

A bill for an act

relating to human services; revising requirements for county-based purchasing for state health care programs; amending Minnesota Statutes 2006, sections 256B.69, subdivision 3a; 256B.692, subdivisions 1, 2, 5, 7; Minnesota Statutes 2007 Supplement, section 256B.69, subdivision 4; Laws 2005, First Special Session chapter 4, article 8, section 84, as amended; repealing Minnesota Statutes 2006, section 256B.692, subdivision 10.

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

Section 1. Minnesota Statutes 2006, section 256B.69, subdivision 3a, is amended to read:

Subd. 3a. **County authority.** (a) The commissioner, when implementing the general assistance medical care, or medical assistance prepayment program and other prepaid health care programs administered by the commissioner of human services within a county, must include the county board in the process of development, approval, and issuance of the request for proposals to provide services to eligible individuals within the proposed county. County boards must be given reasonable opportunity to make recommendations regarding the development, issuance, review of responses, and changes needed in the request for proposals. The commissioner must provide county boards the opportunity to review each proposal based on the identification of community needs under chapters 145A and 256E and county advocacy activities. If a county board finds that a proposal does not address certain community needs, the county board and commissioner shall continue efforts for improving the proposal and network prior to the approval of the contract. The county board shall make recommendations regarding the approval of local networks and their operations to ensure adequate availability and access to covered services. The provider or health plan must respond directly to county advocates and the state prepaid

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2.1 medical assistance ombudsperson regarding service delivery and must be accountable to
2.2 the state regarding contracts with medical assistance and general assistance medical care
2.3 funds. The county board may recommend a maximum number of participating health
2.4 plans after considering the size of the enrolling population; ensuring adequate access and
2.5 capacity; considering the client and county administrative complexity; and considering
2.6 the need to promote the viability of locally developed health plans. The county board
2.7 or a single entity representing a group of county boards and the commissioner shall
2.8 mutually select health plans for participation at the time of initial implementation of the
2.9 ~~state prepaid medical assistance program~~ health care programs in that county or group
2.10 of counties and at the time of contract renewal. The commissioner shall also seek input
2.11 for contract requirements from the county or single entity representing a group of county
2.12 boards at each contract renewal and incorporate those recommendations into the contract
2.13 negotiation process. ~~The commissioner, in conjunction with the county board, shall~~
2.14 ~~actively seek to develop a mutually agreeable timetable prior to the development of the~~
2.15 ~~request for proposal, but counties must agree to initial enrollment beginning on or before~~
2.16 ~~January 1, 1999, in either the prepaid medical assistance and general assistance medical~~
2.17 ~~care programs or county-based purchasing under section 256B.692. At least 90 days~~
2.18 ~~before enrollment in the medical assistance and general assistance medical care prepaid~~
2.19 ~~programs begins in a county in which the prepaid programs have not been established, the~~
2.20 ~~commissioner shall provide a report to the chairs of senate and house committees having~~
2.21 ~~jurisdiction over state health care programs which verifies that the commissioner complied~~
2.22 ~~with the requirements for county involvement that are specified in this subdivision.~~

2.23 (b) At the option of the county board, the board may develop contract requirements
2.24 related to the achievement of local public health goals to meet the health needs of ~~medical~~
2.25 ~~assistance and general assistance medical care~~ enrollees in state prepaid health care
2.26 programs. These requirements must be reasonably related to the performance of health
2.27 plan functions and within the scope of the ~~medical assistance and general assistance~~
2.28 ~~medical care programs'~~ benefit sets. If the county board and the commissioner mutually
2.29 agree to such requirements, the department shall include such requirements in all health
2.30 plan contracts governing the prepaid ~~medical assistance and general assistance medical~~
2.31 ~~care~~ programs in that county at initial implementation of the program in that county and
2.32 at the time of contract renewal. The county board may participate in the enforcement of
2.33 the contract provisions related to local public health goals.

