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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 236

01/22/2019 Authored by Gruenhagen, Daniels, Scott and Dettmer The bill was read for the first time and referred to the Committee on Commerce

1.1 A bill for an act
1.2 relating to insurance; permitting certain entities to administer unified personal
1.3 health premium accounts; modifying availability of coverage provisions for the
1.4 small employer market; proposing coding for new law as Minnesota Statutes,
1.5 chapter 62W; repealing Minnesota Statutes 2018, sections 62A.303; 62L.12,
1.6 subdivisions 3, 4.

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

1.8 Section 1. 62W.01 DEFINITIONS.

1.9 Subdivision 1. Scope of definitions. For purposes of this chapter, the terms defined in
1.10 this section have the meanings given.

1.11 Subd. 2. Commissioner. "Commissioner" means the commissioner of commerce.

1.12 Subd. 3. Dependent. "Dependent" means an individual's spouse or tax dependent.

1.13 Subd. 4. Health insurance. "Health insurance" means:

1.14 (1) individual health insurance; fully insured or self-insured group health coverage; and
1.15 individual and group policies that cover cancer, accidents, critical illness, hospital
1.16 confinement/medical bridge, short-term disability, long-term care, individual medical, and
1.17 high deductible health plans including those that are compatible with health savings accounts;
1.18 and

1.19 (2) any other coverages identified under sections 60A.06, subdivision 1, clause (5)(a);
1.20 62Q.01, subdivisions 4a and 6; and 62Q.188.

1.21 Subd. 5. Trustee. "Trustee" means an entity that has trust powers under state or federal
1.22 law.

2.1 Subd. 6. Unified personal health premium account or account. "Unified personal
 2.2 health premium account" or "account" means a trust account created to receive funds from
 2.3 multiple sources for the payment of, or reimbursement for, health insurance premiums.

2.4 Subd. 7. Unified personal health premium account administrator or
 2.5 administrator. "Unified personal health premium account administrator" or "administrator"
 2.6 means an entity that has the authority to administer a unified personal health premium
 2.7 account.

2.8 **Sec. 2. [62W.02] REGISTRATION REQUIRED.**

2.9 (a) Only a private-sector entity or individual registered with the commissioner as a
 2.10 unified personal health premium account administrator may administer an account on behalf
 2.11 of a resident of this state.

2.12 (b) To register under this section, a private sector entity or individual must be:

2.13 (1) a licensed insurance producer, as defined in section 60K.31, subdivision 6, under
 2.14 the insurance authority described in section 60K.38, subdivision 1, paragraph (b), clause
 2.15 (1), (2), or (5);

2.16 (2) a licensed vendor of risk management services or entity administering a self-insurance
 2.17 or insurance plan under section 60A.23, subdivision 8; or

2.18 (3) a federally or state-chartered bank or credit union.

2.19 (c) An applicant to register under this section must pay a fee of \$250 for an initial
 2.20 registration and \$50 for each three-year renewal.

2.21 **Sec. 3. [62W.03] REQUIREMENTS; UNIFIED PERSONAL HEALTH PREMIUM**
 2.22 **ACCOUNT ADMINISTRATION.**

2.23 Subdivision 1. Nature of arrangements. (a) A unified personal health premium account
 2.24 administrator under contract with an employer must conduct business in accordance with
 2.25 a written contract.

2.26 (b) An administrator may conduct business directly with individuals in accordance with
 2.27 a written agreement.

2.28 (c) The written agreement between a unified personal health premium account
 2.29 administrator and its customer must specify the services to be provided to the customer, the
 2.30 payment for each service including administrative costs, and the timing and method of each
 2.31 payment or type of payment.

3.1 (d) An administrator may administer unified personal health premium accounts separately
3.2 or in conjunction with other employee benefit services, including services that facilitate and
3.3 coordinate tax-preferred payments for health care and coverage under Internal Revenue
3.4 Code, sections 105, 106, and 125.

