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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3543

03/08/2018 Authored by Davids; Anderson, S.; Gruenhagen and Haley
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform
03/15/2018 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance
03/29/2018 Adoption of Report: Re-referred to the Committee on Taxes
04/16/2018 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to insurance; health; modifying funding for MNsure operations and
1.3 authority of MNsure to certify health carriers and health plans; requiring submission
1.4 of federal waivers and approvals by certain deadline; placing limitations on
1.5 risk-bearing by commissioner of human services; amending Minnesota Statutes
1.6 2016, section 62V.05, subdivisions 2, 5, 10; Laws 2015, chapter 71, article 12,
1.7 section 8.

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

1.9 Section 1. Minnesota Statutes 2016, section 62V.05, subdivision 2, is amended to read:

1.10 Subd. 2. **Operations funding.** ~~(a) Prior to January 1, 2015, MNsure shall retain or collect~~
1.11 ~~up to 1.5 percent of total premiums for individual and small group market health plans and~~
1.12 ~~dental plans sold through MNsure to fund the cash reserves of MNsure, but the amount~~
1.13 ~~collected shall not exceed a dollar amount equal to 25 percent of the funds collected under~~
1.14 ~~section 62E.11, subdivision 6, for calendar year 2012.~~

1.15 ~~(b) Beginning January 1, 2015, MNsure shall retain or collect up to 3.5 percent of total~~
1.16 ~~premiums for individual and small group market health plans and dental plans sold through~~
1.17 ~~MNsure to fund the operations of MNsure, but the amount collected shall not exceed a~~
1.18 ~~dollar amount equal to 50 percent of the funds collected under section 62E.11, subdivision~~
1.19 ~~6, for calendar year 2012.~~

1.20 ~~(e)~~ (a) Beginning January 1, 2016, through December 31, 2018, MNsure shall retain or
1.21 collect up to 3.5 percent of total premiums for individual and small group market health
1.22 plans and dental plans sold through MNsure to fund the operations of MNsure, but the
1.23 amount collected may never exceed a dollar amount greater than 100 percent of the funds
1.24 collected under section 62E.11, subdivision 6, for calendar year 2012.

2.1 ~~(d) For fiscal years 2014 and 2015, the commissioner of management and budget is~~
 2.2 ~~authorized to provide cash flow assistance of up to \$20,000,000 from the special revenue~~
 2.3 ~~fund or the statutory general fund under section 16A.671, subdivision 3, paragraph (a), to~~
 2.4 ~~MNsure. Any funds provided under this paragraph shall be repaid, with interest, by June~~
 2.5 ~~30, 2015.~~

2.6 (b) Beginning January 1, 2019, MNsure shall retain or collect up to two percent of total
 2.7 premiums for individual and small group health plans and dental plans sold through MNsure
 2.8 to fund the operations of MNsure, but the amount collected may never exceed a dollar
 2.9 amount greater than 25 percent of the funds collected under section 62E.11, subdivision 6,
 2.10 for calendar year 2012.

2.11 ~~(e)~~ (c) Funding for the operations of MNsure shall cover any compensation provided to
 2.12 navigators participating in the navigator program.

2.13 (d) Interagency agreements between MNsure and the Department of Human Services,
 2.14 and the Public Assistance Cost Allocation Plan for the Department of Human Services,
 2.15 shall not be modified to reflect any changes to the percentage of premiums that MNsure is
 2.16 allowed to retain or collect under this section, and no additional funding shall be transferred
 2.17 from the Department of Human Services to MNsure as a result of any changes to the
 2.18 percentage of premiums that MNsure is allowed to retain or collect under this section.

2.19 Sec. 2. Minnesota Statutes 2016, section 62V.05, subdivision 5, is amended to read:

2.20 Subd. 5. **Health carrier and health plan requirements; participation.** (a) Beginning
 2.21 January 1, 2015, the board may establish certification requirements for health carriers and
 2.22 health plans to be offered through MNsure that satisfy federal requirements under ~~section~~
 2.23 ~~1311(e)(1) of the Affordable Care Act, Public Law 111-148~~ United States Code, title 42,
 2.24 section 18031(c)(1).

