

**62L.05 SMALL EMPLOYER PLAN BENEFITS.**

Subdivision 1. **Two small employer plans.** Each health carrier in the small employer market must make available, on a guaranteed issue basis, to any small employer that satisfies the contribution and participation requirements of section 62L.03, subdivision 3, both of the small employer plans described in subdivisions 2 and 3. Under subdivisions 2 and 3, coinsurance and deductibles do not apply to child health supervision services and prenatal services, as defined by section 62A.047. The maximum out-of-pocket costs for covered services must be \$3,000 per individual and \$6,000 per family per year. The maximum lifetime benefit must be not less than \$1,000,000.

Subd. 2. **Deductible-type small employer plan.** The benefits of the deductible-type small employer plan offered by a health carrier must be equal to 80 percent of the charges, as specified in subdivision 10, for health care services, supplies, or other articles covered under the small employer plan, in excess of an annual deductible which must be \$2,250 per individual and \$4,500 per family.

Subd. 3. **Co-payment-type small employer plan.** The benefits of the co-payment-type small employer plan offered by a health carrier must be equal to 80 percent of the charges, as specified in subdivision 10, for health care services, supplies, or other articles covered under the small employer plan, in excess of the following co-payments:

- (1) \$15 per outpatient visit, including visits to an urgent care center but not including visits to a hospital outpatient department or emergency room, or similar facility;
- (2) \$15 per visit for the services of a home health agency or private duty registered nurse;
- (3) \$50 per outpatient visit to a hospital outpatient department or emergency room, or similar facility; and
- (4) \$300 per inpatient admission to a hospital.

Subd. 4. **Benefits.** The medical services and supplies listed in this subdivision are the benefits that must be covered by the small employer plans described in subdivisions 2 and 3. Benefits under this subdivision may be provided through the managed care procedures practiced by health carriers:

- (1) inpatient and outpatient hospital services, excluding services provided for the diagnosis, care, or treatment of chemical dependency or a mental illness or condition, other than those conditions specified in clauses (10) and (11). The health care services required to be covered under this clause must also be covered if rendered in a nonhospital environment, on the same basis as coverage provided for those same treatments or services if rendered in a hospital, provided, however, that this sentence must not be interpreted as expanding the types or extent of services covered;
- (2) physician, chiropractor, and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions;
- (3) diagnostic x-rays and laboratory tests;
- (4) ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier;
- (5) services of a home health agency if the services qualify as reimbursable services under Medicare;

(6) services of a private duty registered nurse if medically necessary, as determined by the health carrier;

(7) the rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids, unless coverage is required under section 62Q.675;

(8) child health supervision services up to age 18, as defined in section 62A.047;

(9) maternity and prenatal care services, as defined in sections 62A.041 and 62A.047;

(10) inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined by the International Classification of Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified as ICD-9 codes 295 to 299; and

(11) 50 percent of eligible charges for prescription drugs, up to a separate annual maximum out-of-pocket expense of \$1,000 per individual for prescription drugs, and 100 percent of eligible charges thereafter.

Subd. 4a. **Alternative benefit plan.** In addition to the small employer benefit plans described in subdivisions 1 to 4, a health carrier may offer to a small employer a benefit plan that differs from those plans in the following respects:

(1) the plan may include different co-payments and deductibles; and

(2) the plan may offer coverage on a per diem, fixed indemnity, or nonexpense incurred basis.

Subd. 5. **Plan variations.** (a) No health carrier shall offer to a small employer a health benefit plan that differs from the small employer plans described in subdivisions 1 to 4a, unless the health benefit plan complies with all provisions of chapters 62A, 62C, 62D, 62E, 62H, 62N, 62Q, and 64B that otherwise apply to the health carrier, except as expressly permitted by paragraph (b).

(b) As an exception to paragraph (a), a health benefit plan is deemed to be a small employer plan and to be in compliance with paragraph (a) if it differs from one of the two small employer plans described in subdivisions 1 to 4 only by providing benefits in addition to those described in subdivision 4, provided that the health benefit plan has an actuarial value that exceeds the actuarial value of the benefits described in subdivision 4 by no more than two percent. "Benefits in addition" means additional units of a benefit listed in subdivision 4 or one or more benefits not listed in subdivision 4.

