

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 654

(SENATE AUTHORS: WIKLUND)

DATE	D-PG	OFFICIAL STATUS
02/21/2013	353	Introduction and first reading
		Referred to Health, Human Services and Housing
02/28/2013		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
 1.2 relating to human services; modifying provisions related to health care and
 1.3 medical assistance; amending Minnesota Statutes 2012, sections 62J.495,
 1.4 subdivision 15; 256.01, subdivision 34; 256.962, subdivision 8; 256B.0625,
 1.5 subdivisions 8, 8a, 8b, 25.

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

1.7 Section 1. Minnesota Statutes 2012, section 62J.495, subdivision 15, is amended to read:

1.8 Subd. 15. **Appeals review process.** (a) Upon receipt of an appeal notice
 1.9 satisfying subdivision 14, the commissioner shall review the appeal and issue a written
 1.10 appeal determination on each appealed item with 90 days. Upon mutual agreement, the
 1.11 commissioner and the provider may extend the time for issuing a determination for a
 1.12 specified period. The commissioner shall notify the provider ~~by first class mail~~ of the
 1.13 appeal determination. The appeal determination takes effect upon the date of issuance
 1.14 specified in the determination.

1.15 (b) In reviewing the appeal, the commissioner may request additional written or oral
 1.16 information from the provider.

1.17 (c) The provider has the right to present information by telephone, in writing, or
 1.18 in person concerning the appeal to the commissioner prior to the issuance of the appeal
 1.19 determination within 30 days of the date the appeal was received by the commissioner.
 1.20 The provider must request an in-person conference in writing, separate from the appeal
 1.21 letter. Statements made during the review process are not admissible in a contested case
 1.22 hearing absent an express stipulation by the parties to the contested case.

1.23 (d) For an appeal item on which the provider disagrees with the appeal determination,
 1.24 the provider may file with the commissioner a written demand for a contested case
 1.25 hearing to determine the proper resolution of specified appeal items. The demand must

2.1 be postmarked or received by the commissioner within 30 days of the date of issuance
2.2 specified in the determination. A contested case demand for an appeal item nullifies
2.3 the written appeal determination issued by the commissioner for that appeal item. The
2.4 commissioner shall refer any contested case demand to the Office of the Attorney General.

2.5 (e) A contested case hearing must be heard by an administrative law judge according
2.6 to sections 14.48 to 14.56. In any proceeding under this section, the appealing party must
2.7 demonstrate by a preponderance of the evidence that the Minnesota electronic health
2.8 record incentives program eligibility determination is incorrect.

2.9 (f) Regardless of any appeal, the Minnesota electronic health record incentives
2.10 program eligibility determination must remain in effect until final resolution of the appeal.

2.11 (g) The commissioner has discretion to issue to the provider a proposed resolution
2.12 for specified appeal items upon a request from the provider filed separately from the
2.13 notice of appeal. The proposed resolution is final upon written acceptance by the provider
2.14 within 30 days of the date the proposed resolution was mailed to or personally received by
2.15 the provider, whichever is earlier.

2.16 Sec. 2. Minnesota Statutes 2012, section 256.01, subdivision 34, is amended to read:

2.17 Subd. 34. **Federal administrative reimbursement dedicated.** Federal
2.18 administrative reimbursement resulting from the following activities is appropriated to the
2.19 commissioner for the designated purposes:

2.20 (1) reimbursement for the Minnesota senior health options project; and

2.21 (2) reimbursement related to prior authorization, review of medical necessity, and
2.22 inpatient admission certification by a professional review organization. A portion of
2.23 these funds must be used for activities to decrease unnecessary pharmaceutical costs in
2.24 medical assistance.

2.25 Sec. 3. Minnesota Statutes 2012, section 256.962, subdivision 8, is amended to read:

2.26 Subd. 8. **Eligibility ~~and~~ review dates.** The commissioner shall develop and
2.27 implement a process by January 1, 2013, to provide eligibility ~~and~~ review dates upon
2.28 request from the managed care and county-based purchasing plans for medical assistance
2.29 and MinnesotaCare enrollees.

2.30 Sec. 4. Minnesota Statutes 2012, section 256B.0625, subdivision 8, is amended to read:

2.31 Subd. 8. **Physical therapy.** (a) Medical assistance covers physical therapy and
2.32 related services. Specialized maintenance therapy is covered for recipients age 20 and
2.33 under.

