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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2344**

02/20/2012 Authored by Gruenhagen, Gottwalt and Lohmer

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

1.1 A bill for an act
1.2 relating to insurance; consolidating health-insurance-related taxes and
1.3 assessments; amending Minnesota Statutes 2010, sections 62E.11, subdivisions
1.4 5, 6; 256.9657, subdivision 3; 297I.05, subdivisions 1, 5, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2010, section 62E.11, subdivision 5, is amended to read:

1.7 Subd. 5. **Allocation of losses.** (a) Each contributing member of the association shall
1.8 share the losses due to claims expenses of the comprehensive health insurance plan for
1.9 plans issued or approved for issuance by the association, and shall share in the operating
1.10 and administrative expenses incurred or estimated to be incurred by the association
1.11 incident to the conduct of its affairs. Claims expenses of the state plan which exceed
1.12 the premium payments allocated to the payment of benefits shall be the liability of the
1.13 contributing members. Contributing members shall share in the claims expense of the
1.14 state plan and operating and administrative expenses of the association in an amount equal
1.15 to the ratio of the contributing member's total accident and health insurance premium,
1.16 received from or on behalf of Minnesota residents as divided by the total accident and
1.17 health insurance premium, received by all contributing members from or on behalf of
1.18 Minnesota residents, as determined by the commissioner. Payments made by the state
1.19 to a contributing member for medical assistance, MinnesotaCare, or general assistance
1.20 medical care services according to chapters 256, 256B, and 256D shall be excluded when
1.21 determining a contributing member's total premium.

1.22 (b) Beginning for claims expense losses and operating and administrative expenses
1.23 incurred on or after January 1, 2013, the total amount assessed by the association for

2.1 those costs shall be collected by the commissioner of revenue under section 297I.05,
 2.2 subdivision 5a, and distributed to the association.

2.3 **EFFECTIVE DATE.** This section is effective for health care provided on or after
 2.4 January 1, 2013.

2.5 Sec. 2. Minnesota Statutes 2010, section 62E.11, subdivision 6, is amended to read:

2.6 Subd. 6. **Member assessments.** (a) The association shall make an annual
 2.7 determination of each contributing member's liability, if any, and may make an annual
 2.8 fiscal year end assessment if necessary. The association may also, subject to the approval
 2.9 of the commissioner, provide for interim assessments against the contributing members
 2.10 whose aggregate assessments comprised a minimum of 90 percent of the most recent prior
 2.11 annual assessment, in the event that the association deems that methodology to be the
 2.12 most administratively efficient and cost-effective means of assessment, and as may be
 2.13 necessary to assure the financial capability of the association in meeting the incurred or
 2.14 estimated claims expenses of the state plan and operating and administrative expenses of
 2.15 the association until the association's next annual fiscal year end assessment. Payment
 2.16 of an assessment shall be due within 30 days of receipt by a contributing member of a
 2.17 written notice of a fiscal year end or interim assessment. Failure by a contributing member
 2.18 to tender to the association the assessment within 30 days shall be grounds for termination
 2.19 of the contributing member's membership. A contributing member which ceases to do
 2.20 accident and health insurance business within the state shall remain liable for assessments
 2.21 through the calendar year during which accident and health insurance business ceased.
 2.22 The association may decline to levy an assessment against a contributing member if the
 2.23 assessment, as determined herein, would not exceed ten dollars.

2.24 (b) Beginning January 1, 2013, the association may continue to make interim
 2.25 assessments upon its contributing members if necessary to provide timely funding for the
 2.26 association's obligations and duties, provided that the association shall repay any such
 2.27 interim assessments to contributing members as soon after the end of the calendar year as
 2.28 reasonably possible. The association shall not pay interest on these interim assessments.

2.29 **EFFECTIVE DATE.** This section is effective for health care provided on or after
 2.30 January 1, 2013.

