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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2327

03/22/2021 Authored by Howard and Elkins
The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to health care; requiring the commissioner of management and budget to
1.3 use a reverse auction for the procurement of a pharmacy benefit manager to manage
1.4 and administer the prescription drug benefit for the State Employees Group
1.5 Insurance Program; proposing coding for new law in Minnesota Statutes, chapter
1.6 43A.

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

1.8 Section 1. [43A.3165] PROCUREMENT OF A PHARMACY BENEFIT MANAGER
1.9 AND A PLATFORM TECHNOLOGY VENDOR.

1.10 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.11 the meanings given.

1.12 (b) "Market check" means a technology-driven evaluation of prescription drug pricing
1.13 based on benchmarks derived from reverse auction processes conducted in the United States
1.14 over the immediately preceding 12 months.

1.15 (c) "Pharmacy benefit management services" means:

1.16 (1) the procurement of prescription drugs at a negotiated rate for dispensation within
1.17 the State Employees Group Insurance Program (SEGIP) to enrollees;

1.18 (2) the administration and management of the prescription drug benefit under SEGIP;
1.19 and

1.20 (3) any of the following services provided with regard to the administration and
1.21 management of the prescription drug benefit, including:

1.22 (i) mail service pharmacy;

2.1 (ii) claims processing, retail network management, and payment of claims to pharmacies
2.2 for prescription drugs dispensed to enrollees;

2.3 (iii) supplemental rebate contracting and administration;

2.4 (iv) patient compliance, therapeutic intervention, and generic substitution programs; or

2.5 (v) disease management programs.

2.6 (d) "Pharmacy benefit manager" has the meaning given in section 62W.02, subdivision
2.7 15, paragraph (a).

2.8 (e) "Price" means the projected cost of a bid for providing pharmacy benefit management
2.9 services over the duration of the contract.

2.10 (f) "Reverse auction" means an automated bidding process conducted online that starts
2.11 with an opening price and allows qualified bidders to counteroffer a lower price for multiple
2.12 rounds of bidding.

2.13 (g) "SEGIP" is the State Employees Group Insurance Program under section 43A.316,
2.14 provided to participants eligible under section 43A.24.

2.15 Subd. 2. Purpose. The purpose of this section is to optimize prescription drug savings
2.16 in SEGIP through:

2.17 (1) contracting with a pharmacy benefit manager to manage and administer the
2.18 prescription drug benefit for SEGIP;

2.19 (2) the adoption of a reverse auction process for the selection of a pharmacy benefit
2.20 manager;

2.21 (3) providing a process for the electronic review and validation of pharmacy benefit
2.22 manager claims invoices for the purpose of reconciling pharmacy bills;

2.23 (4) market checks of the pharmacy benefit manager's prescription drug pricing; and

2.24 (5) limiting independent pharmacies from unsustainable reimbursement practices.

2.25 Subd. 3. Procurement of a pharmacy benefit manager. (a) Notwithstanding any law
2.26 to the contrary, the commissioner of management and budget shall procure a contract for
2.27 the services of a pharmacy benefit manager to administer the prescription drug benefit and
2.28 pharmacy benefit management services for SEGIP participants, effective January 1, 2023.

2.29 (b) The commissioner shall conduct a reverse auction as described in this section to
2.30 select the pharmacy benefit manager.

3.1 (c) In consultation with the technology platform vendor selected under subdivision 4
3.2 and any recommendations offered by the Formulary Committee under section 256B.0625,
3.3 subdivision 13c, the commissioner shall specify the terms of a participant bidding agreement
3.4 that all bidders must accept as a prerequisite for participation in the reverse auction process,
3.5 including:

3.6 (1) common definitions;

3.7 (2) prescription drug classifications;

3.8 (3) retail pricing rules, including maximum allowable cost price lists and dispensing
3.9 fees; and

3.10 (4) any other contract terms the commissioner deems necessary to further the purpose
3.11 of this section as specified under subdivision 2.

3.12 (d) A pharmacy benefit manager that submits a bid under this subdivision must provide
3.13 the commissioner access to complete pharmacy claims data necessary for the commissioner
3.14 to conduct the reverse auction and to carry out administrative and management duties.

3.15 (e) The terms of any contract entered into under this subdivision shall not be modified
3.16 by the pharmacy benefit manager except with the approval of the commissioner.

3.17 (f) The commissioner may structure the contract awarded under this subdivision to pay
3.18 the cost of the technology platform and the associated professional services contracted for
3.19 under this subdivision by assessing a per-prescription fee to be paid directly by the pharmacy
3.20 benefit manager to the technology platform vendor.

3.21 (g) The commissioner may perform annual market checks on pharmacy benefit manager
3.22 services performed by the pharmacy benefit manager during the term of the contract. A
3.23 market check performed under this paragraph may include an evaluation of the effect of
3.24 alternative drug pricing metrics, such as the national average drug acquisition cost and
3.25 average wholesale price, on the cost of prescription drugs and savings to the state.

3.26 (h) The commissioner shall make regular, periodic payment of invoices within the time
3.27 periods specified in the contract based on the automated adjudication of invoiced claims
3.28 using the technology platform to validate that claims payments comply with the terms of
3.29 the contract.

3.30 Subd. 4. **Technology platform vendor.** (a) At least three months before the reverse
3.31 auction process is scheduled to be completed, the commissioner shall procure through a
3.32 competitive bidding process a contract with a professional services vendor for a technology
3.33 platform and any associated professional services necessary to operate the platform to:

4.1 (1) evaluate the qualifications of prospective pharmacy benefit manager bidders for the
4.2 pharmacy benefit manager procurement;

4.3 (2) automatically adjudicate prescription drug claims; and

4.4 (3) collect data on pharmacy reimbursement.

4.5 (b) The platform procured under paragraph (a) must have the capability to:

4.6 (1) host and conduct an online automated reverse auction;

4.7 (2) automate repricing of diverse and complex pharmacy benefit manager prescription
4.8 drug pricing proposals to enable direct comparisons of the price of bids using all annual
4.9 claims data available for the medical assistance program using code-based classification or
4.10 prescription drugs from nationally accepted drug sources;

4.11 (3) produce an automated report and analysis of bids, including ranking of bids on the
4.12 comparative costs and qualitative aspects of the costs within 48 hours after the close of each
4.13 round of reverse auction bidding;

4.14 (4) after the close of the reverse auction process, perform an electronic, line-by-line,
4.15 claim-by-claim review of all invoiced pharmacy benefit manager claims within 12 hours
4.16 of receipt that allows for an online comparison of pharmacy benefit manager invoices, an
4.17 audio of other services provided by the pharmacy benefit manager services, and identifies
4.18 all deviations from the specific terms of the services contract resulting from the reverse
4.19 auction; and

4.20 (5) if available, after the close of the reverse auction process, perform comparisons of
4.21 the financial effects on the state of alternative drug pricing metrics, such as the national
4.22 average drug acquisition cost and average wholesale price.

4.23 (c) The commissioner shall not award the platform technology vendor contract under
4.24 this subdivision to:

4.25 (1) a pharmacy benefit manager;

4.26 (2) a subsidiary or affiliate of a pharmacy benefit manager; or

4.27 (3) a vendor that is managed by a pharmacy benefit manager or receives, directly or
4.28 indirectly, remuneration from a pharmacy benefit manager for aggregating clients into a
4.29 contractual relationship with a pharmacy benefit manager.

4.30 (d) The vendor that is awarded the contract under this subdivision must not subcontract
4.31 any part of the reverse auction process or the review described under paragraph (b), clause
4.32 (4).