2.34 (c) ~~For counties in which prepaid medical assistance and general assistance medical~~
2.35 ~~care programs have not been established, the commissioner shall not implement those~~
2.36 ~~programs if a county board submits acceptable and timely preliminary and final proposals~~

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~~under section 256B.692, until county-based purchasing is no longer operational in that county. For counties in which prepaid medical assistance and general assistance medical care programs are in existence on or after September 1, 1997, the commissioner must terminate contracts with health plans according to section 256B.692, subdivision 5, if the county board submits and the commissioner accepts preliminary and final proposals according to that subdivision. The commissioner is not required to terminate contracts that begin on or after September 1, 1997, according to section 256B.692 until two years have elapsed from the date of initial enrollment.~~

(d) In the event that a county board or a single entity representing a group of county boards and the commissioner cannot reach agreement regarding: (i) the selection of participating health plans in that county; (ii) contract requirements; or (iii) implementation and enforcement of county requirements including provisions regarding local public health goals, the commissioner shall resolve all disputes after taking into account the recommendations of a three-person mediation panel. The panel shall be composed of one designee of the president of the Association of Minnesota Counties, one designee of the commissioner of human services, and one ~~designee of the commissioner of health~~ person selected jointly by the designee of the commissioner of human services and the designee of the Association of Minnesota Counties. The parties to the mediation must be given 30 days' notice of a hearing before the mediation panel meets.

(e) If a county which elects to implement county-based purchasing ceases to implement county-based purchasing, it is prohibited from assuming the responsibility of county-based purchasing for a period of five years from the date it discontinues purchasing.

~~(f) Notwithstanding the requirement in this subdivision that a county must agree to initial enrollment on or before January 1, 1999, the commissioner shall grant a delay in the implementation of the county-based purchasing authorized in section 256B.692 until federal waiver authority and approval has been granted, if the county or group of counties has submitted a preliminary proposal for county-based purchasing by September 1, 1997, has not already implemented the prepaid medical assistance program before January 1, 1998, and has submitted a written request for the delay to the commissioner by July 1, 1998. In order for the delay to be continued, the county or group of counties must also submit to the commissioner the following information by December 1, 1998. The information must:~~

~~(1) identify the proposed date of implementation, as determined under section 256B.692, subdivision 5;~~

~~(2) include copies of the county board resolutions which demonstrate the continued commitment to the implementation of county-based purchasing by the proposed date.~~

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~~County board authorization may remain contingent on the submission of a final proposal which meets the requirements of section 256B.692, subdivision 5, paragraph (b);~~

~~(3) demonstrate actions taken for the establishment of a governance structure between the participating counties and describe how the fiduciary responsibilities of county-based purchasing will be allocated between the counties, if more than one county is involved in the proposal;~~

~~(4) describe how the risk of a deficit will be managed in the event expenditures are greater than total capitation payments. This description must identify how any of the following strategies will be used:~~

~~(i) risk contracts with licensed health plans;~~

~~(ii) risk arrangements with providers who are not licensed health plans;~~

~~(iii) risk arrangements with other licensed insurance entities; and~~

~~(iv) funding from other county resources;~~

~~(5) include, if county-based purchasing will not contract with licensed health plans or provider networks, letters of interest from local providers in at least the categories of hospital, physician, mental health, and pharmacy which express interest in contracting for services. These letters must recognize any risk transfer identified in clause (4), item (ii); and~~

~~(6) describe the options being considered to obtain the administrative services required in section 256B.692, subdivision 3, clauses (3) and (5).~~

~~(g) For counties which receive a delay under this subdivision, the final proposals required under section 256B.692, subdivision 5, paragraph (b), must be submitted at least six months prior to the requested implementation date. Authority to implement county-based purchasing remains contingent on approval of the final proposal as required under section 256B.692.~~

