SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1358

(SENATE AUTHORS: SPARKS, Scheid and Rest)

DATE	D-PG	OFFICIAL STATUS
05/02/2011	1608	Introduction and first reading Referred to Commerce and Consumer Protection
05/03/2011	1710	Chief author stricken, shown as co-author Scheid Chief author added Sparks Author added Rest

A bill for an act

relating to commerce; making changes to health plan requirements; amending Minnesota Statutes 2010, sections 43A.23, subdivision 1; 43A.317, subdivision 6; 62A.03, subdivision 1; 62A.047; 62A.17, subdivision 2; 62A.21, subdivisions 2a, 2b; 62A.25, subdivision 2; 62A.302; 62A.615; 62A.65, subdivisions 5, 6; 62C.14, subdivision 5; 62D.07, subdivision 3; 62D.105; 62E.06, subdivision 1; 62L.02, subdivisions 11, 14a, 19; 62L.03, subdivision 4; 62L.05, subdivision 9; 62Q.01, by adding subdivisions; 62Q.021; 62Q.23; 62Q.43, subdivision 2; 62Q.52; 62Q.55; 62Q.68, subdivision 1; 62Q.69, subdivision 3; 62Q.70, subdivision 1; 62Q.71; 62Q.73; 62Q.80, subdivision 2; 471.61, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 62Q; 72A; repealing Minnesota Statutes 2010, section 62E.02, subdivision 7.

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

Section 1. Minnesota Statutes 2010, section 43A.23, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) The commissioner is authorized to request proposals or to negotiate and to enter into contracts with parties which in the judgment of the commissioner are best qualified to provide service to the benefit plans. Contracts entered into are not subject to the requirements of sections 16C.16 to 16C.19. The commissioner may negotiate premium rates and coverage. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers, and any other factors which the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. A carrier licensed under chapter 62A is exempt from the taxes imposed by chapter 297I on premiums paid to it by the state.

(b) All self-insured hospital and medical service products must comply with coverage mandates, data reporting, and consumer protection requirements applicable to the licensed

carrier administering the product, had the product been insured, including chapters 62J, 62M, and 62Q. Any self-insured products that limit coverage to a network of providers or provide different levels of coverage between network and nonnetwork providers shall comply with section 62D.123 and geographic access standards for health maintenance organizations adopted by the commissioner of health in rule under chapter 62D.

(c) Notwithstanding paragraph (b), a self-insured hospital and medical product offered under sections 43A.22 to 43A.30 is ~~not~~ required to extend dependent coverage to an eligible employee's ~~unmarried~~ child ~~under the age of 25~~ to the full extent required under chapters 62A and 62L. Dependent child coverage must, at a minimum, extend to an eligible employee's ~~unmarried~~ dependent child ~~who is under the age of 19 or an unmarried child under the age of 25 who is a full-time student. A person who is at least 19 years of age but who is under the age of 25 and who is not a full-time student must be permitted to be enrolled as a dependent of an eligible employee until age 25 if the person:~~ to the limiting age as defined in section 62Q.01, subdivision 7.

~~(1) was a full-time student immediately prior to being ordered into active military service, as defined in section 190.05, subdivision 5b or 5c;~~

~~(2) has been separated or discharged from active military service; and~~

~~(3) would be eligible to enroll as a dependent of an eligible employee, except that the person is not a full-time student.~~

~~The definition of "full-time student" for purposes of this paragraph includes any student who by reason of illness, injury, or physical or mental disability as documented by a physician is unable to carry what the educational institution considers a full-time course load so long as the student's course load is at least 60 percent of what otherwise is considered by the institution to be a full-time course load. Any notice regarding termination of coverage due to attainment of the limiting age must include information about this definition of "full-time student."~~

(d) Beginning January 1, 2010, the health insurance benefit plans offered in the commissioner's plan under section 43A.18, subdivision 2, and the managerial plan under section 43A.18, subdivision 3, must include an option for a health plan that is compatible with the definition of a high-deductible health plan in section 223 of the United States Internal Revenue Code.

Sec. 2. Minnesota Statutes 2010, section 43A.317, subdivision 6, is amended to read:

Subd. 6. **Individual eligibility.** (a) **Procedures.** The commissioner shall establish procedures for eligible employees and other eligible individuals to apply for coverage through the program.