2.25 (b) Paragraph (a) does not apply if by June 1, 2013, the legislature enacts regulatory
 2.26 requirements that:

2.27 (1) apply uniformly to all health carriers and health plans in the individual market;

2.28 (2) apply uniformly to all health carriers and health plans in the small group market; and

2.29 (3) satisfy minimum federal certification requirements under ~~section 1311(e)(1) of the~~
 2.30 ~~Affordable Care Act, Public Law 111-148~~ United States Code, title 42, section 18031(c)(1).

2.31 (c) In accordance with ~~section 1311(e) of the Affordable Care Act, Public Law 111-148~~
 2.32 United States Code, title 42, section 18031(e), the board shall establish policies and

3.1 procedures for certification and selection of health plans to be offered as qualified health
 3.2 plans through MNsure. The board shall certify and select a health plan as a qualified health
 3.3 plan to be offered through MNsure, if:

3.4 (1) the health plan meets the minimum certification requirements established in paragraph
 3.5 (a) or the market regulatory requirements in paragraph (b);

3.6 (2) the board determines that making the health plan available through MNsure is in the
 3.7 interest of qualified individuals and qualified employers;

3.8 (3) the health carrier applying to offer the health plan through MNsure also applies to
 3.9 offer health plans at each actuarial value level and service area that the health carrier currently
 3.10 offers in the individual and small group markets; and

3.11 (4) the health carrier does not apply to offer health plans in the individual and small
 3.12 group markets through MNsure under a separate license of a parent organization or holding
 3.13 company under section 60D.15, that is different from what the health carrier offers in the
 3.14 individual and small group markets outside MNsure.

3.15 (d) In determining the interests of qualified individuals and employers under paragraph
 3.16 (c), clause (2), the board may not exclude a health plan for any reason specified under ~~section~~
 3.17 ~~1311(e)(1)(B) of the Affordable Care Act, Public Law 111-148~~ United States Code, title
 3.18 42, section 18031(e)(1)(B). ~~The board may consider:~~

3.19 ~~(1) affordability;~~

3.20 ~~(2) quality and value of health plans;~~

3.21 ~~(3) promotion of prevention and wellness;~~

3.22 ~~(4) promotion of initiatives to reduce health disparities;~~

3.23 ~~(5) market stability and adverse selection;~~

3.24 ~~(6) meaningful choices and access;~~

3.25 ~~(7) alignment and coordination with state agency and private sector purchasing strategies~~
 3.26 ~~and payment reform efforts; and~~

3.27 ~~(8) other criteria that the board determines appropriate.~~

3.28 (e) A health plan that meets the minimum certification requirements under paragraph
 3.29 (c) and United States Code, title 42, section 18031(c)(1), and any regulations and guidance
 3.30 issued under that section, is deemed to be in the interest of qualified individuals and qualified
 3.31 employers. The board shall not establish certification requirements for health carriers and

4.1 health plans for participation in MNsure that are in addition to the certification requirements
 4.2 under paragraph (c) and United States Code, title 42, section 18031(c)(1), and any regulations
 4.3 and guidance issued under that section. The board shall not determine the cost of, cost-sharing
 4.4 elements of, or benefits provided in health plans sold through MNsure.

4.5 ~~(e)~~ (f) For qualified health plans offered through MNsure on or after January 1, 2015,
 4.6 the board shall establish policies and procedures under paragraphs (c) and (d) for selection
 4.7 of health plans to be offered as qualified health plans through MNsure by February 1 of
 4.8 each year, beginning February 1, 2014. The board shall consistently and uniformly apply
 4.9 all policies and procedures and any requirements, standards, or criteria to all health carriers
 4.10 and health plans. For any policies, procedures, requirements, standards, or criteria that are
 4.11 defined as rules under section 14.02, subdivision 4, the board may use the process described
 4.12 in subdivision 9.