~~(h) If the commissioner is unable to provide county-specific, individual-level fee-for-service claims to counties by June 4, 1998, the commissioner shall grant a delay under paragraph (f) of up to 12 months in the implementation of county-based purchasing, and shall require implementation not later than January 1, 2000. In order to receive an extension of the proposed date of implementation under this paragraph, a county or group of counties must submit a written request for the extension to the commissioner by August 1, 1998, must submit the information required under paragraph (f) by December 1, 1998, and must submit a final proposal as provided under paragraph (g).~~

~~(i) Notwithstanding other requirements of this subdivision, the commissioner shall not require the implementation of the county-based purchasing authorized in section 256B.692 until six months after federal waiver approval has been obtained for~~

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~~county-based purchasing, if the county or counties have submitted the final plan as required in section 256B.692, subdivision 5. The commissioner shall allow the county or counties which submitted information under section 256B.692, subdivision 5, to submit supplemental or additional information which was not possible to submit by April 1, 1999. A county or counties shall continue to submit the required information and substantive detail necessary to obtain a prompt response and waiver approval. If amendments to the final plan are necessary due to the terms and conditions of the waiver approval, the commissioner shall allow the county or group of counties 60 days to make the necessary amendments to the final plan and shall not require implementation of the county-based purchasing until six months after the revised final plan has been submitted.~~

Sec. 2. Minnesota Statutes 2007 Supplement, section 256B.69, subdivision 4, is amended to read:

Subd. 4. **Limitation of choice.** (a) The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6.

(b) The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice:

(1) persons eligible for medical assistance according to section 256B.055, subdivision 1;

(2) persons eligible for medical assistance due to blindness or disability as determined by the Social Security Administration or the state medical review team, unless:

(i) they are 65 years of age or older; or

(ii) they reside in Itasca County or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act;

(3) recipients who currently have private coverage through a health maintenance organization;

(4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense;

(5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);

(6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20,

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except children who are eligible for and who decline enrollment in an approved preferred integrated network under section 245.4682;

(7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20;

(8) persons eligible for medical assistance according to section 256B.057, subdivision 10; and

(9) persons with access to cost-effective employer-sponsored private health insurance or persons enrolled in a non-Medicare individual health plan determined to be cost-effective according to section 256B.0625, subdivision 15.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (1), (6), and (7) may choose to enroll on an elective basis. The commissioner may enroll recipients in the prepaid medical assistance program for seniors who are (1) age 65 and over, and (2) eligible for medical assistance by spending down excess income.

(c) The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state.

(d) The commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under paragraph (b), clauses (1), (3), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L.

(e) Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

(f) An infant born to a woman who is eligible for and receiving medical assistance and who is enrolled in the prepaid medical assistance program shall be retroactively enrolled to the month of birth in the same managed care plan as the mother once the child is enrolled in medical assistance unless the child is determined to be excluded from enrollment in a prepaid plan under this section.

(g) The commissioner shall assign an eligible individual in the absence of a specific managed care plan choice by the individual, to the county-based purchasing health plan in counties having an approved county-based purchasing health plan.

Sec. 3. Minnesota Statutes 2006, section 256B.692, subdivision 1, is amended to read:

Subdivision 1. **In general.** County boards or groups of county boards may elect to purchase or provide health care services on behalf of persons eligible for medical assistance ~~and, MinnesotaCare, general assistance medical care, and other prepaid health care programs administered by the commissioner of human services~~ who would otherwise be required to or may elect to participate in the prepaid medical assistance or prepaid general assistance medical care programs according to sections 256B.69 and 256D.03. Counties that elect to purchase or provide health care under this section must provide all services included in prepaid managed care programs according to sections 256B.69, subdivisions 1 to 22, and 256D.03. County-based purchasing under this section is governed by section 256B.69, unless otherwise provided for under this section.

