CHAPTER 175—S.F.No. 1715

An act relating to insurance; making changes in response to the federal Health Insurance Portability and Accountability Act of 1996; amending Minnesota Statutes 1996, sections 62E.02, subdivision 13; 62E.14, subdivisions 3 and 4c; 62H.01; 62L.02, subdivisions 9, 11, 15, 19, 23, 24, 26, and by adding subdivisions; 62L.03, subdivisions 1, 2, 3, 4, and 5; and 62Q.18, subdivisions 1 and 7; proposing coding for new law in Minnesota Statutes, chapter 62Q.

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

ARTICLE 1

INDIVIDUAL MARKET CHANGES (MCHA)

Section 1. Minnesota Statutes 1996, section 62E.02, subdivision 13, is amended to read:

Subd. 13. **ELIGIBLE PERSON.** "Eligible person" means an individual who is currently and has been a resident of Minnesota for the six months immediately preceding the date of receipt by the association or its writing carrier of a completed certificate of eligibility and who meets the enrollment requirements of section 62E.14. For purposes of eligibility under section 62E.14, subdivision 4c, paragraph (b), this definition is modified as provided in that paragraph.

Sec. 2. Minnesota Statutes 1996, section 62E.14, subdivision 3, is amended to read:

Subd. 3. **PREEXISTING CONDITIONS.** No person who obtains coverage pursuant to this section shall be covered for any preexisting condition during the first six months of coverage under the state plan if the person was diagnosed or treated for that condition during the 90 days immediately preceding the filing of an application except as provided under subdivisions 4, 4a, 4b, 4c, 4d, 5, ~~and~~ 6, and 7 and section 62E.18.

Sec. 3. Minnesota Statutes 1996, section 62E.14, subdivision 4c, is amended to read:

Subd. 4c. **WAIVER OF PREEXISTING CONDITIONS FOR PERSONS WHOSE COVERAGE IS TERMINATED OR WHO EXCEED THE MAXIMUM LIFETIME BENEFIT.** (a) A Minnesota resident may enroll in the comprehensive health plan with a waiver of the preexisting condition limitation described in subdivision 3 if that person applies for coverage within 90 days of termination of prior coverage and if the termination is for reasons other than fraud or nonpayment of premiums.

For purposes of this ~~subdivision~~ paragraph, termination of prior coverage includes exceeding the maximum lifetime benefit of existing coverage.

Coverage in the comprehensive health plan is effective on the date of termination of prior coverage. The availability of conversion rights does not affect a person's rights under this ~~subdivision~~ paragraph.

This section does not apply to prior coverage provided under policies designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or policies providing only accident coverage.

(b) An eligible individual, as defined under United States Code, chapter 42, section 300gg–41(b) may enroll in the comprehensive health insurance plan with a waiver of the preexisting condition limitation described in subdivision 3 and a waiver of the evidence of rejection or similar events described in subdivision 1, clause (c). The eligible individual must apply for enrollment under this paragraph within 63 days of termination of prior coverage, and coverage under the comprehensive health insurance plan is effective as of the date of receipt of the complete application. The six month durational residency requirement provided in section 62E.02, subdivision 13, does not apply with respect to eligibility for enrollment under this paragraph, but the applicant must be a Minnesota resident as of the date of application. A person's eligibility to enroll under this paragraph does not affect the person's eligibility to enroll under any other provision.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective January 1, 1998.

ARTICLE 2

SMALL EMPLOYER MARKET CHANGES

Section 1. Minnesota Statutes 1996, section 62L.02, subdivision 9, is amended to read:

Subd. 9. **CONTINUOUS COVERAGE.** "Continuous coverage" means the maintenance of continuous and uninterrupted qualifying coverage. An individual is considered to have maintained continuous coverage if the individual requests enrollment in qualifying coverage within ~~30~~ 63 days of termination of qualifying coverage.

Sec. 2. Minnesota Statutes 1996, section 62L.02, subdivision 11, is amended to read:

Subd. 11. **DEPENDENT.** "Dependent" means an eligible employee's spouse, unmarried child who is under the age of 19 years, unmarried child under the age of 25 years who is a full–time student as defined in section 62A.301, dependent child of any age who is handicapped and who meets the eligibility criteria in section 62A.14, subdivision 2, or any other person whom state or federal law requires to be treated as a dependent for purposes of health plans. For the purpose of this definition, a child includes a child for whom the employee or the employee's spouse has been appointed legal guardian and an adoptive child as provided in section 62A.27.

