CHAPTER 70--S.F.No. 4334

An act relating to public health; transferring money for deposit in the public health response contingency account; establishing a health care response fund and a provider grant loan program; providing coverage of telemedicine services; amending Minnesota Statutes 2018, section 144.4199, subdivision 1, by adding a subdivision.

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

ARTICLE 1

PUBLIC HEALTH RESPONSE CONTINGENCY ACCOUNT

Section 1. Minnesota Statutes 2018, section 144.4199, subdivision 1, is amended to read:

Subdivision 1. **Public health response contingency account.** A public health response contingency account is created in the special revenue fund in the state treasury. Money in the public health response contingency account does not cancel and is appropriated to the commissioner of health for the purposes specified in ~~subdivision~~ subdivisions 4 and 4a when the determination criteria in subdivision 3 and the requirements in subdivisions 5, paragraph (a), and 7, are satisfied.

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

Sec. 2. Minnesota Statutes 2018, section 144.4199, is amended by adding a subdivision to read:

Subd. 4a. **Uses of funds; emergency purposes.** When the criteria in subdivision 3 are satisfied and the commissioner has complied with subdivisions 5, paragraph (a), and 7, the commissioner, in consultation with entities such as hospitals, ambulance services licensed under chapter 144E, emergency management, and public health agencies, may make payments from the public health response contingency account to ambulance services licensed under chapter 144E; health care clinics; pharmacies; health care facilities and long-term care facilities, including but not limited to hospitals, nursing facilities, and settings at which assisted living services or health care services are or may be provided; and health systems, for costs that are necessary on an emergency basis to plan for, prepare for, or respond to pandemic influenza or a communicable or infectious disease. Funds paid under this subdivision must be used for the following purposes:

(1) the establishment and operation of temporary sites to provide testing services, to provide treatment beds, or to isolate or quarantine affected individuals;

(2) temporary conversion of space for another purpose that will revert to its original use;

(3) staff overtime and hiring additional staff;

(4) staff training and orientation;

(5) purchasing consumable protective or treatment supplies and equipment to protect or treat staff, visitors, and patients;

(6) development and implementation of screening and testing procedures;

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(7) patient outreach activities;

(8) additional emergency transportation of patients;

(9) temporary information technology and systems costs to support patient triage, screening, and telemedicine activities;

(10) purchasing replacement parts or filters for medical equipment that are necessary for the equipment's operation;

(11) specialty cleaning supplies for facilities and equipment;

(12) expenses related to the isolation or quarantine of staff. These expenses must not include payment of wages for the staff being isolated or quarantined; or

(13) other expenses that, in the judgment of the commissioner, cannot reasonably be expected to generate income for the recipient of the funds after the outbreak ends.

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

Sec. 3. **TRANSFER; PUBLIC HEALTH RESPONSE CONTINGENCY ACCOUNT.**

The commissioner of management and budget shall make a onetime transfer in fiscal year 2020 of $50,000,000 from the general fund to the public health response contingency account under Minnesota Statutes, section 144.4199, for the uses specified in Minnesota Statutes, section 144.4199, subdivision 4a, to plan for, prepare for, or respond to an outbreak of SARS-CoV-2 virus and coronavirus disease 2019 (COVID-19). For purposes of this transfer for the SARS-CoV-2 virus and coronavirus disease 2019 (COVID-19), the determination criteria in Minnesota Statutes, section 144.4199, subdivision 3, and the requirements in Minnesota Statutes, section 144.4199, subdivision 5, paragraph (a), and subdivision 7, do not apply.

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

ARTICLE 2

HEALTH CARE RESPONSE FUND

Section 1. **HEALTH CARE RESPONSE FUND AND PROVIDER GRANT PROGRAM.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of health.

(c) "COVID-19" means SARS-CoV-2 virus and coronavirus disease 2019.

(d) "Eligible provider" means an ambulance service licensed under Minnesota Statutes, chapter 144E; health care clinic; pharmacy; health care facility or long-term care facility, including but not limited to a hospital, nursing facility, or setting where assisted living services or health care services are or may be provided; or health system.

(e) "Fund" means the health care response fund established in this section.

(f) "Isolation" has the meaning given in Minnesota Statutes, section 144.419, subdivision 1.

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(g) "Quarantine" has the meaning given in Minnesota Statutes, section 144.419, subdivision 1.

Subd. 2. **Health care response fund.** (a) A health care response fund is created in the state treasury. Money in the fund is appropriated to the commissioner of health to:

(1) make grants to eligible providers for costs related to planning for, preparing for, or responding to an outbreak of COVID-19;

(2) fund the establishment and operation of temporary sites to provide testing services, to provide treatment beds, or to isolate or quarantine affected individuals, to respond to an outbreak of COVID-19; and

(3) administer the grant program under this section, including carrying out the commissioner's due diligence duties under this section.