Sec. 4. Minnesota Statutes 2006, section 256B.692, subdivision 2, is amended to read:

Subd. 2. **Duties of commissioner of health.** (a) Notwithstanding chapters 62D and 62N, a county that elects to purchase health care services for persons eligible for medical assistance and, MinnesotaCare, general assistance medical care, and other prepaid health care programs administered by the commissioner of human services in return for a fixed sum without regard to the frequency or extent of services furnished to any particular enrollee is not required to obtain a certificate of authority under chapter 62D or 62N. The county board of commissioners is the governing body of a county-based purchasing program. In a multicounty arrangement, the governing body is a joint powers board established under section 471.59.

(b) A county that elects to purchase ~~medical assistance and general assistance medical health~~ care services under this section must ~~satisfy~~ assure the commissioner of health that the requirements for assurance of consumer protection, provider protection, and fiscal solvency of chapter 62D, applicable to health maintenance organizations, or chapter 62N, applicable to community integrated service networks, will be met.

(c) A county must also assure the commissioner of health that the requirements of sections 62J.041; 62J.48; 62J.71 to 62J.73; 62M.01 to 62M.16; all applicable provisions of chapter 62Q, including sections 62Q.075; 62Q.1055; 62Q.106; 62Q.12; 62Q.135; 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.43; 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; 62Q.68 to 62Q.72; and 72A.201 will be met.

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(d) All enforcement and rulemaking powers available under chapters 62D, 62J, 62M, 62N, and 62Q are hereby granted to the commissioner of health with respect to counties that purchase ~~medical assistance and general assistance medical~~ health care services under this section.

(e) The commissioner, in consultation with county government, shall develop administrative and financial reporting requirements for county-based purchasing programs relating to sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and 62N.31, and other sections as necessary, that are specific to county administrative, accounting, and reporting systems and consistent with other statutory requirements of counties.

Sec. 5. Minnesota Statutes 2006, section 256B.692, subdivision 5, is amended to read:

Subd. 5. **County proposals.** (a) ~~On or before September 1, 1997,~~ A county board that wishes to purchase or provide health care under this section must submit a preliminary proposal that substantially demonstrates the county's ability to meet all the requirements of this section ~~in response to criteria for proposals issued by the department on or before July 1, 1997.~~ Counties submitting preliminary proposals must establish a local planning process that involves input from medical assistance ~~and~~ ₂ general assistance medical care ~~recipients, and MinnesotaCare enrollees,~~ recipient advocates, providers and representatives of local school districts, labor, and tribal government to advise on the development of a final proposal and its implementation.

(b) The county board must submit a final proposal ~~on or before July 1, 1998,~~ that demonstrates the ability to meet all the requirements of this section, ~~including beginning enrollment on January 1, 1999, unless a delay has been granted under section 256B.69, subdivision 3a, paragraph (g).~~

(c) ~~After January 1, 1999,~~ For a county in which the prepaid medical assistance program is in existence, the county board must submit a preliminary proposal at least 15 months prior to termination of health plan contracts in that county and a final proposal six months prior to the health plan contract termination date in order to begin enrollment after the termination. Nothing in this section shall impede or delay implementation or continuation of the prepaid medical assistance and general assistance medical care programs in counties for which the board does not submit a proposal, or submits a proposal that is not in compliance with this section.

(d) The commissioner is not required to terminate contracts for the prepaid medical assistance and prepaid general assistance medical care programs that begin on or after September 1, 1997, in a county for which a county board has submitted a proposal under

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this paragraph, until two years have elapsed from the date of initial enrollment in the prepaid medical assistance and prepaid general assistance medical care programs.

Sec. 6. Minnesota Statutes 2006, section 256B.692, subdivision 7, is amended to read:

Subd. 7. **Dispute resolution.** In the event the commissioner rejects a proposal under subdivision 6, the county board may request the recommendation of a three-person mediation panel. The commissioner shall resolve all disputes after taking into account the recommendations of the mediation panel. The panel shall be composed of one designee of the president of the Association of Minnesota Counties, one designee of the commissioner of human services, and one ~~designee of the commissioner of health~~ person selected jointly by the designee of the commissioner of human services and the designee of the Association of Minnesota Counties. The commissioner shall provide background materials, including all submitted proposals, to panel members and affected counties at least 30 days before the panel is first convened.