Sec. 3. Minnesota Statutes 1996, section 62L.02, is amended by adding a subdivision to read:

Subd. 13b. **ENROLLMENT DATE.** "Enrollment date" means, with respect to a covered individual, the date of enrollment of the individual in the health benefit plan or, if earlier, the first day of the waiting period for the individual's enrollment.

Sec. 4. Minnesota Statutes 1996, section 62L.02, subdivision 15, is amended to read:

Subd. 15. **HEALTH BENEFIT PLAN.** "Health benefit plan" means a policy, contract, or certificate offered, sold, issued, or renewed by a health carrier to a small employer for the coverage of medical and hospital benefits. Health benefit plan includes a small employer plan. Health benefit plan does not include coverage, including any combination of the following coverages, that is:

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) liability insurance or supplemental to liability insurance;

(4) designed solely to provide coverage for a specified disease or illness or to provide payments on a per diem, fixed indemnity, or non-expense-incurred basis, if offered as independent, noncoordinated coverage;

(5) credit accident and health insurance as defined in section 62B.02;

(6) designed solely to provide dental or vision care;

(7) blanket accident and sickness insurance as defined in section 62A.11;

(8) accident-only coverage;

(9) a long-term care policy as defined in section 62A.46;

(10) ~~issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended~~ Medicare-related coverage as defined in section 62Q.01, subdivision 6;

(11) workers' compensation insurance; or

(12) ~~issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health benefit plan~~ limited to care provided at on-site medical clinics operated by an employer for the benefit of the employer's employees and their dependents, in connection with which the employer does not transfer risk.

For the purpose of this chapter, a health benefit plan issued to eligible employees of a small employer who meets the participation requirements of section 62L.03, subdivision 3, is considered to have been issued to a small employer. A health benefit plan issued on behalf of a health carrier is considered to be issued by the health carrier.

Sec. 5. Minnesota Statutes 1996, section 62L.02, subdivision 19, is amended to read:

Subd. 19. **LATE ENTRANT.** "Late entrant" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period applicable to the employee or dependent under the terms of the health benefit plan, provided that the initial enrollment period must be a period of at least 30 days. However, an eligible employee or dependent must not be considered a late entrant if:

(1) the individual was covered under qualifying coverage at the time the individual was eligible to enroll in the health benefit plan, declined enrollment on that basis, and presents to the health carrier a certificate of termination of the qualifying coverage, due to loss of eligibility for that coverage, or proof of the termination of employer contributions toward that coverage, provided that the individual maintains continuous coverage~~.~~ and requests enrollment within 30 days of termination of qualifying coverage or termination of the employer's contribution toward that coverage. For purposes of this clause, loss of eligibility includes loss of eligibility as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment. For purposes of this clause, an individual is not a late entrant if the individual elects coverage under the health benefit plan rather than accepting continuation coverage for which the individual is eligible under state or federal law with respect to the individual's previous qualifying coverage;

(2) the individual has lost coverage under another group health plan due to the expiration of benefits available under the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law Number 99–272, as amended, and any state continuation laws applicable to the employer or health carrier, provided that the individual maintains continuous coverage and requests enrollment within 30 days of the loss of coverage;

(3) the individual is a new spouse of an eligible employee, provided that enrollment is requested within 30 days of becoming legally married;

(4) the individual is a new dependent child of an eligible employee, provided that enrollment is requested within 30 days of becoming a dependent;

(5) the individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or

(6) a court has ordered that coverage be provided for a former spouse or dependent child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of the court order.

Sec. 6. Minnesota Statutes 1996, section 62L.02, subdivision 23, is amended to read:

Subd. 23. **PREEXISTING CONDITION.** "Preexisting condition" means, with respect to coverage, a condition ~~manifesting in a manner that causes an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or~~ present before the individual's enrollment date for the coverage, for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately preceding the ~~effective date of coverage, or a pregnancy existing as of the effective date of coverage of a health benefit plan~~ enrollment date.