4.13 ~~(f) For 2014, the board shall not have the power to select health carriers and health plans~~
 4.14 ~~for participation in MNsure. The board shall permit all health plans that meet the certification~~
 4.15 ~~requirements under section 1311(e)(1) of the Affordable Care Act, Public Law 111-148, to~~
 4.16 ~~be offered through MNsure.~~

4.17 (g) Under this subdivision, the board shall have the power to verify that health carriers
 4.18 and health plans are properly certified to be eligible for participation in MNsure.

4.19 (h) The board has the authority to decertify health carriers and health plans that fail to
 4.20 maintain compliance with ~~section 1311(e)(1) of the Affordable Care Act, Public Law 111-148~~
 4.21 United States Code, title 42, section 18031(c)(1).

4.22 (i) For qualified health plans offered through MNsure beginning January 1, 2015, health
 4.23 carriers must use the most current addendum for Indian health care providers approved by
 4.24 the Centers for Medicare and Medicaid Services and the tribes as part of their contracts with
 4.25 Indian health care providers. MNsure shall comply with all future changes in federal law
 4.26 with regard to health coverage for the tribes.

4.27 Sec. 3. Minnesota Statutes 2016, section 62V.05, subdivision 10, is amended to read:

4.28 Subd. 10. **Limitations; risk-bearing.** (a) The board shall not bear insurance risk or enter
 4.29 into any agreement with health care providers to pay claims.

4.30 (b) Nothing in this subdivision shall prevent MNsure from providing insurance for its
 4.31 employees.

4.32 (c) The commissioner of human services shall not bear insurance risk or enter into any
 4.33 agreement with providers to pay claims for any health coverage administered by the

5.1 commissioner that is made available for purchase through the MNsure Web site as an
 5.2 alternative to purchasing a qualifying health plan through MNsure or an individual health
 5.3 plan offered outside of MNsure.

5.4 (d) Nothing in this subdivision shall prohibit:

5.5 (1) the commissioner of human services from administering the medical assistance
 5.6 program under chapter 256B and the MinnesotaCare program under chapter 256L, as long
 5.7 as health coverage under these programs is not purchased by the individual through the
 5.8 MNsure Web site; and

5.9 (2) employees of the Department of Human Services from obtaining insurance from the
 5.10 state employee group insurance program.

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

5.12 Sec. 4. Laws 2015, chapter 71, article 12, section 8, is amended to read:

5.13 **Sec. 8. EXPANDED ACCESS TO QUALIFIED HEALTH PLANS AND**
 5.14 **SUBSIDIES.**

5.15 The commissioner of commerce, in consultation with the Board of Directors of MNsure
 5.16 and the MNsure Legislative Oversight Committee, shall develop a proposal to allow
 5.17 individuals to purchase qualified health plans outside of MNsure directly from health plan
 5.18 companies and to allow eligible individuals to receive advanced premium tax credits and
 5.19 cost-sharing reductions when purchasing these health plans. The commissioner shall seek
 5.20 all federal waivers and approvals necessary to implement this proposal and shall submit the
 5.21 necessary federal waivers and approvals to the federal government no later than July 1,
 5.22 2018. The commissioner shall submit a draft proposal to the MNsure board and the MNsure
 5.23 Legislative Oversight Committee ~~at least 30 days before submitting a final proposal to the~~
 5.24 ~~federal government~~ no later than June 1, 2018, and shall notify the board and legislative
 5.25 oversight committee of any federal decision or action related to the proposal.

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

5.27 **Sec. 5. RATES FOR INDIVIDUAL MARKET HEALTH AND DENTAL PLANS**
 5.28 **FOR 2019.**

5.29 (a) Health carriers must take into account the reduction in the premium withhold
 5.30 percentage under Minnesota Statutes, section 62V.05, subdivision 2, applicable beginning
 5.31 in calendar year 2019 for individual market health plans and dental plans sold through

6.1 MNsure when setting rates for individual market health plans and dental plans for calendar
6.2 year 2019.

6.3 (b) For purposes of this section, "dental plan," "health carrier," "health plan," and
6.4 "individual market" have the meanings given in Minnesota Statutes, section 62V.02.