 2008, section 256B.76, is amended by adding a subdivision to read:

Subd. 4a. **Designation and termination of critical access dental providers.** (a) Notwithstanding the provisions in subdivision 4, the commissioner shall not designate an individual dentist as a critical access dental provider under subdivision 4 or section 256L.11, subdivision 7, when the dentist:

(1) has been subject to a corrective or disciplinary action by the Minnesota Board of Dentistry within the past three years or is currently subject to a corrective or disciplinary action by the board. Designation shall not be made until the provider is no longer subject to a corrective or disciplinary action;

(2) has been subject, within the past three years, to a postinvestigation action by the commissioner of human services or issuance of a warning as specified in Minnesota Rules, parts 9505.2160 to 9505.2245;

(3) has not completed the application for critical access dental provider designation, has submitted the application after the due date, provided incorrect information, or has knowingly and willfully submitted a fraudulent designation form;

(4) does not meet the quality and continuity of care criteria that have been recommended by the Dental Services Advisory Committee and adopted by the department; or

(5) does not serve people in all Minnesota health care programs.

(b) The commissioner shall terminate a critical access designation of an individual dentist if the dentist:

(1) becomes subject to a disciplinary or corrective action by the Minnesota Board of Dentistry related to fraud, a pattern of three or more infractions within the past two years that have not been resolved within a time period as prescribed by the commissioner, or egregious practice as determined by the commissioner. The provider shall not be considered for critical access designation until the January following the year in which the action has ended;

(2) becomes subject to a postinvestigation action by the commissioner of human services or issuance of a warning as specified in Minnesota Rules, parts 9505.2160 to 9505.2245;

(3) the commissioner has received from a health plan under contract to provide dental services to enrollees of Minnesota health care programs notification that the health plan has made a referral to a state regulatory agency, state attorney general, or county attorney for actions against a specific dentist for fraud or actions that violate section 150A;

(4) does not meet the quality and continuity of care criteria that have been recommended by the Dental Services Advisory Committee and adopted by the department; or

(5) does not serve people in all Minnesota public health care programs.

(c) Any termination is retroactive to the date of the:

(1) postinvestigative action;

(2) disciplinary or corrective action by the Minnesota Board of Dentistry; or

(3) determination of not meeting quality and continuity of care criteria.

(d) A provider who has been terminated or not designated under this section may appeal only through the contested hearing process as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must

be received by the commissioner no later than 30 days after notification of termination or nondesignation.

(e) The commissioner may make an exception to paragraphs (a) and (b) if an action taken by the Board of Dentistry, commissioner, or health plan under contract to provide services to Minnesota health care programs is the result of a onetime event not directly related to patient care or that will not affect direct patient care to Minnesota health care program enrollees.

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