Sec. 7. Minnesota Statutes 1996, section 62L.02, subdivision 24, is amended to read:

Subd. 24. **QUALIFYING COVERAGE.** "Qualifying coverage" means health benefits or health coverage provided under:

(1) a health benefit plan, as defined in this section, but without regard to whether it is issued to a small employer and including blanket accident and sickness insurance, other than accident–only coverage, as defined in section 62A.11;

(2) part A or part B of Medicare;

(3) medical assistance under chapter 256B;

(4) general assistance medical care under chapter 256D;

(5) MCHA;

(6) a self-insured health plan;

(7) the MinnesotaCare program established under section 256.9352~~, when the plan includes inpatient hospital services as provided in section 256.9353~~;

(8) a plan provided under section 43A.316, 43A.317, or 471.617;

(9) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or other coverage provided under United States Code, title 10, chapter 55;

(10) coverage provided by a health care network cooperative under chapter 62R or by a health provider cooperative under section 62R.17; ~~or~~

(11) a medical care program of the Indian Health Service or of a tribal organization;

(12) the federal Employees Health Benefits Plan, or other coverage provided under United States Code, title 5, chapter 89;

(13) a health benefit plan under section 5(e) of the Peace Corps Act, codified as United States Code, title 22, section 2504(e); or

(14) a plan similar to any of the above plans provided in this state or in another state as determined by the commissioner.

Sec. 8. Minnesota Statutes 1996, section 62L.02, subdivision 26, is amended to read:

Subd. 26. **SMALL EMPLOYER.** (a) "Small employer" means, with respect to a calendar year and a plan year, a person, firm, corporation, partnership, association, or other entity actively engaged in business, including a political subdivision of the state, that~~, on at least 50 percent of its working days during the preceding 12 months,~~ employed an average of no fewer than two nor more than ~~29, or after June 30, 1995, more than~~ 49, 50 current employees~~, the majority of whom were employed in this state. If an employer has only two eligible employees and one is the spouse, child, sibling, parent, or grandparent of the other, the employer must be a Minnesota domiciled employer and have paid social security or self-employment tax on behalf of both eligible employees~~ on business days during the preceding calendar year and that employs at least two current employees on the first day of the plan year. If an employer has only one eligible employee who has not waived coverage, the sale of a health plan to or for that eligible employee is not a sale to a small employer and is not subject to this chapter and may be treated as the sale of an individual health plan. A small employer plan may be offered through a domiciled association to self-employed individuals and small employers who are members of the association, even if the self-employed individual or small employer has fewer than two current employees. Entities that are ~~eligible to file a combined tax return for purposes of state tax laws~~ treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the federal Internal Revenue Code are considered a single employer for purposes of determining the number of current employees. Small employer status must be determined

on an annual basis as of the renewal date of the health benefit plan. The provisions of this chapter continue to apply to an employer who no longer meets the requirements of this definition until the annual renewal date of the employer's health benefit plan. If an employer was not in existence throughout the preceding calendar year, the determination of whether the employer is a small employer is based upon the average number of current employees that it is reasonably expected that the employer will employ on business days in the current calendar year. For purposes of this definition, the term employer includes any predecessor of the employer. An employer that has more than 50 current employees but has 50 or fewer employees, as "employee" is defined under United States Code, title 29, section 1002(6), is a small employer under this subdivision.

(b) Where an association, as defined in section 62L.045, comprised of employers contracts with a health carrier to provide coverage to its members who are small employers, the association and health benefit plans it provides to small employers, are subject to section 62L.045, with respect to small employers in the association, even though the association also provides coverage to its members that do not qualify as small employers.

(c) If an employer has employees covered under a trust specified in a collective bargaining agreement under the federal Labor–Management Relations Act of 1947, United States Code, title 29, section 141, et seq., as amended, or employees whose health coverage is determined by a collective bargaining agreement and, as a result of the collective bargaining agreement, is purchased separately from the health plan provided to other employees, those employees are excluded in determining whether the employer qualifies as a small employer. Those employees are considered to be a separate small employer if they constitute a group that would qualify as a small employer in the absence of the employees who are not subject to the collective bargaining agreement.

