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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1523

02/21/2019 Authored by Cantrell, Liebling, Mann, Morrison, Olson and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
02/25/2019 By motion, recalled and re-referred to the Committee on Commerce
03/04/2019 Adoption of Report: Re-referred to the Committee on Health and Human Services Policy
03/18/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to human services; directing commissioner of human services to establish
1.3 a prescription drug purchasing program; specifying program authority and eligibility
1.4 requirements; amending Minnesota Statutes 2018, section 62J.23, subdivision 2;
1.5 proposing coding for new law in Minnesota Statutes, chapter 256B.

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

1.7 Section 1. Minnesota Statutes 2018, section 62J.23, subdivision 2, is amended to read:

1.8 Subd. 2. **Restrictions.** (a) From July 1, 1992, until rules are adopted by the commissioner
1.9 under this section, the restrictions in the federal Medicare antikickback statutes in section
1.10 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and
1.11 rules adopted under the federal statutes, apply to all persons in the state, regardless of whether
1.12 the person participates in any state health care program.

1.13 (b) Nothing in paragraph (a) shall be construed to prohibit an individual from receiving
1.14 a discount or other reduction in price or a limited-time free supply or samples of a prescription
1.15 drug, medical supply, or medical equipment offered by a pharmaceutical manufacturer,
1.16 medical supply or device manufacturer, health plan company, or pharmacy benefit manager,
1.17 so long as:

1.18 (1) the discount or reduction in price is provided to the individual in connection with
1.19 the purchase of a prescription drug, medical supply, or medical equipment prescribed for
1.20 that individual;

1.21 (2) it otherwise complies with the requirements of state and federal law applicable to
1.22 enrollees of state and federal public health care programs;

(3) the discount or reduction in price does not exceed the amount paid directly by the individual for the prescription drug, medical supply, or medical equipment; and

(4) the limited-time free supply or samples are provided by a physician or pharmacist, as provided by the federal Prescription Drug Marketing Act.

For purposes of this paragraph, "prescription drug" includes prescription drugs that are administered through infusion, and related services and supplies.

(c) No benefit, reward, remuneration, or incentive for continued product use may be provided to an individual or an individual's family by a pharmaceutical manufacturer, medical supply or device manufacturer, or pharmacy benefit manager, except that this prohibition does not apply to:

(1) activities permitted under paragraph (b);

(2) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient, at a discount or reduced price or free of charge, ancillary products necessary for treatment of the medical condition for which the prescription drug, medical supply, or medical equipment was prescribed or provided; and

(3) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient a trinket or memento of insignificant value.

(d) Nothing in this subdivision shall be construed to prohibit a health plan company from offering a tiered formulary with different co-payment or cost-sharing amounts for different drugs.

Sec. 2. [256B.86] PRESCRIPTION DRUG PURCHASING PROGRAM.

Subdivision 1. Definitions. (a) For purposes of this section, the following definitions apply.

(b) "Health plan company" has the meaning given in section 62Q.01, subdivision 4.

(c) "MNsure" means the state health insurance exchange established under chapter 62V.

(d) "Program participants" means:

(1) medical assistance and MinnesotaCare enrollees served under the fee-for-service and managed care delivery systems; and

(2) enrollees who have purchased individual health coverage through MNsure, or off MNsure, from a health plan company that has contracted with the commissioner to participate in the Minnesota prescription drug purchasing program.

Subd. 2. **Establishment of program.** The commissioner of human services shall administer and oversee a Minnesota prescription drug purchasing program for prescription drugs provided to program participants.

Subd. 3. **Duties of commissioner.** The commissioner, through the Minnesota prescription drug purchasing program, shall:

(1) make prescription drugs available at the lowest possible cost to program participants;

(2) promote health through the purchase and provision of discounted prescription drugs and coordination of comprehensive prescription benefit services for program participants;

(3) maintain a list of prescription drugs recommended as the most effective prescription drugs available at the best possible prices;

(4) administer prescription drug benefits for medical assistance and MinnesotaCare, and administer prescription drug benefits for health plan companies that contract with the commissioner to participate in the purchasing program; and

(5) adjudicate pharmacy claims and transmit program prices and other information to pharmacies.

Subd. 4. **Program authority.** (a) In order to accomplish the purpose of the Minnesota prescription drug purchasing program, the commissioner, in consultation with the formulary committee established under section 256B.0625, subdivision 13c, has the authority to:

(1) adopt or develop a preferred drug list;

(2) engage in price negotiations with prescription drug manufacturers, wholesalers, or group purchasing organizations to obtain price discounts and rebates for prescription drugs for program participants; and

(3) develop a drug formulary for MinnesotaCare and the individual insurance market.

(b) The commissioner may contract with one or more entities to perform any of the functions described in paragraph (a).

Subd. 5. **Pharmacies.** The commissioner shall set the terms and conditions for pharmacies to participate in the program. All pharmacies participating as medical assistance providers, and any other pharmacy licensed under chapter 151 willing to accept the terms and conditions, shall be enrolled in the program.

4.1 Subd. 6. **Federal approval.** The commissioner shall seek any necessary federal approvals
4.2 to implement this section.

4.3 **EFFECTIVE DATE.** This section is effective January 1, 2020, or upon federal approval,
4.4 whichever is later. The commissioner of human services shall notify the revisor of statutes
4.5 when federal approval is obtained.