Sec. 7. Laws 2005, First Special Session chapter 4, article 8, section 84, as amended by Laws 2006, chapter 264, section 15, is amended to read:

Sec. 84. ~~SOLE-SOURCE OR SINGLE-PLAN MANAGED CARE~~
CONTRACT.

Notwithstanding Minnesota Statutes, section 256B.692, subdivision 6, clause (1), ~~paragraph (c), the commissioner of human services shall approve a county-based purchasing health plan proposal, submitted on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, that requires county-based purchasing on a single-plan basis contract if the implementation of the single-plan purchasing proposal does not limit an enrollee's provider choice or access to services and all other requirements applicable to health plan purchasing are satisfied. The commissioner shall continue single health plan purchasing arrangements with county-based purchasing entities in the service areas in existence on May 1, 2006, including arrangements for which a proposal was submitted by May 1, 2006, on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, in response to a request for proposals issued by the commissioner.~~ for any Minnesota county or counties, establishing the county-based purchasing entity as a single-plan contract for all counties that are eligible under federal law, and no more than two plans, including the county-based purchasing plan for those counties not federally eligible for single-plan status, and where the implementation of the single-plan purchasing proposal does not limit an enrollee's provider choice or access to services, and all other requirements applicable to health plan purchasing are satisfied. The commissioner shall request

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federal approval, if necessary, to permit a single-plan purchasing option even if choice is available in the area, or for no more than two plans in areas that are not federally eligible for single-plan status. The commissioner shall continue single health plan purchasing arrangements with county-based purchasing entities for all government-funded programs approved by Minnesota Statutes, section 256B.692. The commissioner shall approve contracting on a single health plan basis, or with no more than two plans, including the county-based purchasing plan for those counties not federally eligible for single-plan status that have coordination arrangements with counties to serve persons in order to promote better coordination or integration of health care services, social services, and other community-based services, provided that all requirements applicable to health plan purchasing, including those in Minnesota Statutes, section 256B.69, subdivision 23, are satisfied. The requirement to continue to use single-plan purchasing arrangements in these counties applies to all managed care or prepaid programs administered by the commissioner and applies to new programs and procurement or renewal of existing arrangements, provided the county-based purchasing entity continues to meet the commissioner's contracting requirements on the same basis as other managed care or prepaid plans in other regions.

~~The commissioner shall consider, and may approve, contracting on a single-health plan basis with county-based purchasing plans, or with other qualified health plans that have coordination arrangements with counties, to serve persons with a disability who voluntarily enroll, in order to promote better coordination or integration of health care services, social services and other community-based services, provided that all requirements applicable to health plan purchasing, including those in Minnesota Statutes, section 256B.69, subdivision 23, are satisfied. By January 15, 2007, the commissioner shall report to the chairs of the appropriate legislative committees in the house and senate an analysis of the advantages and disadvantages of using single-health plan purchasing to serve persons with a disability who are eligible for health care programs. The report shall include consideration of the impact of federal health care programs and policies for persons who are eligible for both federal and state health care programs and shall consider strategies to improve coordination between federal and state health care programs for those persons.~~

Sec. 8. REVISOR'S INSTRUCTION.

The revisor of statutes shall codify section 7 as a new subdivision of Minnesota Statutes, section 256B.692.

- 11.1 Sec. 9. REPEALER.
- 11.2 Minnesota Statutes 2006, section 256B.692, subdivision 10, is repealed.

APPENDIX
Repealed Minnesota Statutes: 08-5888

256B.692 COUNTY-BASED PURCHASING.

Subd. 10. **Report to the legislature.** The commissioner shall submit a report to the legislature by February 1, 1998, on the preliminary proposals submitted on or before September 1, 1997.