Sec. 9. Minnesota Statutes 1996, section 62L.02, is amended by adding a subdivision to read:

Subd. 29. **WAITING PERIOD.** "Waiting period" means, with respect to an individual who is a potential enrollee under a health benefit plan, the period that must pass with respect to the individual before the individual is eligible, under the employer's eligibility requirements, for coverage under the health benefit plan.

Sec. 10. Minnesota Statutes 1996, section 62L.03, subdivision 1, is amended to read:

Subdivision 1. **GUARANTEED ISSUE AND REISSUE.** (a) Every health carrier shall, as a condition of authority to transact business in this state in the small employer market, affirmatively market, offer, sell, issue, and renew any of its health benefit plans, on a guaranteed issue basis, to any small employer that meets the participation and contribution requirements of subdivision 3, as provided in this chapter.

(b) Notwithstanding paragraph (a), a health carrier may, at the time of coverage renewal, modify the health coverage for a product offered in the small employer market if the modification is consistent with state law, approved by the commissioner, and effective on a uniform basis for all small employers purchasing that product other than through a qualified association in compliance with section 62L.045, subdivision 2.

~~This requirement~~ Paragraph (a) does not apply to a health benefit plan designed for a small employer to comply with a collective bargaining agreement, provided that the

health benefit plan otherwise complies with this chapter and is not offered to other small employers, except for other small employers that need it for the same reason. This paragraph applies only with respect to collective bargaining agreements entered into prior to August 21, 1996, and only with respect to plan years beginning before the later of July 1, 1997, or the date upon which the last of the collective bargaining agreements relating to the plan terminates determined without regard to any extension agreed to after August 21, 1996.

(c) Every health carrier participating in the small employer market shall make available both of the plans described in section 62L.05 to small employers and shall fully comply with the underwriting and the rate restrictions specified in this chapter for all health benefit plans issued to small employers.

(d) A health carrier may cease to transact business in the small employer market as provided under section 62L.09.

Sec. 11. Minnesota Statutes 1996, section 62L.03, subdivision 2, is amended to read:

Subd. 2. **EXCEPTIONS.** (a) No health maintenance organization is required to offer coverage or accept applications under subdivision 1 in the case of the following:

(1) with respect to a small employer, where the ~~worksite of the employees of the~~ small employer ~~is not physically located~~ does not have eligible employees who work or reside in the health maintenance organization's approved service areas; or

(2) with respect to an employee, when the employee does not work or reside within the health maintenance organization's approved service areas.

(b) A health carrier participating in the small employer market shall not be required to offer coverage or accept applications pursuant to subdivision 1 where the commissioner finds that the acceptance of an application or applications would place the health carrier participating in the small employer market in a financially impaired condition, provided, however, that a health carrier participating in the small employer market that has not offered coverage or accepted applications pursuant to this paragraph shall not offer coverage or accept applications for any health benefit plan until 180 days following a determination by the commissioner that the health carrier is not financially impaired and that offering coverage or accepting applications under subdivision 1 would not cause the health carrier to become financially impaired.

Sec. 12. Minnesota Statutes 1996, section 62L.03, subdivision 3, is amended to read:

Subd. 3. **MINIMUM PARTICIPATION AND CONTRIBUTION.** (a) A small employer that has at least 75 percent of its eligible employees who have not waived coverage participating in a health benefit plan and that contributes at least 50 percent toward the cost of coverage of each eligible employee must be guaranteed coverage on a guaranteed issue basis from any health carrier participating in the small employer market. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. A health carrier must not increase the participation requirements applicable to a small employer at any time after the small employer has been accepted for coverage. For the purposes of this subdivision, waiver of coverage includes only waivers due to: (1) coverage under another group health plan; (2) coverage

under Medicare Parts A and B; (3) coverage under MCHA permitted under section 62E.141; or (4) coverage under medical assistance under chapter 256B or general assistance medical care under chapter 256D.

(b) If a small employer does not satisfy the contribution or participation requirements under this subdivision, a health carrier may voluntarily issue or renew individual health plans, or a health benefit plan which must fully comply with this chapter. A health carrier that provides a health benefit plan to a small employer that does not meet the contribution or participation requirements of this subdivision must maintain this information in its files for audit by the commissioner. A health carrier may not offer an individual health plan, purchased through an arrangement between the employer and the health carrier, to any employee unless the health carrier also offers the individual health plan, on a guaranteed issue basis, to all other employees of the same employer.

