

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 988

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DATE	D-PG	OFFICIAL STATUS
02/19/2015	366	Introduction and first reading Referred to Health, Human Services and Housing
04/07/2015		Comm report: To pass as amended and re-refer to Finance

A bill for an act

1.1 relating to human services; exempting providers of durable medical equipment,
1.2 prosthetics, orthotics, or medical supplies from the Medicare payment limit
1.3 and the Medicare enrollment requirement; amending Minnesota Statutes 2014,
1.4 sections 256B.0625, subdivision 31; 256B.767.
1.5

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

1.7 Section 1. Minnesota Statutes 2014, section 256B.0625, subdivision 31, is amended to
1.8 read:

1.9 Subd. 31. **Medical supplies and equipment.** (a) Medical assistance covers medical
1.10 supplies and equipment. Separate payment outside of the facility's payment rate shall
1.11 be made for wheelchairs and wheelchair accessories for recipients who are residents
1.12 of intermediate care facilities for the developmentally disabled. Reimbursement for
1.13 wheelchairs and wheelchair accessories for ICF/DD recipients shall be subject to the same
1.14 conditions and limitations as coverage for recipients who do not reside in institutions. A
1.15 wheelchair purchased outside of the facility's payment rate is the property of the recipient.
1.16 ~~The commissioner may set reimbursement rates for specified categories of medical~~
1.17 ~~supplies at levels below the Medicare payment rate.~~

1.18 (b) Vendors of durable medical equipment, prosthetics, orthotics, or medical supplies
1.19 must enroll as a Medicare provider.

1.20 (c) The commissioner may exempt a vendor of durable medical equipment,
1.21 prosthetics, orthotics, or medical supplies from the Medicare enrollment requirement
1.22 in paragraph (b) if:

1.23 (1) the vendor is providing a service or item to a recipient and the service or item is
1.24 covered under medical assistance, but is not covered under Medicare; or

2.1 (e) (2) when necessary to ensure access to durable medical equipment, prosthetics,
 2.2 orthotics, or medical supplies, ~~the commissioner may exempt a vendor from the Medicare~~
 2.3 ~~enrollment requirement if~~ and the following requirements are met:

2.4 (1) (i) the vendor supplies only one type of durable medical equipment, prosthetic,
 2.5 orthotic, or medical supply;

2.6 (2) (ii) the vendor serves ten or fewer medical assistance recipients per year;

2.7 (3) (iii) the commissioner finds that other vendors are not available to provide same
 2.8 or similar durable medical equipment, prosthetics, orthotics, or medical supplies; and

2.9 (4) (iv) the vendor complies with all screening requirements in this chapter and
 2.10 Code of Federal Regulations, title 42, part 455. The commissioner may also exempt a
 2.11 vendor from the Medicare enrollment requirement if the vendor is accredited by a Centers
 2.12 for Medicare and Medicaid Services approved national accreditation organization as
 2.13 complying with the Medicare program's supplier and quality standards and the vendor
 2.14 serves primarily pediatric patients.

2.15 (d) Durable medical equipment means a device or equipment that:

2.16 (1) can withstand repeated use;

2.17 (2) is generally not useful in the absence of an illness, injury, or disability; and

2.18 (3) is provided to correct or accommodate a physiological disorder or physical
 2.19 condition or is generally used primarily for a medical purpose.

2.20 (e) Electronic tablets may be considered durable medical equipment if the electronic
 2.21 tablet will be used as an augmentative and alternative communication system as defined
 2.22 under subdivision 31a, paragraph (a). To be covered by medical assistance, the device
 2.23 must be locked in order to prevent use not related to communication.

2.24 Sec. 2. Minnesota Statutes 2014, section 256B.767, is amended to read:

2.25 **256B.767 MEDICARE PAYMENT LIMIT.**

2.26 (a) Effective for services rendered on or after July 1, 2010, fee-for-service payment
 2.27 rates for physician and professional services under section 256B.76, subdivision 1, and
 2.28 basic care services subject to the rate reduction specified in section 256B.766, shall not
 2.29 exceed the Medicare payment rate for the applicable service, as adjusted for any changes
 2.30 in Medicare payment rates after July 1, 2010. The commissioner shall implement this
 2.31 section after any other rate adjustment that is effective July 1, 2010, and shall reduce rates
 2.32 under this section by first reducing or eliminating provider rate add-ons.

2.33 (b) This section does not apply to services provided by advanced practice certified
 2.34 nurse midwives licensed under chapter 148 or traditional midwives licensed under chapter
 2.35 147D. Notwithstanding this exemption, medical assistance fee-for-service payment rates

3.1 for advanced practice certified nurse midwives and licensed traditional midwives shall
3.2 equal and shall not exceed the medical assistance payment rate to physicians for the
3.3 applicable service.

3.4 (c) This section does not apply to mental health services or physician services billed
3.5 by a psychiatrist or an advanced practice registered nurse with a specialty in mental health.

3.6 (d) ~~Effective for durable medical equipment, prosthetics, orthotics, or supplies~~
3.7 ~~provided on or after July 1, 2013, through June 30, 2015, the payment rate for items~~
3.8 ~~that are subject to the rates established under Medicare's National Competitive Bidding~~
3.9 ~~Program shall be equal to the rate that applies to the same item when not subject to the~~
3.10 ~~rate established under Medicare's National Competitive Bidding Program. This paragraph~~
3.11 ~~does not apply to mail-order diabetic supplies and does not apply to items provided to~~
3.12 ~~dually eligible recipients when Medicare is the primary payer of the item~~ This section does
3.13 not apply to durable medical equipment, prosthetics, orthotics, or supplies.