2.31 Sec. 3. Minnesota Statutes 2010, section 256.9657, subdivision 3, is amended to read:

2.32 Subd. 3. **Surcharge on HMOs and community integrated service networks.** (a)
 2.33 Effective October 1, 1992, each health maintenance organization with a certificate of

3.1 authority issued by the commissioner of health under chapter 62D and each community
3.2 integrated service network licensed by the commissioner under chapter 62N shall pay to
3.3 the commissioner of human services a surcharge equal to six-tenths of one percent of the
3.4 total premium revenues of the health maintenance organization or community integrated
3.5 service network as reported to the commissioner of health according to the schedule in
3.6 subdivision 4. Effective January 1, 2013, this surcharge shall be collected under section
3.7 297L.05, subdivision 5a.

3.8 (b) For purposes of this subdivision, total premium revenue means:

3.9 (1) premium revenue recognized on a prepaid basis from individuals and groups
3.10 for provision of a specified range of health services over a defined period of time which
3.11 is normally one month, excluding premiums paid to a health maintenance organization
3.12 or community integrated service network from the Federal Employees Health Benefit
3.13 Program;

3.14 (2) premiums from Medicare wraparound subscribers for health benefits which
3.15 supplement Medicare coverage;

3.16 (3) Medicare revenue, as a result of an arrangement between a health maintenance
3.17 organization or a community integrated service network and the Centers for Medicare
3.18 and Medicaid Services of the federal Department of Health and Human Services, for
3.19 services to a Medicare beneficiary, excluding Medicare revenue that states are prohibited
3.20 from taxing under sections 1854, 1860D-12, and 1876 of title XVIII of the federal Social
3.21 Security Act, codified as United States Code, title 42, sections 1395mm, 1395w-112, and
3.22 1395w-24, respectively, as they may be amended from time to time; and

3.23 (4) medical assistance revenue, as a result of an arrangement between a health
3.24 maintenance organization or community integrated service network and a Medicaid state
3.25 agency, for services to a medical assistance beneficiary.

3.26 If advance payments are made under clause (1) or (2) to the health maintenance
3.27 organization or community integrated service network for more than one reporting period,
3.28 the portion of the payment that has not yet been earned must be treated as a liability.

3.29 (c) When a health maintenance organization or community integrated service
3.30 network merges or consolidates with or is acquired by another health maintenance
3.31 organization or community integrated service network, the surviving corporation or the
3.32 new corporation shall be responsible for the annual surcharge originally imposed on
3.33 each of the entities or corporations subject to the merger, consolidation, or acquisition,
3.34 regardless of whether one of the entities or corporations does not retain a certificate of
3.35 authority under chapter 62D or a license under chapter 62N.

4.1 (d) Effective July 1 of each year, the surviving corporation's or the new corporation's
 4.2 surcharge shall be based on the revenues earned in the second previous calendar year by
 4.3 all of the entities or corporations subject to the merger, consolidation, or acquisition
 4.4 regardless of whether one of the entities or corporations does not retain a certificate of
 4.5 authority under chapter 62D or a license under chapter 62N until the total premium
 4.6 revenues of the surviving corporation include the total premium revenues of all the merged
 4.7 entities as reported to the commissioner of health.

4.8 (e) When a health maintenance organization or community integrated service
 4.9 network, which is subject to liability for the surcharge under this chapter, transfers,
 4.10 assigns, sells, leases, or disposes of all or substantially all of its property or assets, liability
 4.11 for the surcharge imposed by this chapter is imposed on the transferee, assignee, or buyer
 4.12 of the health maintenance organization or community integrated service network.

4.13 (f) In the event a health maintenance organization or community integrated service
 4.14 network converts its licensure to a different type of entity subject to liability for the
 4.15 surcharge under this chapter, but survives in the same or substantially similar form, the
 4.16 surviving entity remains liable for the surcharge regardless of whether one of the entities
 4.17 or corporations does not retain a certificate of authority under chapter 62D or a license
 4.18 under chapter 62N.

4.19 (g) The surcharge assessed to a health maintenance organization or community
 4.20 integrated service network ends when the entity ceases providing services for premiums
 4.21 and the cessation is not connected with a merger, consolidation, acquisition, or conversion.

4.22 **EFFECTIVE DATE.** This section is effective for health care provided on or after
 4.23 January 1, 2013.