(c) Nothing in this section obligates a health carrier to issue coverage to a small employer that currently offers coverage through a health benefit plan from another health carrier, unless the new coverage will replace the existing coverage and not serve as one of two or more health benefit plans offered by the employer. This paragraph does not apply if the small employer will meet the required participation level with respect to the new coverage.

Sec. 13. Minnesota Statutes 1996, section 62L.03, subdivision 4, is amended to read:

Subd. 4. **UNDERWRITING RESTRICTIONS.** (a) Health carriers may apply underwriting restrictions to coverage for health benefit plans for small employers, including any preexisting condition limitations, only as expressly permitted under this chapter. For purposes of this section, "underwriting restrictions" means any refusal of the health carrier to issue or renew coverage, any premium rate higher than the lowest rate charged by the health carrier for the same coverage, any preexisting condition limitation, preexisting condition exclusion, or any exclusionary rider.

(b) Health carriers may collect information relating to the case characteristics and demographic composition of small employers, as well as health status and health history information about employees, and dependents of employees, of small employers.

(c) Except as otherwise authorized for late entrants, preexisting conditions may be excluded by a health carrier for a period not to exceed 12 months from the ~~effective~~ enrollment date ~~of coverage~~ of an eligible employee or dependent, but exclusionary riders must not be used. ~~When calculating a preexisting condition limitation, a health carrier shall credit the time period an eligible employee or dependent was previously covered by qualifying coverage, provided that the individual maintains continuous coverage.~~ Late entrants may be subject to a preexisting condition limitation not to exceed 18 months from the ~~effective~~ enrollment date ~~of coverage~~ of the late entrant, but must not be subject to any exclusionary rider or preexisting condition exclusion. When calculating any length of preexisting condition limitation, a health carrier shall credit the time period an eligible employee or dependent was previously covered by qualifying coverage, provided that the individual maintains continuous coverage. The credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. Section 60A.082, relating to replacement of group coverage, and the rules adopted under that sec-

tion apply to this chapter, and this chapter's requirements are in addition to the requirements of that section and the rules adopted under it. A health carrier shall, at the time of first issuance or renewal of a health benefit plan on or after July 1, 1993, credit against any preexisting condition limitation or exclusion permitted under this section, the time period prior to July 1, 1993, during which an eligible employee or dependent was covered by qualifying coverage, if the person has maintained continuous coverage.

(d) Health carriers shall not use pregnancy as a preexisting condition under this chapter.

Sec. 14. Minnesota Statutes 1996, section 62L.03, subdivision 5, is amended to read:

Subd. 5. **CANCELLATIONS AND FAILURES TO RENEW.** (a) No health carrier shall cancel, decline to issue, or fail to renew a health benefit plan as a result of the claim experience or health status of the persons covered or to be covered by the health benefit plan. For purposes of this subdivision, a failure to renew does not include a uniform modification of coverage at time of renewal, as described in subdivision 1.

(b) A health carrier may cancel or fail to renew a health benefit plan:

(1) for nonpayment of the required premium;

(2) for fraud or misrepresentation by the small employer~~, or, with respect to coverage of an individual eligible employee or dependent, fraud or misrepresentation by the eligible employee or dependent,~~ with respect to eligibility for coverage or any other material fact;

(3) if the employer fails to comply with the minimum contribution percentage required under subdivision 3; or

(4) for any other reasons or grounds expressly permitted by the respective licensing laws and regulations governing a health carrier, including, but not limited to, service area restrictions imposed on health maintenance organizations under section 62D.03, subdivision 4, paragraph (m), to the extent that these grounds are not expressly inconsistent with this chapter.

(c) A health carrier may fail to renew a health benefit plan:

(1) if eligible employee participation during the preceding calendar year declines to less than 75 percent, subject to the waiver of coverage provision in subdivision 3;

(2) if the health carrier ceases to do business in the small employer market under section 62L.09; or

(3) if a failure to renew is based upon the health carrier's decision to discontinue the health benefit plan form previously issued to the small employer, but only if the health carrier permits each small employer covered under the prior form to switch to its choice of any other health benefit plan offered by the health carrier, without any underwriting restrictions that would not have been permitted for renewal purposes.

