

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 2243

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DATE	D-PG	OFFICIAL STATUS
03/01/2023	1185	Introduction and first reading Referred to Commerce and Consumer Protection

1.1 A bill for an act

1.2 relating to health; authorizing in-home day care cooperative health plans; proposing

1.3 coding for new law in Minnesota Statutes, chapter 62H.

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

1.5 Section 1. **[62H.19] IN-HOME DAY CARE COOPERATIVE HEALTH PLAN.**

1.6 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have

1.7 the meanings given.

1.8 (b) "Broker" means an insurance agent engaged in brokerage business under section

1.9 60K.49.

1.10 (c) "Employee Retirement Income Security Act" means the Employee Retirement Income

1.11 Security Act of 1974, United States Code, title 29, sections 1001, et seq.

1.12 (d) "Enrollee" means a natural person covered by a joint self-insurance plan operating

1.13 under this section.

1.14 (e) "In-home day care cooperative" means a cooperative organized under chapter 308A

1.15 or 308B that is formed to facilitate health care coverage for the cooperative's members

1.16 engaged in providing in-home day care services.

1.17 (f) "Insurance agent" has the meaning given in section 60A.02, subdivision 7.

1.18 (g) "Joint self-insurance plan" or "plan" means a plan or any other arrangement,

1.19 established for the benefit of two or more entities authorized to transact business in Minnesota

1.20 to jointly self-insure through a single employee welfare benefit plan funded through a trust,

2.1 to provide health, dental, or other benefits permitted under the Employee Retirement Income
2.2 Security Act.

2.3 (h) "Service plan administrator" means a vendor licensed under section 60A.23 to provide
2.4 risk management services.

2.5 (i) "Trust" means a trust established to (1) accept and hold assets of the joint
2.6 self-insurance plan in trust, and (2) use and disperse funds in accordance with the terms of
2.7 the written trust document and joint self-insurance plan solely to provide benefits and defray
2.8 reasonable administrative costs incurred to provide the benefits.

2.9 Subd. 2. **Exemption.** A joint self-insurance plan, a joint self-insurance plan administrator,
2.10 a stop-loss carrier, and any broker assisting the in-home day care cooperative are exempt
2.11 from sections 62H.01 to 62H.17 and are governed by the requirements of this section if the
2.12 joint self-insurance plan: (1) is administrated through a trust established by an in-home day
2.13 care cooperative that specifies criteria for membership in the in-home day care cooperative
2.14 in the articles of organization or bylaws, provided that criteria cannot be based on health
2.15 status factors of the individuals to be covered through the joint self-insurance plan; and (2)
2.16 grants at least 51 percent of the aggregate voting power to members identified in subdivision
2.17 3, clause (1), with respect to (i) matters all members may vote on, and (ii) any additional
2.18 criteria in the in-home day care cooperative's articles of organization and bylaws.

2.19 Subd. 3. **Plan requirements.** A joint self-insurance plan operating under this section
2.20 must:

2.21 (1) offer health coverage to members of the in-home day care cooperative that establishes
2.22 the plan and dependents of members, employees of members of the in-home day care
2.23 cooperative that establishes the plan and the dependents of employees of members, or
2.24 employees of the in-home day care cooperative that establishes the plan and the dependents
2.25 of employees of the in-home day care cooperative. Health coverage must be offered only
2.26 to individuals who meet certain criteria described in the joint self-insurance plan governing
2.27 documents, provided that criteria cannot be based on health status factors of the individuals
2.28 to be covered through the joint self-insurance plan;

2.29 (2) include stop-loss coverage with an individual attachment point not lower than \$20,000
2.30 and an aggregate attachment point not lower than 110 percent of expected claims, issued
2.31 by an insurance company licensed in Minnesota;

2.32 (3) establish a reserve fund, certified by an actuary to be sufficient to cover unpaid claim
2.33 liability for incurred but unreported liabilities in the event of plan termination. Certification
2.34 from the actuary must include all maximum funding requirements for plan fixed cost

3.1 requirements and current claims liability requirements, and must include a calculation of
3.2 the reserve levels needed to fund all incurred but unreported liabilities in the event of member
3.3 or plan termination. Reserve funds under this clause must be held in a trust;

3.4 (4) be governed by a board elected by in-home day care cooperative members that
3.5 participate in the plan;

3.6 (5) contract for services with a service plan administrator; and

3.7 (6) satisfy the requirements of the Employee Retirement Income Security Act that apply
3.8 to employee welfare benefit plans.

3.9 Subd. 4. **Submission of documents to commissioner of commerce.** A joint
3.10 self-insurance plan operating under this section must submit to the commissioner of
3.11 commerce copies of all filings and reports that are submitted to the United States Department
3.12 of Labor under the Employee Retirement Income Security Act. Members participating in
3.13 the joint self-insurance plan may designate an in-home day care cooperative that establishes
3.14 the plan as the entity responsible for satisfying the reporting requirements of the Employee
3.15 Retirement Income Security Act and for providing copies of the filings and reports to the
3.16 commissioner of commerce.

3.17 Subd. 5. **Participation; termination of participation.** If a member chooses to participate
3.18 in a joint self-insurance plan under this section, the member must participate in the plan for
3.19 at least three consecutive years. If a member terminates participation in the plan before the
3.20 end of the three-year period, a financial penalty may be assessed under the plan. A financial
3.21 penalty assessed under this subdivision must exceed the amount contributed by the member
3.22 to the plan reserves.

3.23 Subd. 6. **Single risk pool.** The enrollees of a joint self-insurance plan operating under
3.24 this section must be members of a single risk pool. The plan must provide benefits as a
3.25 single, self-insured plan with the plan's size based on the total enrollees in the risk pool.

3.26 Subd. 7. **Promotion; marketing; sale of coverage.** (a) Coverage in a joint self-insurance
3.27 plan operating under this section may be promoted, marketed, and sold by insurance agents
3.28 and brokers to members of the in-home day care cooperative sponsoring the plan and the
3.29 dependents of members, employees of members of the in-home day care cooperative
3.30 sponsoring the plan and the dependents of employees of members, and employees of the
3.31 in-home day care cooperative sponsoring the plan and the dependents of employees of the
3.32 in-home day care cooperative.

4.1 (b) Coverage in a joint self-insurance plan operating under this section may be promoted
4.2 and marketed by a cooperative organized under chapter 308A or 308B to persons who may
4.3 be eligible to participate in the joint self-insurance plan.

4.4 Subd. 8. **Taxation.** Joint self-insurance plans are exempt from the taxes imposed under
4.5 section 297I.05, subdivision 12.

4.6 Subd. 9. **Compliance with other laws.** A joint self-insurance plan operating under this
4.7 section:

4.8 (1) is exempt from providing the mandated health benefits under chapters 62A and 62Q
4.9 if the plan otherwise provides the benefits required under the Employee Retirement Income
4.10 Security Act;

4.11 (2) is exempt from the continuation requirements under sections 62A.146, 62A.16,
4.12 62A.17, 62A.20, and 62A.21 if the plan complies with the continuation requirements under
4.13 the Employee Retirement Income Security Act; and

4.14 (3) must comply with all requirements of the Affordable Care Act, as defined in section
4.15 62A.011, subdivision 1a, to the extent that the requirements apply to joint self-insurance
4.16 plans under this section.

4.17 **EFFECTIVE DATE.** This section is effective June 1, 2023.