

1.1 A bill for an act

1.2 relating to education finance; making the K-12 special education third-party
1.3 billing process more cost effective; amending Minnesota Statutes 2008, section
1.4 125A.21, subdivision 2; Laws 2009, chapter 79, article 5, section 60.

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

1.6 Section 1. Minnesota Statutes 2008, section 125A.21, subdivision 2, is amended to
1.7 read:

1.8 Subd. 2. **Third party reimbursement.** (a) Beginning July 1, 2000, districts shall
1.9 seek reimbursement from insurers and similar third parties for the cost of services
1.10 provided by the district whenever the services provided by the district are otherwise
1.11 covered by the child's health coverage. Districts shall request, but may not require, the
1.12 child's family to provide information about the child's health coverage when a child with a
1.13 disability begins to receive services from the district of a type that may be reimbursable,
1.14 and shall request, but may not require, updated information after that as needed.

1.15 (b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare
1.16 under chapter 256L who have no other health coverage, a district shall provide an initial
1.17 written notice to the enrolled child's parent or legal representative of its intent to seek
1.18 reimbursement from medical assistance or MinnesotaCare for the individual education
1.19 plan health-related services provided by the district. The notice shall include:

1.20 (1) the right of the parent or legal representative to request a copy of all records
1.21 concerning individual education plan health-related services disclosed by the district to
1.22 any third party; and

1.23 (2) the right of the parent or legal representative to withdraw consent for disclosure
1.24 of a child's records at any time without consequence, including consent that was initially

2.1 given as part of the application process for MinnesotaCare or medical assistance under
2.2 section 256B.0625, subdivision 26.

2.3 (c) The district shall give the parent or legal representative annual written notice of:

2.4 (1) the district's intent to seek reimbursement from medical assistance or
2.5 MinnesotaCare for individual education plan health-related services provided by the
2.6 district;

2.7 (2) the right of the parent or legal representative to request a copy of all records
2.8 concerning individual education plan health-related services disclosed by the district to
2.9 any third party; and

2.10 (3) the right of the parent or legal representative to withdraw consent for disclosure
2.11 of a child's records at any time without consequence, including consent that was initially
2.12 given as part of the application process for MinnesotaCare or medical assistance under
2.13 section 256B.0625, subdivision 26.

2.14 The written notice shall be provided as part of the written notice required by Code of
2.15 Federal Regulations, title 34, section 300.504.

2.16 (d) In order to access the private health care coverage of a child who is covered by
2.17 private health care coverage in whole or in part, a district must:

2.18 (1) obtain annual written informed consent from the parent or legal representative, in
2.19 compliance with subdivision 5; and

2.20 (2) inform the parent or legal representative that a refusal to permit the district
2.21 or state Medicaid agency to access their private health care coverage does not relieve
2.22 the district of its responsibility to provide all services necessary to provide free and
2.23 appropriate public education at no cost to the parent or legal representative.

2.24 (e) If the commissioner of human services obtains federal approval to exempt
2.25 covered individual education plan health-related services from the requirement that private
2.26 health care coverage refuse payment before medical assistance may be billed, paragraphs
2.27 (b), (c), and (d) shall also apply to students with a combination of private health care
2.28 coverage and health care coverage through medical assistance or MinnesotaCare.

2.29 (f) In the event that Congress or any federal agency or the Minnesota legislature
2.30 or any state agency establishes lifetime limits, limits for any health care services,
2.31 cost-sharing provisions, or otherwise provides that individual education plan health-related
2.32 services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the
2.33 amendments to this subdivision adopted in 2002 are repealed on the effective date of any
2.34 federal or state law or regulation that imposes the limits. In that event, districts must
2.35 obtain informed consent consistent with this subdivision as it existed prior to the 2002
2.36 amendments and subdivision 5, before seeking reimbursement for children enrolled in

3.1 medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have
3.2 no other health care coverage.

3.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.4 Sec. 2. Laws 2009, chapter 79, article 5, section 60, is amended to read:

3.5 Sec. 60. Minnesota Statutes 2008, section 256L.05, is amended by adding a
3.6 subdivision to read:

3.7 Subd. 1c. **Open enrollment and streamlined application and enrollment**
3.8 **process.** (a) The commissioner and local agencies working in partnership must develop a
3.9 streamlined and efficient application and enrollment process for medical assistance and
3.10 MinnesotaCare enrollees that meets the criteria specified in this subdivision.

3.11 (b) The commissioners of human services and education shall provide
3.12 recommendations to the legislature by January 15, 2010, on the creation of an open
3.13 enrollment process for medical assistance and MinnesotaCare that is coordinated with
3.14 the public education system. The recommendations must:

3.15 (1) be developed in consultation with medical assistance and MinnesotaCare
3.16 enrollees and representatives from organizations that advocate on behalf of children and
3.17 families, low-income persons and minority populations, counties, school administrators
3.18 and nurses, health plans, and health care providers;

3.19 (2) be based on enrollment and renewal procedures best practices, including express
3.20 lane eligibility as required under subdivision 1d;

3.21 (3) simplify the enrollment and renewal processes wherever possible; and

3.22 (4) establish a process:

3.23 (i) to disseminate information on medical assistance and MinnesotaCare to all
3.24 children in the public education system, including prekindergarten programs; and

3.25 (ii) for the commissioner of human services to enroll children and other household
3.26 members who are eligible.

3.27 The commissioner of human services in coordination with the commissioner of
3.28 education shall implement an open enrollment process by August 1, 2010, to be effective
3.29 beginning with the 2010-2011 school year.

3.30 (c) The commissioner and local agencies shall develop an online application process
3.31 for medical assistance and MinnesotaCare.

3.32 (d) The commissioner shall develop an application that is easily understandable
3.33 and does not exceed four pages in length.

4.1 (e) The commissioner of human services shall present to the legislature, by January
4.2 15, 2010, an implementation plan for the open enrollment period and online application
4.3 process.

4.4 (f) As part of the process of developing the new application materials, the
4.5 commissioner of human services shall include on the enrollment forms an authorization
4.6 for consent to each provider of medical services to the parents' child or children to release
4.7 to the commissioner of human services medical or other information in the possession of
4.8 the provider necessary for the provider to be reimbursed by MinnesotaCare or medical
4.9 assistance.

4.10 **EFFECTIVE DATE.** This section is effective July 1, 2010, or upon federal
4.11 approval, which must be requested by the commissioner, whichever is later.

4.12 Sec. 3. **THIRD-PARTY BILLING.**

4.13 The commissioner of human services must summarize and document the prior
4.14 efforts of school districts to secure reimbursement from legally liable third parties and
4.15 request permission to allow school districts to bill Medicaid only without first billing
4.16 private payers for children with both private and public coverage based on documentation
4.17 that demonstrates that private payers do not reimburse for individual education plan
4.18 health-related services from the Centers for Medicare and Medicaid Services to allow the
4.19 cost-effective billing of medical assistance for covered services that are not reimbursed by
4.20 other legally liable third parties.

4.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.