(d) A health carrier need not renew a health benefit plan, and shall not renew a small employer plan, if an employer ceases to qualify as a small employer as defined in section 62L.02. If a health benefit plan, other than a small employer plan, provides terms of re-

newal that do not exclude an employer that is no longer a small employer, the health benefit plan may be renewed according to its own terms. If a health carrier issues or renews a health plan to an employer that is no longer a small employer, without interruption of coverage, the health plan is subject to section 60A.082. ~~Between July 1, 1994, and June 30, 1995, a health benefit plan in force during this time may be renewed, if the number of employees exceeds two, but does not exceed 49 employees.~~

Sec. 15. **EFFECTIVE DATE.**

Sections 1 to 14 are effective July 1, 1997, and apply to coverage issued or renewed on or after that date.

ARTICLE 3

LARGE EMPLOYER MARKET CHANGES

Section 1. Minnesota Statutes 1996, section 62Q.18, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** For purposes of this section,

(1) "continuous coverage" has the meaning given in section 62L.02, subdivision 9;

(2) "guaranteed issue" means:

(i) for individual health plans, that a health plan company shall not decline an application by an individual for any individual health plan offered by that health plan company, including coverage for a dependent of the individual to whom the health plan has been or would be issued; and

(ii) for group health plans, that a health plan company shall not decline an application by a group for any group health plan offered by that health plan company and shall not decline to cover under the group health plan any person eligible for coverage under the group's eligibility requirements, including persons who become eligible after initial issuance of the group health plan; ~~and~~

(3) "large employer" means an entity that would be a small employer, as defined in section 62L.02, subdivision 26, except that the entity has more than 50 current employees, based upon the method provided in that subdivision for determining the number of current employees;

(4) "preexisting condition" has the meaning given in section 62L.02, subdivision 23; and

~~(3)~~ (5) "qualifying coverage" has the meaning given in section 62L.02, subdivision 24.

Sec. 2. Minnesota Statutes 1996, section 62Q.18, subdivision 7, is amended to read:

Subd. 7. **PORTABILITY OF COVERAGE.** Effective July 1, 1994, no health plan company shall offer, sell, issue, or renew any group health plan that does not, with respect

to individuals who maintain continuous coverage and who qualify under the group's eligibility requirements:

(1) make coverage available on a guaranteed issue basis; ~~and~~

(2) give full credit for previous continuous coverage against any applicable preexisting condition limitation or preexisting condition exclusion.~~;~~ and

(3) with respect to a group health plan offered, sold, issued, or renewed to a large employer, impose preexisting condition limitations or preexisting condition exclusions except to the extent that would be permitted under chapter 62L if the group sponsor were a small employer as defined in section 62L.02, subdivision 26.

To the extent that this subdivision conflicts with chapter 62L, chapter 62L governs, regardless of whether the group sponsor is a small employer as defined in section 62L.02, except that for group health plans issued to groups that are not small employers, this subdivision's requirement that the individual have maintained continuous coverage applies. An individual who has maintained continuous coverage, but would be considered a late entrant under chapter 62L, may be treated as a late entrant in the same manner under this subdivision as permitted under chapter 62L.

Sec. 3. **[62Q.185] GUARANTEED RENEWABILITY; LARGE EMPLOYER GROUP HEALTH COVERAGE.**

(a) No health plan company, as defined in section 62Q.01, subdivision 4, shall refuse to renew a health benefit plan, as defined in section 62L.02, subdivision 15, but issued to a large employer, as defined in section 62Q.18, subdivision 1.

(b) This section does not require renewal if:

(1) the large employer has failed to pay premiums or contributions as required under the terms of the health benefit plan, or the health plan company has not received timely premium payments unless the late payments were received within a grace period provided under state law;

(2) the large employer has performed an act or practice that constitutes fraud or misrepresentation of material fact under the terms of the health benefit plan;

(3) the large employer has failed to comply with a material plan provision relating to employer contribution or group participation rules not prohibited by state law;

(4) the health plan company is ceasing to offer coverage in the large employer market in this state in compliance with United States Code, title 42, section 300gg–12(c), and applicable state law;

(5) in the case of a health maintenance organization, there is no longer any enrollee in the large employer's health benefit plan who lives, resides, or works in the approved service area; or

(6) in the case of a health benefit plan made available to large employers only through one or more bona fide associations, the membership of the large employer in the association ceases, but only if such coverage is terminated uniformly without regard to any health–related factor relating to any covered individual.