(b) Interest earned on money in the fund is credited to the fund.

Subd. 3. **Legislative Advisory Commission review.** (a) For fiscal year 2020 and 2021, the commissioner of management and budget shall submit proposed expenditures from the health care response fund that exceed $1,000,000 to the Legislative Advisory Commission, under Minnesota Statutes, section 3.30, subdivision 2, for its review and recommendation. The commission has two days to review the proposed expenditures submitted under this subdivision. The submission must include the total amount of the proposed expenditure, the purpose of the proposed expenditure, the time period of the proposed expenditure, and any additional information the commissioner of management and budget determines necessary to properly document the proposed expenditure.

(b) Commission members may make a positive recommendation, a negative recommendation, or no recommendation. If a majority of the commission members from the senate and a majority of the commission members of the house of representatives make a negative recommendation on a proposed expenditure, the commissioner may not expend the money. If the commission makes no recommendation, the commissioner may expend the money. Any member of the commission may request further information about a proposed expenditure.

(c) The commission may hold a public meeting to approve or disapprove a proposed expenditure from the health care response fund. Notwithstanding Minnesota Statutes, section 3.055, the commission may conduct a public meeting remotely. The commission may approve or disapprove proposed expenditures without a public meeting. The commission members may approve or disapprove proposed expenditures by written communication to the commissioner of management and budget.

Subd. 4. **Grants.** The commissioner may make grants to eligible providers that demonstrate a need on an urgent or emergency basis to plan for, prepare for, or respond to the COVID-19 outbreak. The commissioner shall determine the number of grants issued and grant amounts. The commissioner, in consultation with entities such as hospitals; ambulance services licensed under Minnesota Statutes, chapter 144E; emergency management; and public health agencies, shall establish priorities for the issuance of grants by assessing:

(1) the needs across the health care system and within different regions of state for additional resources to plan for, prepare for, and respond to the COVID-19 outbreak;

(2) whether the eligible provider may be reimbursed from another source for the cost of planning for, preparing for, or responding to the COVID-19 outbreak; and

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(3) whether the eligible provider lacks access to other resources to respond to the COVID-19 outbreak in a timely manner or would be financially at risk without a grant under this section.

Subd. 5. **Application; grant agreement.** (a) The commissioner shall develop an application form and application process for grants under this section. An applicant must provide the following information in the application:

(1) applicant financial information that reflects the current and projected financial position of the applicant;

(2) how the applicant anticipates using the grant within the allowable uses;

(3) the requested grant amount;

(4) an explanation of how the grant will allow the applicant to address shortcomings or needs in the applicant's planning, preparation for, or response to the COVID-19 outbreak; and

(5) other information deemed necessary by the commissioner to evaluate grant applications.

(b) Before issuing a grant to an applicant, the commissioner must obtain a signed grant agreement from the applicant.

Subd. 6. **Allowable uses of funds.** The commissioner may issue grants to eligible providers for costs of:

(1) the establishment and operation of temporary sites to provide testing services, to provide treatment beds, or to isolate or quarantine affected individuals;

(2) temporary conversion of space for another purpose that will revert to its original use;

(3) staff overtime and hiring additional staff;

(4) staff training and orientation;

(5) purchasing consumable protective or treatment supplies and equipment to protect or treat staff, visitors, and patients;

(6) development and implementation of screening and testing procedures;

(7) patient outreach activities;

(8) additional emergency transportation of patients;

(9) temporary information technology and systems costs to support patient triage, screening, and telemedicine activities;

(10) purchasing replacement parts or filters for medical equipment that are necessary for the equipment's operation;

(11) specialty cleaning supplies for facilities and equipment;

(12) expenses related to the isolation or quarantine of staff. These expenses must not include payment of wages for the staff being isolated or quarantined; or

(13) other expenses that, in the judgment of the commissioner, cannot reasonably be expected to generate income for the recipient of the funds after the outbreak ends.

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Subd. 7. **Temporary health care sites.** (a) If no eligible provider is reasonably capable of establishing and operating temporary sites to provide testing services to test individuals for COVID-19, to provide treatment beds for patients affected by the COVID-19 outbreak, or to isolate or quarantine individuals affected by the COVID-19 outbreak, the commissioner may establish and operate these testing sites for these purposes.

(b) The commissioner may direct local units of government and eligible providers to establish and operate temporary sites for the purposes specified in paragraph (a).

(c) The commissioner may make expenditures from the fund for the establishment and operation of temporary sites for the purposes specified in paragraph (a).