3.1 ~~(b) Authorization by the commissioner is required to provide medically necessary~~
3.2 ~~services to a recipient.~~ Services provided by a physical therapy assistant shall be
3.3 reimbursed at the same rate as services performed by a physical therapist when the
3.4 services of the physical therapy assistant are provided under the direction of a physical
3.5 therapist who is on the premises. Services provided by a physical therapy assistant that
3.6 are provided under the direction of a physical therapist who is not on the premises shall
3.7 be reimbursed at 65 percent of the physical therapist rate.

3.8 Sec. 5. Minnesota Statutes 2012, section 256B.0625, subdivision 8a, is amended to read:

3.9 Subd. 8a. **Occupational therapy.** (a) Medical assistance covers occupational
3.10 therapy and related services. Specialized maintenance therapy is covered for recipients
3.11 age 20 and under.

3.12 ~~(b) Authorization by the commissioner is required to provide medically necessary~~
3.13 ~~services to a recipient.~~ Services provided by an occupational therapy assistant shall be
3.14 reimbursed at the same rate as services performed by an occupational therapist when the
3.15 services of the occupational therapy assistant are provided under the direction of the
3.16 occupational therapist who is on the premises. Services provided by an occupational
3.17 therapy assistant that are provided under the direction of an occupational therapist who is
3.18 not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

3.19 Sec. 6. Minnesota Statutes 2012, section 256B.0625, subdivision 8b, is amended to read:

3.20 Subd. 8b. **Speech-language pathology and audiology services.** (a) Medical
3.21 assistance covers speech-language pathology and related services. Specialized
3.22 maintenance therapy is covered for recipients age 20 and under.

3.23 ~~(b) Authorization by the commissioner is required to provide medically necessary~~
3.24 ~~speech-language pathology services to a recipient.~~

3.25 ~~(c)~~ (e) Medical assistance covers audiology services and related services. Services
3.26 provided by a person who has been issued a temporary registration under section 148.5161
3.27 shall be reimbursed at the same rate as services performed by a speech-language pathologist
3.28 or audiologist as long as the requirements of section 148.5161, subdivision 3, are met.

3.29 Sec. 7. Minnesota Statutes 2012, section 256B.0625, subdivision 25, is amended to read:

3.30 Subd. 25. **Prior authorization required.** (a) The commissioner shall publish in
3.31 the Minnesota health care programs provider manual and on the department's Web site a
3.32 list of health services that require prior authorization, ~~as well as the criteria and standards~~
3.33 used to select health services on the list, and the criteria and standards used to determine

4.1 whether certain providers must obtain prior authorization for their services. The list of
4.2 services requiring prior authorization and the criteria and standards used to formulate it
4.3 the list of services or the selection of providers for whom prior authorization is required
4.4 are not subject to the requirements of sections 14.001 to 14.69. The commissioner's
4.5 decision whether prior authorization is required for a health service or is required for a
4.6 provider is not subject to administrative appeal.

4.7 (b) The commissioner shall implement a modernized electronic system for providers
4.8 to request prior authorization. The modernized electronic system must include at least the
4.9 following functionalities:

4.10 (1) authorizations are recipient-centric, not provider-centric;

4.11 (2) adequate flexibility to support authorizations for an episode of care, continuous
4.12 drug therapy, or for individual onetime services and allows an ordering and a rendering
4.13 provider to both submit information into one request;

4.14 (3) allows providers to review previous authorization requests and determine where
4.15 a submitted request is within the authorization process;

4.16 (4) supports automated workflows that allow providers to securely submit medical
4.17 information that can be accessed by medical and pharmacy review vendors as well as
4.18 department staff; and

4.19 (5) supports development of automated clinical algorithms that can verify
4.20 information and provide responses in real time.

4.21 (c) The system described in paragraph (b) shall be completed by March 1, 2012. All
4.22 authorization requests submitted on and after March 1, 2012, or upon completion of the
4.23 modernized authorization system, whichever is later, must be submitted electronically by
4.24 providers, except requests for drugs dispensed by an outpatient pharmacy, services that
4.25 are provided outside of the state and surrounding local trade area, and services included
4.26 on a service agreement.