State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2613

03/20/2019 Authored by Haley
The bill was read for the first time and referred to the Committee on Commerce

A bill for an act

relating to health insurance; establishing a pilot program in southeastern Minnesota that requires health plan companies to develop and implement a shared savings incentive program.

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

Section 1. **SOUTHEASTERN MINNESOTA; SHARED SAVINGS INCENTIVE PILOT PROGRAM.**

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

(b) "Allowed amount" means the contractually agreed upon amount paid for health care service to a health care provider participating in the health plan company's provider network. The contractually agreed upon amount includes the amount paid to the provider by the health plan company and any cost-sharing the enrollee must pay to the provider, including co-payments, deductibles, or coinsurance.

(c) "Average" means median or mean.

(d) "Commissioner" means the commissioner of health.

(e) "Comparable health care service" means a covered nonemergency health care service a health plan company offers a shared savings incentive payment for under this section. Comparable health care services include, at a minimum, health care services within the following categories:

(1) physical and occupational therapy services;

(2) obstetrical and gynecological services;

(3) radiology and imaging services;

(4) laboratory services;

(5) infusion therapy services;

(6) inpatient and outpatient surgical procedures; and

(7) outpatient nonsurgical diagnostic tests and procedures.

The commissioner may limit the services that are considered a comparable health care service if a health plan company demonstrates that the allowed amount variation for the service among in-network providers is less than $50.

(f) "Enrollee" means a natural person who resides or works in southeastern Minnesota and is covered by a health plan.

(g) "Health plan" has the meaning given in Minnesota Statutes, section 62Q.01, subdivision 3.

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

(i) "Program" means the shared savings incentive program established by a health plan company under this section.

(j) "Southeastern Minnesota" means the portion of Minnesota that is part of geographic rating area 1, as determined under Minnesota Statutes, section 62A.65, subdivision 3, paragraph (b).

Subd. 2. **General.** (a) Beginning January 1, 2020, and until January 1, 2022, each health plan company offering a health plan in southeastern Minnesota must offer to its enrollees a shared savings incentive program that meets the requirements of this section.

(b) Prior to offering the program, a health plan company must file a description of the program established by the health plan company under this section with the commissioner in a manner prescribed by the commissioner. The commissioner must review the filing to ensure that the proposed program complies with this section.

Subd. 3. **Cost information website.** (a) The commissioner must develop a web-based interactive system for consumers in southeastern Minnesota to use to compare provider average charges for health care services on a procedure or procedure code (CPT code) basis. At a minimum, the health care services compared must include the comparable health care services defined under subdivision 1.

(b) Charges identified on the website do not constitute a legally binding estimate of the allowable charge or cost to the consumer for the specific health care service. The actual cost of the service may vary based on individual circumstances.

(c) The commissioner must contract with a private entity to satisfy the requirements of this subdivision.

Subd. 4. **Shared savings incentive account.** A health plan company must establish a shared savings incentive account for each enrollee. The health plan company must deposit into the account any incentive payments earned by the enrollee through the program. Funds in the account may be withdrawn by the enrollee to pay any applicable co-payments, coinsurance, or deductibles. If an enrollee's out-of-pocket maximum has been met for the year or there are unused funds in the account at the end of the contract year, the enrollee may withdraw the funds in the account to pay premiums for the current contract year or the following contract year.

Subd. 5. **Program requirements.** (a) A health plan company must develop and implement a shared savings incentive program that provides incentives for an enrollee who receives a comparable health care service that is covered under the enrollee's health plan from a health care provider that charges less than the average allowed amount paid by that health plan company for that health care service. A health plan company may enter into a contract with a third-party entity to develop and implement the health plan company's shared savings incentive program.

(b) The program must provide the enrollee with at least 50 percent of the saved costs for each comparable health care service resulting in comparison shopping by the enrollee. A health plan company is not required to provide a payment to an enrollee if the health plan company's saved cost for a comparable health care service is $25 or less. Compliance with this paragraph may be demonstrated in the aggregate of health plans offered by the health plan company in southeastern Minnesota, based on a reasonably anticipated mix of claims.

(c) The incentive offered may be calculated (1) as a percentage of the difference in the average allowed amount and the price paid, or (2) by using another reasonable methodology approved by the commissioner. The health plan company must deposit any incentive earned by the enrollee into the enrollee's shared savings incentive account established under subdivision 4.

(d) A health plan company must determine a process to document that the provider chosen by an enrollee charges less for a comparable health care service than the average allowed amount paid by that health plan company. The health plan company may require

the enrollee to demonstrate through reasonable documentation, including a quote from the health care provider, that the enrollee comparison shopped prior to receiving care from a health care provider that charges less for the comparable health care service than the average allowed amount paid by the health plan company.