Subd. 8. **Condition of accepting grant.** (a) As a condition of accepting a grant under this section to plan for, prepare for, or respond to the COVID-19 outbreak, an eligible provider must agree to the requirements in this subdivision.

(b) An eligible provider that screens or tests a patient for COVID-19 or provides health care services to a patient to treat COVID-19 must agree not to bill uninsured patients for the cost of the screening, testing, or treatment.

(c) An eligible provider that screens or tests a patient for COVID-19 or provides health care services to a patient to treat COVID-19 and does not participate in the network of the patient's health plan, must:

(1) agree to accept the median network rate as payment in full for the screening, testing, or treatment provided to the patient; and

(2) agree not to bill the patient any amount in excess of the cost-sharing that would apply if the provider was in-network, for the screening, testing, or treatment provided to the patient.

(d) This subdivision applies to screening, testing, and treatment services related to COVID-19 provided on or before February 1, 2021.

Subd. 9. **Use of funds for unauthorized purposes.** If the commissioner determines that a grant recipient has used awarded funds for purposes not authorized under this section or under the grant agreement, the commissioner may:

(1) immediately terminate all or any portion of the grant agreement;

(2) recover from the grant recipient, any money previously paid and used for the unauthorized purpose; and

(3) pursue any other remedy available under law.

Subd. 10. **Assistance from other sources.** If an eligible provider or local unit of government receives funds from a nonstate source for the cost of planning for, preparing for, or responding to the COVID-19 outbreak after receiving funds under this section for that purpose, the eligible provider or local unit of government must notify the commissioner of health of the amount received from the nonstate source. If the commissioner determines that the total amount the provider or local unit of government received under this section and from the nonstate source exceeds the provider's or local unit of government's costs to plan for, prepare for, or respond to the COVID-19 outbreak, the provider or local unit of government must pay the commissioner the amount that exceeds the costs, up to the amount of funding provided under this section. All money paid to the commissioner under this subdivision must be deposited in the general fund.

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Subd. 11. **Evaluation; report.** (a) During the application process and following issuance of a grant, the commissioner may require applicants and grant recipients to provide the commissioner with information necessary for the commissioner to evaluate the need for or use of the grant.

(b) By January 15, 2021, the commissioner shall report the following information to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance:

(1) the total number of grants issued;

(2) the total amount of money issued as grants; and

(3) for each grant recipient, the name of the recipient, grant amount, uses of grant funds, and amount spent for each use.

The commissioner must also post the information specified in this paragraph on the Department of Health website.

Subd. 12. **Data classification.** The following data collected by the commissioner in connection with a grant applied for or issued pursuant to this section are private data on individuals, as defined in Minnesota Statutes, section 13.02, subdivision 12, or nonpublic data, as defined in Minnesota Statutes, section 13.02, subdivision 9:

(1) financial information about an applicant for or recipient of a grant;

(2) data on patients served by the applicant or recipient; and

(3) design, market, or feasibility studies submitted to the commissioner by an applicant or recipient.

Subd. 13. **Expiration.** This section expires June 30, 2022.

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

Sec. 2. **TRANSFER; HEALTH CARE RESPONSE FUND.**

The commissioner of management and budget shall make a onetime transfer in fiscal year 2020 of $150,000,000 from the general fund to the health care response fund under section 1, for the uses specified in section 1. Any unobligated and unexpended amount in the fund on February 1, 2021, shall transfer to the general fund.

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

ARTICLE 3

COVERAGE OF TELEMEDICINE SERVICES

Section 1. **COVERAGE OF TELEMEDICINE SERVICES PROVIDED DIRECTLY TO A PATIENT AT THE PATIENT'S RESIDENCE; RESPONSE TO COVID-19.**

(a) The definition of "originating site" under Minnesota Statutes, section 62A.671, subdivision 7, includes a patient's residence if the patient is receiving health care services or consultations by means of telemedicine.

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(b) The definition of "telemedicine" under Minnesota Statutes, section 62A.671, subdivision 9, includes health care services or consultations delivered to a patient at the patient's residence.

(c) Under Minnesota Statutes, section 62A.672, subdivision 2, a health carrier shall not exclude or reduce coverage for a health care service or consultation solely because the service or consultation is provided via telemedicine directly to a patient at the patient's residence.

(d) "Telemedicine" as defined in Minnesota Statutes, section 256B.0625, subdivision 3b, paragraph (d), includes the delivery of health care services or consultations with a patient at the patient's residence and the licensed health care provider at a distant site.

(e) This section expires February 1, 2021.

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

Presented to the governor March 17, 2020

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