(c) This section does not prohibit a health plan company from modifying the premium rate or from modifying the coverage for purposes of renewal.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective July 1, 1997, and apply to health benefit plans offered, sold, issued, or renewed on or after that date.

ARTICLE 4

GENERAL PROVISIONS

Section 1. Minnesota Statutes 1996, section 62H.01, is amended to read:

62H.01 **JOINT SELF–INSURANCE EMPLOYEE HEALTH PLAN.**

Any two or more employers, excluding the state and its political subdivisions as described in section 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self–insure employee health, dental, short–term disability benefits, or other benefits permitted under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. Joint plans must have a minimum of 100 covered employees and meet all conditions and terms of sections 62H.01 to 62H.08. Joint plans covering employers not resident in Minnesota must meet the requirements of sections 62H.01 to 62H.08 as if the portion of the plan covering Minnesota resident employees was treated as a separate plan. A plan may cover employees resident in other states only if the plan complies with the applicable laws of that state.

A multiple employer welfare arrangement as defined in United States Code, title 29, section 1002(40)(a), is subject to this chapter to the extent authorized by the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. The commissioner of commerce may, on behalf of the state, enter into an agreement with the United States Secretary of Labor for delegation to the state of some or all of the secretary's enforcement authority with respect to multiple employer welfare arrangements, as described in United States Code, title 29, section 1136(c).

Sec. 2. **[62Q.021] FEDERAL ACT; COMPLIANCE REQUIRED.**

Each health plan company shall comply with the federal Health Insurance Portability and Accountability Act of 1996, including any federal regulations adopted under that act, to the extent that it imposes a requirement that applies in this state and that is not also required by the laws of this state. This section does not require compliance with any provision of the federal act prior to the effective date provided for that provision in the federal act. The commissioner shall enforce this section.

Sec. 3. **[62Q.181] WRITTEN CERTIFICATION OF COVERAGE.**

A health plan company shall provide the written certifications of coverage required under United States Code, title 42, sections 300gg(e) and 300gg–43. This section applies only to coverage that is subject to regulation under state law and only to the extent that the certification of coverage is required under federal law. The commissioner shall enforce this section.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment. Section 3 is effective July 1, 1997.

Presented to the governor May 17, 1997

Signed by the governor May 19, 1997, 7:11 p.m.

CHAPTER 176—S.F.No. 1328

An act relating to renewable energy; providing for action by the public utilities commission on purchases of wind and biomass power; exempting certain plants from certificate of need proceedings; requiring a study; amending Minnesota Statutes 1996, section 216B.2422, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Section 1. **[216B.1645] POWER PURCHASE CONTRACTS OR INVESTMENTS.**

Upon the petition of a public utility, the public utilities commission shall approve or disapprove power purchase contracts or investments entered into or made by the utility to satisfy the wind and biomass mandates contained in sections 216B.2423 and 216B.2424. The expenses incurred in accordance with the contract and the reasonable investments made by a public utility with the approval of the commission shall be included by the commission in its determination of just and reasonable rates. Upon petition by a public utility, the commission shall approve or approve as modified a rate schedule providing for the automatic adjustment of charges to recover the expenses or costs approved by the commission.

Sec. 2. Minnesota Statutes 1996, section 216B.2422, subdivision 5, is amended to read:

Subd. 5. **BIDDING; EXEMPTION FROM CERTIFICATE OF NEED PROCEEDING.** (a) A utility may select resources to meet its projected energy demand through a bidding process approved or established by the commission. A utility shall use the environmental cost estimates determined under subdivision 3 in evaluating bids submitted in a process established under this subdivision.

(b) A certificate of need proceeding is not required for an electric power generating plant that has been selected in a bidding process approved or established by the commission, or such other selection process approved by the commission, to satisfy, in whole or in part, the wind power mandate of section 216B.2423 or the biomass mandate of section 216B.2424.

Sec. 3. **EVALUATION OF BIOMASS FACILITIES.**

The commissioner of agriculture shall evaluate alternative financing mechanisms by which the cost of financing biomass energy projects can be reduced to improve the