Subd. 6. **Allowed amount; disclosure.** (a) A health plan company may base the average allowed amount paid to an in-network health care provider for a comparable health care service on what is paid (1) to an in-network health care provider applicable to the enrollee's specific health plan, or (2) across all of its health plans offered in the state. A health plan company may determine an alternative method to calculate the average allowed amount if approved by the commissioner.

(b) A health plan company must establish an interactive mechanism that enables an enrollee to request and obtain information from the health plan company on the payments made for comparable health care services, as well as quality data. The interactive mechanism must allow an enrollee to seek information about the cost of a specific comparable health care service to compare the average allowed amount paid to in-network health care providers based on the enrollee's health plan. The mechanism must also provide a good faith estimate of the anticipated charges and out-of-pocket costs an enrollee would be responsible to pay, including any co-payment, deductible, coinsurance, or other out-of-pocket amount, for a comparable health care service if the service is provided by an in-network health care provider based on the enrollee's health plan and information available to the health plan company at the time the request is made. A health plan company may contract with a third-party vendor to satisfy this requirement.

(c) A health plan company must inform an enrollee of the enrollee's ability to request the average allowed amount paid for a comparable health care service on the health plan company's website and in the health plan benefits materials.

Subd. 7. **Out-of-network provider.** (a) If an enrollee elects to receive a comparable health care service from an out-of-network provider at a price that is less than the average allowed amount paid by the enrollee's health plan company to an in-network provider, the health plan company must allow the enrollee to obtain the health care service from the out-of-network provider at the out-of-network provider's price. Upon request of the enrollee, the health plan company must apply the payments made by the enrollee for that health care service toward the enrollee's deductible and out-of-pocket maximum, as specified by the enrollee's health plan, as if the health care service had been provided by an in-network provider. If the enrollee's deductible has been met, the enrollee may submit the claim to the

health plan company and the health plan company must pay the claim in the same manner as claims submitted by an in-network provider.

(b) For purposes of administering this subdivision, a health plan company must provide a downloadable or interactive online form for an enrollee to submit proof of a direct payment to an out-of-network provider.

Subd. 8. **Notice to enrollees by health plan company.** (a) A health plan company must make the program available as a component of any health plan offered by the health plan company to those residing or working in southeastern Minnesota. Upon enrollment and annually upon renewal, a health plan company must provide notice to each enrollee of the program's availability, a description of the incentives available to an enrollee, how an enrollee may earn those incentives, and the comparable health care services that may qualify for a shared savings incentive payment. The notice must inform an enrollee of the enrollee's right to obtain services from a different health care provider regardless of any referral or recommendation made by a specific health care provider or entity, and that receiving services from a different health care provider, either the health care provider to which the referral was made or a different health care provider, may result in an incentive to the enrollee if the enrollee follows the steps established by the enrollee's health plan company.

(b) The health plan company must provide the information required under paragraph (a) on the health plan company's website.

Subd. 9. **Notice to enrollee by provider.** Health care providers located in southeastern Minnesota must post notification in a visible area that informs a patient with individual or small group coverage of the patient's ability to obtain a description of the service or the applicable standard medical codes or current procedural terminology codes sufficient to allow a health plan company to assist the patient in comparing out-of-pocket and contracted amounts paid for care to different health care providers for similar services. The notification must notify the patient that the patient's health plan company is required to provide enrollees with an estimate of the out-of-pocket costs and the average allowed amount paid for the patient's care. A health care provider may provide additional information to a patient that informs the patient of specific price transparency mechanisms or websites that may be available to the patient.

Subd. 10. **No administrative expense.** A shared savings incentive payment made by a health plan company under this section is not an administrative expense of the health plan company for purposes of rate development or rate filing, and may be considered a medical expense for purposes of medical loss ratio requirements.

Subd. 11. **Exclusions.** This section does not apply to health plans offered to enrollees who are enrolled in a public health care program under Minnesota Statutes, chapter 256B or 256L.

Subd. 12. **Report.** (a) By March 1, 2021, and March 1, 2022, a health plan company must file with the commissioner for the previous calendar year:

(1) the total number of shared savings incentive payments made under this section;

(2) the use of comparable health care services by category of service for which shared savings incentive payments were made;

(3) the average amount of shared savings incentive payments made by category of service;

(4) the total savings achieved below the average prices by category of service; and

(5) the total number and percentage of the health plan company's enrollees residing or working in southeastern Minnesota who participated in the program.

(b) By April 15, 2021, and April 15, 2022, the commissioner must submit an aggregate report containing the information submitted by the health plan companies under paragraph (a) to the chairs and ranking minority members of the committees in the senate and house of representatives with jurisdiction over health insurance.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to health plans offered, sold, or issued in southeastern Minnesota on or after January 1, 2020.