Subd. 6. **Choice products exception.** Nothing in subdivision 1 prohibits a health carrier from offering a small employer plan which provides for different benefit coverages based on whether the benefit is provided through a primary network of providers or through a secondary network of providers so long as the benefits provided in the primary network equal the benefit requirements of the small employer plan as described in this section. For purposes of products issued under this subdivision, out-of-pocket costs in the secondary network may exceed the out-of-pocket limits described in subdivision 1. A secondary network must not be used to provide "benefits in addition" as defined in subdivision 5, except in compliance with that subdivision.

Subd. 7. **Benefit exclusions.** No medical, hospital, or other health care benefits, services, supplies, or articles not expressly specified in subdivision 4 are required to be included in a small employer plan. Nothing in subdivision 4 restricts the right of a health carrier to restrict coverage to those services, supplies, or articles which are medically necessary. Health carriers may exclude a benefit, service, supply, or article not expressly specified in subdivision 4 from a small employer plan.

Subd. 8. **Continuation coverage.** Small employer plans must include the continuation of coverage provisions required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, as amended, and by state law.

Subd. 9. **Dependent coverage.** Other state law and rules applicable to health plan coverage of newborn infants, dependent children who do not reside with the eligible employee, disabled children and dependents, and adopted children apply to a small employer plan. Health benefit plans that provide dependent coverage must define "dependent" no more restrictively than the definition provided in section 62L.02.

Subd. 10. **Medical expense reimbursement.** Health carriers may reimburse or pay for medical services, supplies, or articles provided under a small employer plan in accordance with the health carrier's provider contract requirements including, but not limited to, salaried arrangements, capitation, the payment of usual and customary charges, fee schedules, discounts from fee-for-service, per diems, diagnosis-related groups (DRGs), and other payment arrangements. Nothing in this chapter requires a health carrier to develop, implement, or change its provider contract requirements for a small employer plan. Coinsurance, deductibles, out-of-pocket maximums, and maximum lifetime benefits must be calculated and determined in accordance with each health carrier's standard business practices.

Subd. 11. **Plan design.** Notwithstanding any other law, regulation, or administrative interpretation to the contrary, health carriers may offer small employer plans through any provider arrangement, including, but not limited to, the use of open, closed, or limited provider networks. A health carrier may only use product and network designs currently allowed under existing statutory requirements. The provider networks offered by any health carrier may be specifically designed for the small employer market and may be modified at the carrier's election so long as all otherwise applicable regulatory requirements are met. Health carriers may use professionally recognized provider standards of practice when they are available, and may use utilization management practices otherwise permitted by law, including, but not limited to, second surgical opinions, prior authorization, concurrent and retrospective review, referral authorizations, case management, and discharge planning. A health carrier may contract with groups of providers with respect to health care services or benefits, and may negotiate with providers regarding the level or method of reimbursement provided for services rendered under a small employer plan.

Subd. 12. **Demonstration projects.** Nothing in this chapter prohibits a health maintenance organization from offering a demonstration project authorized under section 62D.30. The commissioner of health may approve a demonstration project which offers benefits that do not meet the requirements of a small employer plan if the commissioner finds that the requirements of section 62D.30 are otherwise met.

Subd. 13. **Notice of plan availability.** Each health carrier in the small employer market must provide information to small employers regarding the availability of the plans described in subdivisions 2 and 3, and in section 62Q.188. At a minimum, each health carrier must provide information describing the plans and their availability:

(1) displayed with other small employer product information on the health carrier's public Web site; and

(2) delivered to each small employer currently insured by the health carrier at the time of the small employer's renewal, at the same time and in the same manner as the small employer's renewal information.

**History:** *1992 c 549 art 2 s 5; 1993 c 247 art 2 s 8; 1993 c 345 art 7 s 7-10; 1994 c 625 art 10 s 35-37; 1999 c 177 s 54; 1999 c 181 s 2,3; 2001 c 215 s 21,22; 1Sp2003 c 14 art 7 s 21; 2005 c 56 s 1; 2008 c 231 s 1; 2010 c 384 s 23; 2012 c 187 art 1 s 12*