3.5 (e) An administrator must create and maintain records of receipts, payments, and other
3.6 transactions, sufficient to enable the individual to benefit from tax advantages available to
3.7 the individual under Internal Revenue Code, sections 105, 106, 125, and other relevant
3.8 sections, and under Minnesota income tax law, for health insurance paid by or on behalf of
3.9 the individual. The administrator must identify and notify the account holder and contributors
3.10 of any applicable tax subsidies and tax credits for which the account holder or contributor
3.11 qualifies in connection with the account or items paid for through the account. The records
3.12 and procedures must be capable of segregating funds to maintain restrictions on the funds
3.13 received from contributors.

3.14 (f) Individual insurance market products paid for through the account under this section
3.15 are not an employer-sponsored plan subject to state or federal group insurance market
3.16 requirements.

3.17 Subd. 2. **Trust account requirements.** (a) Contributions to an individual's account may
3.18 be made by the individual, the individual's employer or former employer, the individual's
3.19 family members or dependents, charitable organizations, or any other source.

3.20 (b) A contributor to the account may restrict the use of funds the contributor contributes
3.21 to the payment of premiums for one or more of the types of health insurance included in
3.22 section 62W.01, subdivision 4.

3.23 (c) A trust created and trustees appointed under this chapter must:

3.24 (1) have the powers granted under, and must comply with, the provisions of chapter
3.25 501B that are relevant to a trust created for purposes of this chapter;

3.26 (2) allow for financial contributions from multiple sources, including tax-preferred
3.27 contributions from individuals and employers and non-tax-preferred contributions from
3.28 individuals and other sources;

3.29 (3) restrict funds to be used exclusively for the benefit of the individual account holder
3.30 or the individual's tax dependents;

3.31 (4) make funds available for the payment of premiums on any type of health insurance
3.32 included in section 62W.01, subdivision 4, from any insurance company, subject to any
3.33 restriction under paragraph (b);

4.1 (5) grant the unified personal health premium account administrator authority to direct
4.2 payments to insurance companies or to reimburse account owners for qualified health
4.3 insurance premium expenses;

4.4 (6) segregate funds to maintain restrictions on the funds received from contributors; and

4.5 (7) guarantee that funds contributed by an employer remain available to the account
4.6 holder after the account holder's term of employment with the employer ends.

4.7 Sec. 4. **[62W.04] COORDINATION WITH HEALTHY MINNESOTA PROGRAM.**

4.8 The commissioner of human services must enter into agreements under which unified
4.9 personal health premium account administrators may receive public funds for use as subsidies
4.10 toward payment of premiums for health coverage provided to eligible individuals who have
4.11 a trust account for that purpose.

4.12 Sec. 5. **REPEALER.**

4.13 Minnesota Statutes 2018, sections 62A.303; and 62L.12, subdivisions 3 and 4, are
4.14 repealed.

4.15 Sec. 6. **EFFECTIVE DATE.**

4.16 This act is effective the day following final enactment.

62A.303 PROHIBITION; SEVERING OF GROUPS.

Section 62L.12, subdivisions 3 and 4, apply to all employer group health plans, as defined in section 62A.011, regardless of the size of the group.

62L.12 PROHIBITED PRACTICES.

Subd. 3. **Agent's licensure.** An agent licensed under chapter 60K or section 62C.17 who knowingly and willfully breaks apart a small group for the purpose of selling individual health plans to eligible employees and dependents of a small employer that meets the participation and contribution requirements of section 62L.03, subdivision 3, is guilty of an unfair trade practice and subject to disciplinary action, including the revocation or suspension of license, under section 60K.43 or 62C.17. The action must be by order and subject to the notice, hearing, and appeal procedures specified in section 60K.43. The action of the commissioner is subject to judicial review as provided under chapter 14. This section does not apply to any action performed by an agent that would be permitted for a health carrier under subdivision 2.

Subd. 4. **Employer prohibition.** A small employer shall not encourage or direct an employee or applicant to:

(1) refrain from filing an application for health coverage when other similarly situated employees may file an application for health coverage;

(2) file an application for health coverage during initial eligibility for coverage, the acceptance of which is contingent on health status, when other similarly situated employees may apply for health coverage, the acceptance of which is not contingent on health status;

(3) seek coverage from another health carrier, including, but not limited to, MCHA; or

(4) cause coverage to be issued on different terms because of the health status or claims experience of that person or the person's dependents.