

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 2535

(SENATE AUTHORS: LOUREY and Hayden)

DATE
02/22/2018

D-PG
6153

Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to taxation; insurance; clarifying that for-profit health maintenance
1.3 organizations must pay the two-percent premium revenue tax; making clarifying
1.4 changes; amending Minnesota Statutes 2016, sections 256B.69, subdivision 5i;
1.5 295.58; 297I.05, subdivisions 1, 5; Minnesota Statutes 2017 Supplement, section
1.6 297I.05, subdivision 2.

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

1.8 Section 1. Minnesota Statutes 2016, section 256B.69, subdivision 5i, is amended to read:

1.9 Subd. 5i. **Administrative expenses.** (a) Administrative costs paid to managed care plans
1.10 and county-based purchasing plans under this section, section 256B.692, and section 256L.12
1.11 must not exceed 6.6 percent of total payments made to all managed care plans and
1.12 county-based purchasing plans in aggregate across all state public health care programs,
1.13 based on payments expected to be made at the beginning of each calendar year. The
1.14 commissioner may reduce or eliminate administrative requirements to meet the administrative
1.15 cost limit. For purposes of this paragraph, administrative costs do not include premium
1.16 taxes paid under section 297I.05, ~~subdivision 5~~, provider surcharges paid under section
1.17 256.9657, subdivision 3, and health insurance fees under section 9010 of the Affordable
1.18 Care Act.

1.19 (b) The following expenses are not allowable administrative expenses for rate-setting
1.20 purposes under this section:

1.21 (1) charitable contributions made by the managed care plan or the county-based
1.22 purchasing plan;

(2) compensation of individuals within the organization in excess of \$200,000 such that the allocation of compensation for an individual across all state public health care programs in total cannot exceed \$200,000;

(3) any penalties or fines assessed against the managed care plan or county-based purchasing plan;

(4) any indirect marketing or advertising expenses of the managed care plan or county-based purchasing plan, including but not limited to costs to promote the managed care or county-based purchasing plan, costs of facilities used for special events, and costs of displays, demonstrations, donations, and promotional items such as memorabilia, models, gifts, and souvenirs. The commissioner may classify an item listed in this clause as an allowable administrative expense for rate-setting purposes, if the commissioner determines that the expense is incidental to an activity related to state public health care programs that is an allowable cost for purposes of rate setting;

(5) any lobbying and political activities, events, or contributions;

(6) administrative expenses related to the provision of services not covered under the state plan or waiver;

(7) alcoholic beverages and related costs;

(8) membership in any social, dining, or country club or organization; and

(9) entertainment, including amusement, diversion, and social activities, and any costs directly associated with these costs, including but not limited to tickets to shows or sporting events, meals, lodging, rentals, transportation, and gratuities.

For the purposes of this subdivision, compensation includes salaries, bonuses and incentives, other reportable compensation on an IRS 990 form, retirement and other deferred compensation, and nontaxable benefits. Charitable contributions under clause (1) include payments for or to any organization or entity selected by the managed care plan or county-based purchasing plan that is operated for charitable, educational, political, religious, or scientific purposes, that are not related to medical and administrative services covered under state public health care programs.

(c) Payments to a quality improvement organization are an allowable administrative expense for rate-setting purposes under this section, to the extent they are allocated to a state public health care program and approved by the commissioner.

(d) Where reasonably possible, expenses for an administrative item shall be directly allocated so as to assign costs for an item to an individual state public health care program

when the cost can be specifically identified with and benefits the individual state public health care program. For administrative services expensed to the state's public health care programs, managed care plans and county-based purchasing plans must clearly identify and separately record expense items listed under paragraph (b) in their accounting systems in a manner that allows for independent verification of unallowable expenses for purposes of determining payment rates for state public health care programs.

(e) Notwithstanding paragraph (a), the commissioner shall reduce administrative expenses paid to managed care plans and county-based purchasing plans by .50 of a percentage point for contracts beginning January 1, 2016, and ending December 31, 2017. To meet the administrative reductions under this paragraph, the commissioner may reduce or eliminate administrative requirements, exclude additional unallowable administrative expenses identified under this section and resulting from the financial audits conducted under subdivision 9d, and utilize competitive bidding to gain efficiencies through economies of scale from increased enrollment. If the total reduction cannot be achieved through administrative reduction, the commissioner may limit total rate increases on payments to managed care plans and county-based purchasing plans.

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

Sec. 2. Minnesota Statutes 2016, section 295.58, is amended to read:

295.58 DEPOSIT OF REVENUES AND PAYMENT OF REFUNDS.

The commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 ~~and from the insurance premiums tax imposed by section 2971.05, subdivision 5,~~ on health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. There is annually appropriated from the health care access fund to the commissioner of revenue the amount necessary to make refunds under this chapter.

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

Sec. 3. Minnesota Statutes 2016, section 2971.05, subdivision 1, is amended to read:

Subdivision 1. **Domestic and foreign companies and for-profit health maintenance organizations; deposit of revenues.** (a) Except as otherwise provided in this section, a tax is imposed on every domestic and foreign insurance company and for-profit health maintenance organization. The rate of tax is equal to two percent of all gross premiums less

return premiums on all direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year.

(b) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from for-profit health maintenance organizations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to premium tax returns originally due on or after December 31, 2018.

Sec. 4. Minnesota Statutes 2017 Supplement, section 297I.05, subdivision 2, is amended to read:

Subd. 2. **Township mutual insurance.** A tax is imposed on township mutual insurance companies. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, ~~during~~ in the calendar year.

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

Sec. 5. Minnesota Statutes 2016, section 297I.05, subdivision 5, is amended to read:

Subd. 5. **Nonprofit health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks; deposit of revenues.** (a) A tax is imposed on nonprofit health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.

(b) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from nonprofit health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

- 5.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
- 5.2 applies to premium tax returns originally due on or after December 31, 2018.