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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2838

02/20/2018 Authored by Halverson, Rosenthal, Ward, Hortman, Schultz and others
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to health; requiring review of transfers of assets by health maintenance
1.3 organizations and nonprofit health service plan corporations; requiring transfer
1.4 penalties to be assessed in certain circumstances; proposing coding for new law
1.5 in Minnesota Statutes, chapter 62Q.

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

1.7 Section 1. [62Q.111] COMMISSIONER REVIEW OF SUBSTANTIAL TRANSFERS
1.8 OF ASSETS.

1.9 Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

1.10 (b) "Commissioner" means the commissioner of health for health maintenance
1.11 organizations and the commissioner of commerce for nonprofit health service plan
1.12 corporations.

1.13 (c) "Health maintenance organization" means an entity governed by chapter 62D.

1.14 (d) "Minnesota premium security plan" means the plan established under sections 62E.21
1.15 to 62E.25.

1.16 (e) "Nonprofit health service plan corporation" means an entity governed by chapter
1.17 62C.

1.18 (f) "Public health care programs" means the medical assistance program, the
1.19 MinnesotaCare program, and the state employee group insurance program.

1.20 (g) "Related organization" has the meaning given in section 317A.011, subdivision 18.

1.21 (h) "Substantial transfer of assets" means a transfer of assets in an amount that is equal
1.22 to or greater than the lesser of:

2.1 (1) \$.....; or

2.2 (2) percent of the health maintenance organization's or nonprofit health service
 2.3 plan corporation's total assets for the preceding calendar year as reported to the commissioner.

2.4 Subd. 2. **Annual report.** (a) By April 1 of each year, a health maintenance organization
 2.5 or nonprofit health service plan corporation must file a report with the commissioner and
 2.6 the attorney general regarding all transfers of assets made in the preceding calendar year,
 2.7 including any transfer to a related organization. A health maintenance organization or
 2.8 nonprofit health service plan corporation is not required to report the following transactions
 2.9 under this subdivision:

2.10 (1) payment for health care goods or services delivered to enrollees;

2.11 (2) payment for administrative, management, or financial services; or

2.12 (3) the construction, lease, or purchase of equipment or facilities for the entity's business
 2.13 operations or the delivery of health care goods or services to enrollees.

2.14 (b) The report must specify the amount of state funds the health maintenance organization
 2.15 or nonprofit health service plan corporation received for public health care programs and
 2.16 the Minnesota premium security plan in the five calendar years preceding the report. The
 2.17 report must also include the following information for each transfer:

2.18 (1) the value of the assets transferred;

2.19 (2) the recipient of the assets;

2.20 (3) whether the assets, following the transfer, were devoted to providing comprehensive
 2.21 health care to Minnesota residents; and

2.22 (4) any other information required by the commissioner or attorney general.

2.23 Subd. 3. **Review; determinations; transfer penalty.** (a) The commissioner shall review
 2.24 the reports submitted according to subdivision 2 and shall conduct an analysis according to
 2.25 paragraphs (b) to (e).

2.26 (b) The commissioner shall determine whether a health maintenance organization or
 2.27 nonprofit health service plan corporation received more than a total of \$..... in state funds
 2.28 for public health care programs and the Minnesota premium security plan in the preceding
 2.29 five calendar years.

2.30 (c) For each health maintenance organization or nonprofit health service plan corporation
 2.31 identified in paragraph (b), the commissioner shall determine the number of asset transfers

3.1 made by that entity to a foreign or domestic corporation for a purpose other than the provision
3.2 of comprehensive health care to Minnesota residents.

3.3 (d) For each health maintenance organization or nonprofit health service plan corporation
3.4 identified in paragraph (b), the commissioner shall sum the value of the assets transferred
3.5 in asset transfers identified in paragraph (c).

3.6 (e) For each health maintenance organization or nonprofit health service plan corporation
3.7 identified in paragraph (b), if the amount determined under paragraph (d) constitutes a
3.8 substantial transfer of assets, the commissioner shall assess against the health maintenance
3.9 organization or nonprofit health service plan corporation a transfer penalty of three percent
3.10 of the amount determined under paragraph (d).

3.11 (f) All transfer penalties assessed under this subdivision shall be deposited in the health
3.12 care access fund established under section 16A.724.

3.13 Subd. 4. **Review of commissioner's action.** A health maintenance organization or
3.14 nonprofit health service plan corporation may contest a determination or penalty assessment
3.15 made by the commissioner under this section using the contested case procedures in chapter
3.16 14.

3.17 Subd. 5. **Attorney general.** The attorney general may review the reports submitted
3.18 according to subdivision 2 and act under any authority granted in section 8.31 or chapter
3.19 317A or 501B.