4.24 Sec. 4. Minnesota Statutes 2010, section 297I.05, subdivision 1, is amended to read:

4.25 Subdivision 1. **Domestic and foreign companies.** Except as otherwise provided
 4.26 in this section, a tax is imposed on every domestic and foreign insurance company. The
 4.27 rate of tax is equal to two percent of all gross premiums less return premiums on all
 4.28 direct business received by the insurer or agents of the insurer in Minnesota, in cash
 4.29 or otherwise, during the year. The portion of this tax that applies to health insurance
 4.30 premiums shall be collected under subdivision 5a.

4.31 **EFFECTIVE DATE.** This section is effective for health care provided on or after
 4.32 January 1, 2013.

4.33 Sec. 5. Minnesota Statutes 2010, section 297I.05, subdivision 5, is amended to read:

5.1 Subd. 5. **Health maintenance organizations, nonprofit health service plan**
 5.2 **corporations, and community integrated service networks.** (a) A tax is imposed on
 5.3 health maintenance organizations, community integrated service networks, and nonprofit
 5.4 health care service plan corporations. The rate of tax is equal to one percent of gross
 5.5 premiums less return premiums on all direct business received by the organization,
 5.6 network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar
 5.7 year.

5.8 (b) The commissioner shall deposit all revenues, including penalties and interest,
 5.9 collected under this chapter from health maintenance organizations, community integrated
 5.10 service networks, and nonprofit health service plan corporations in the health care access
 5.11 fund. Refunds of overpayments of tax imposed by this subdivision must be paid from
 5.12 the health care access fund. There is annually appropriated from the health care access
 5.13 fund to the commissioner the amount necessary to make any refunds of the tax imposed
 5.14 under this subdivision.

5.15 (c) The tax imposed in this subdivision shall be collected under subdivision 5a.

5.16 **EFFECTIVE DATE.** This section is effective for health care provided on or after
 5.17 January 1, 2013.

5.18 Sec. 6. Minnesota Statutes 2010, section 297I.05, is amended by adding a subdivision
 5.19 to read:

5.20 Subd. 5a. **Combined health care sales tax.** (a) The commissioner shall impose
 5.21 and collect the following assessments and taxes as a single sales tax on health care, in
 5.22 addition to the existing provider tax under section 295.52:

5.23 (1) the amount of the annual assessment determined by the Minnesota
 5.24 Comprehensive Health Association under section 62E.11;

5.25 (2) the six-tenths of one percent surcharge imposed on total premium revenues of
 5.26 health maintenance organizations and community integrated service networks under
 5.27 section 256.9657, subdivision 3;

5.28 (3) the two percent tax imposed on health insurance premiums received by insurance
 5.29 companies under subdivision 1; and

5.30 (4) the one percent tax imposed on gross premiums of health maintenance
 5.31 organizations, community integrated service networks, and nonprofit health service plan
 5.32 corporations under subdivision 5.

5.33 (b) The commissioner shall determine the rate of health care sales tax necessary
 5.34 given the base of the tax to generate tax revenue equal to combined gross revenues
 5.35 assessments and taxes specified in paragraph (a).

6.1 (c) Health care providers, as defined in section 295.50, subdivision 4, shall add the
6.2 sales tax created under this subdivision to the amount they bill to individuals, entities, and
6.3 third-party payers that purchase or pay for health care from them. Health care providers
6.4 shall display on their bills the portion of the billed amount that is attributable to this tax.

6.5 (d) Purchasers or payers of health care that is subject to the sales tax imposed under
6.6 this subdivision shall pay the tax to the health care provider, who shall in turn transmit
6.7 the amount of tax payment received to the commissioner under the procedure specified
6.8 in section 295.55.

6.9 (e) The commissioner shall allocate the revenues received under this subdivision to
6.10 the same accounts and entities, in the same proportions and for the same purposes, as the
6.11 existing taxes and assessments that comprise paragraph (a).

6.12 **EFFECTIVE DATE.** This section is effective for health care provided on or after
6.13 January 1, 2013.