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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2717

03/07/2012 Authored by Schomacker, Hamilton, Abeler and Anderson, P.,
The bill was read for the first time and referred to the Committee on Health and Human Services Finance

1.1 A bill for an act
1.2 relating to human services; modifying nursing facility Medicare certification;
1.3 amending Minnesota Statutes 2010, sections 256B.434, subdivision 10; 256B.48,
1.4 by adding a subdivision; repealing Minnesota Statutes 2010, section 256B.48,
1.5 subdivision 6.

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

1.7 Section 1. Minnesota Statutes 2010, section 256B.434, subdivision 10, is amended to
1.8 read:

1.9 Subd. 10. **Exemptions.** (a) To the extent permitted by federal law, (1) a facility that
1.10 has entered into a contract under this section is not required to file a cost report, as defined
1.11 in Minnesota Rules, part 9549.0020, subpart 13, for any year after the base year that is the
1.12 basis for the calculation of the contract payment rate for the first rate year of the alternative
1.13 payment demonstration project contract; and (2) a facility under contract is not subject
1.14 to audits of historical costs or revenues, or paybacks or retroactive adjustments based on
1.15 these costs or revenues, except audits, paybacks, or adjustments relating to the cost report
1.16 that is the basis for calculation of the first rate year under the contract.

1.17 (b) A facility that is under contract with the commissioner under this section is
1.18 not subject to the moratorium on licensure or certification of new nursing home beds in
1.19 section 144A.071, unless the project results in a net increase in bed capacity or involves
1.20 relocation of beds from one site to another. Contract payment rates must not be adjusted
1.21 to reflect any additional costs that a nursing facility incurs as a result of a construction
1.22 project undertaken under this paragraph. In addition, as a condition of entering into a
1.23 contract under this section, a nursing facility must agree that any future medical assistance
1.24 payments for nursing facility services will not reflect any additional costs attributable to
1.25 the sale of a nursing facility under this section and to construction undertaken under

2.1 this paragraph that otherwise would not be authorized under the moratorium in section
 2.2 144A.073. Nothing in this section prevents a nursing facility participating in the
 2.3 alternative payment demonstration project under this section from seeking approval of
 2.4 an exception to the moratorium through the process established in section 144A.073,
 2.5 and if approved the facility's rates shall be adjusted to reflect the cost of the project.
 2.6 Nothing in this section prevents a nursing facility participating in the alternative payment
 2.7 demonstration project from seeking legislative approval of an exception to the moratorium
 2.8 under section 144A.071, and, if enacted, the facility's rates shall be adjusted to reflect the
 2.9 cost of the project.

2.10 ~~(e) Notwithstanding section 256B.48, subdivision 6, paragraphs (c), (d), and (e),~~
 2.11 ~~and pursuant to any terms and conditions contained in the facility's contract, a nursing~~
 2.12 ~~facility that is under contract with the commissioner under this section is in compliance~~
 2.13 ~~with section 256B.48, subdivision 6, paragraph (b), if the facility is Medicare certified.~~

2.14 ~~(d)~~ (c) Notwithstanding paragraph (a), if by April 1, 1996, the health care financing
 2.15 administration has not approved a required waiver, or the Centers for Medicare and
 2.16 Medicaid Services otherwise requires cost reports to be filed prior to the waiver's approval,
 2.17 the commissioner shall require a cost report for the rate year.

2.18 ~~(e)~~ (d) A facility that is under contract with the commissioner under this section
 2.19 shall be allowed to change therapy arrangements from an unrelated vendor to a related
 2.20 vendor during the term of the contract. The commissioner may develop reasonable
 2.21 requirements designed to prevent an increase in therapy utilization for residents enrolled
 2.22 in the medical assistance program.

2.23 ~~(f)~~ (e) Nursing facilities participating in the alternative payment system
 2.24 demonstration project must either participate in the alternative payment system quality
 2.25 improvement program established by the commissioner or submit information on their
 2.26 own quality improvement process to the commissioner for approval. Nursing facilities
 2.27 that have had their own quality improvement process approved by the commissioner
 2.28 must report results for at least one key area of quality improvement annually to the
 2.29 commissioner.

2.30 Sec. 2. Minnesota Statutes 2010, section 256B.48, is amended by adding a subdivision
 2.31 to read:

2.32 Subd. 6a. **Referrals to Medicare providers required.** Notwithstanding subdivision
 2.33 1, nursing facility providers that do not participate in or accept Medicare assignment
 2.34 must refer and document the referral of dual eligible recipients for whom placement is
 2.35 requested and for whom the resident would be qualified for a Medicare-covered stay to

3.1 Medicare providers. The commissioner shall audit nursing facilities that do not accept
3.2 Medicare and determine if dual eligible individuals with Medicare qualifying stays have
3.3 been admitted. If such a determination is made, the commissioner shall deny Medicaid
3.4 payment for the first 20 days of that resident's stay.

3.5 Sec. 3. **REPEALER.**

3.6 Minnesota Statutes 2010, section 256B.48, subdivision 6, is repealed.