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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **1000**

02/11/2021 Authored by Schultz
The bill was read for the first time and referred to the Committee on Health Finance and Policy
03/01/2021 Adoption of Report: Amended and re-referred to the Committee on Taxes

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; imposing an
1.4 additional gross premium tax on health insurers; making clarifying changes;
1.5 amending Minnesota Statutes 2020, sections 256B.69, subdivision 5i; 295.58;
1.6 297I.05, subdivisions 1, 2, 5, by adding a subdivision; 297I.40, subdivisions 1, 5.

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

1.8 Section 1. Minnesota Statutes 2020, 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;

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

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

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

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

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

2.17 (7) alcoholic beverages and related costs;

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

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

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

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

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

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

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

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

3.18 Sec. 2. Minnesota Statutes 2020, section 295.58, is amended to read:

3.19 **295.58 DEPOSIT OF REVENUES AND PAYMENT OF REFUNDS.**

3.20 The commissioner shall deposit all revenues, including penalties and interest, derived
3.21 from the taxes imposed by sections 295.50 to 295.57 ~~and from the insurance premiums tax~~
3.22 ~~imposed by section 297I.05, subdivision 5,~~ on health maintenance organizations, community
3.23 integrated service networks, and nonprofit health service plan corporations in the health
3.24 care access fund. There is annually appropriated from the health care access fund to the
3.25 commissioner of revenue the amount necessary to make refunds under this chapter.

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

3.27 Sec. 3. Minnesota Statutes 2020, section 297I.05, subdivision 1, is amended to read:

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

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

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

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment and
4.10 applies to premium tax returns originally due on or after December 31, 2021.

4.11 Sec. 4. Minnesota Statutes 2020, section 297I.05, subdivision 2, is amended to read:

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

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

4.17 Sec. 5. Minnesota Statutes 2020, section 297I.05, subdivision 5, is amended to read:

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

4.25 (b) The commissioner shall deposit all revenues, including penalties and interest, collected
4.26 under this chapter from nonprofit health maintenance organizations, community integrated
4.27 service networks, and nonprofit health service plan corporations in the health care access
4.28 fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the
4.29 health care access fund. There is annually appropriated from the health care access fund to
4.30 the commissioner the amount necessary to make any refunds of the tax imposed under this
4.31 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, 2021.

5.3 Sec. 6. Minnesota Statutes 2020, section 297I.05, is amended by adding a subdivision to
5.4 read:

5.5 Subd. 15. **Additional tax on health maintenance organizations, community integrated**
5.6 **service networks, and nonprofit health care service plan corporations.** In addition to
5.7 the tax imposed under subdivision 5, a tax is imposed on health maintenance organizations,
5.8 community integrated service networks, and nonprofit health care service plan corporations.
5.9 The rate of tax is equal to 1.65 percent of gross premiums less return premiums on all direct
5.10 business received by the organization, network, or corporation or its agents in Minnesota,
5.11 in cash or otherwise, in the calendar year.

5.12 **EFFECTIVE DATE.** This section is effective retroactively for gross premiums received
5.13 in 2020.

5.14 Sec. 7. Minnesota Statutes 2020, section 297I.40, subdivision 1, is amended to read:

5.15 Subdivision 1. **Requirement to pay.** On or before March 15, June 15, September 15,
5.16 and December 15 of the current year, every taxpayer subject to tax under section 297I.05,
5.17 subdivisions 1 to 5, ~~and~~ 12, paragraph (a), clauses (1) to (4), ~~and~~ 14, and 15, must pay to
5.18 the commissioner an installment equal to one-fourth of the insurer's total estimated tax for
5.19 the current year.

5.20 **EFFECTIVE DATE.** This section is effective retroactively for gross premiums received
5.21 in 2020.

5.22 Sec. 8. Minnesota Statutes 2020, section 297I.40, subdivision 5, is amended to read:

5.23 Subd. 5. **Definition of tax.** The term "tax" as used in this section means the tax imposed
5.24 by section 297I.05, subdivisions 1 to 5, 11, ~~and~~ 12, paragraphs (a), clauses (1) to (4), (b),
5.25 and (d), ~~and~~ 14, and 15, less any offset in section 297I.20.

5.26 **EFFECTIVE DATE.** This section is effective retroactively for gross premiums received
5.27 in 2020.

5.28 Sec. 9. **SPECIAL RULES FOR TAX IMPOSED IN 2020 AND 2021.**

5.29 (a) For the additional tax on gross premiums received in 2020 that is imposed under
5.30 Minnesota Statutes, section 297I.05, subdivision 15:

6.1 (1) notwithstanding Minnesota Statutes, sections 297I.30 and 297I.35, the due date for
6.2 filing a return is September 15, 2021;

6.3 (2) the tax is due in equal installments on September 15, 2021; December 15, 2021;
6.4 March 15, 2022; and June 15, 2022; and

6.5 (3) the addition to tax provisions under Minnesota Statutes, section 297I.40, only applies
6.6 to installment payments made after the dates specified in clause 2.

6.7 (b) For the additional tax imposed on gross premiums received in 2021 that is imposed
6.8 under Minnesota Statutes, section 297I.05, subdivision 15, the addition to tax provisions
6.9 under Minnesota Statutes, section 297I.40, only applies to the installment payment due
6.10 March 15 if the payment is received after June 15.

6.11 **EFFECTIVE DATE.** This section is effective retroactively for gross premiums received
6.12 in 2020.