(b) **Employees.** An employer shall determine when it applies to the program the criteria its employees must meet to be eligible for coverage under its plan. An employer may subsequently change the criteria annually or at other times with approval of the commissioner. The criteria must provide that new employees become eligible for coverage after a probationary period of at least 30 days, but no more than 90 days.

(c) **Other individuals.** An employer may elect to cover under its plan:

(1) the spouse, dependent children to the limiting age as defined in section 62Q.01, subdivision 7, and dependent grandchildren of a covered employee;

(2) a retiree who is eligible to receive a pension or annuity from the employer and a covered retiree's spouse, dependent children to the limiting age as defined in section 62Q.01, subdivision 7, and dependent grandchildren;

(3) the surviving spouse, dependent children, and dependent grandchildren of a deceased employee or retiree, if the spouse, children, or grandchildren were covered at the time of the death;

(4) a covered employee who becomes disabled, as provided in sections 62A.147 and 62A.148; or

(5) any other categories of individuals for whom group coverage is required by state or federal law.

An employer shall determine when it applies to the program the criteria individuals in these categories must meet to be eligible for coverage. An employer may subsequently change the criteria annually, or at other times with approval of the commissioner. The criteria for dependent children to the limiting age as defined in section 62Q.01, subdivision 7, and dependent grandchildren may be no more inclusive than the criteria under section 43A.18, subdivision 2. This paragraph shall not be interpreted as relieving the program from compliance with any federal and state continuation of coverage requirements.

(d) **Waiver and late entrance.** An eligible individual may waive coverage at the time the employer joins the program or when coverage first becomes available. The commissioner may establish a preexisting condition exclusion of not more than 18 months for late entrants as defined in section 62L.02, subdivision 19.

(e) **Continuation coverage.** The program shall provide all continuation coverage required by state and federal law.

Sec. 3. Minnesota Statutes 2010, section 62A.03, subdivision 1, is amended to read:

Subdivision 1. **Conditions.** No policy of individual accident and sickness insurance may be delivered or issued for delivery to a person in this state unless:

(1) **Premium.** The entire money and other considerations therefor are expressed therein.

(2) **Time effective.** The time at which the insurance takes effect and terminates is expressed therein.

(3) **One person.** It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family deemed the policyholder, any two or more eligible members of that family, including:

(a) husband,

(b) wife,

(c) dependent children to the limiting age as defined in section 62Q.01, subdivision 7, or

~~(d) any children under a specified age of 19 years or less, or~~

~~(c)~~ (d) any other person dependent upon the policyholder.

(4) **Appearance.** The style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text and every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-face type of a style in general use. The type size must be uniform and not less than ten point with a lowercase unspaced alphabet length not less than 120 point. The "text" includes all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, the reference to renewal or cancellation by a separate statement, if any, and the captions and subcaptions.

(5) **Description of policy.** The policy, on the first page, indicates or refers to its provisions for renewal or cancellation either in the brief description, if any, or by a separate statement printed in type not smaller than the type used for captions or a separate provision bearing a caption which accurately describes the renewability or cancelability of the policy.

(6) **Exceptions in policy.** The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in section 62A.04, printed, at the insurer's option, either with the benefit provision to which they apply, or under an appropriate caption such as "EXCEPTIONS" or "EXCEPTIONS AND REDUCTIONS." However, if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction must be included with the benefit provision to which it applies.

(7) **Form number.** Each form, including riders and endorsements, is identified by a form number in the lower left hand corner of the first page thereof.

(8) **No incorporation by reference.** It contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless the portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates, classification of risks, or short rate table filed with the commissioner.

(9) **Medical benefits.** If the policy contains a provision for medical expense benefits, the term "medical benefits" or similar terms as used therein includes treatments by all licensed practitioners of the healing arts unless, subject to the qualifications contained in clause (10), the policy specifically states the practitioners whose services are covered.

(10) **Osteopath, optometrist, chiropractor, or registered nurse services.** With respect to any policy of individual accident and sickness insurance issued or entered into subsequent to August 1, 1974, notwithstanding the provisions of the policy, if it contains a provision providing for reimbursement for any service which is in the lawful scope of practice of a duly licensed osteopath, optometrist, chiropractor, or registered nurse meeting the requirements of section 62A.15, subdivision 3a, the person entitled to benefits or person performing services under the policy is entitled to reimbursement on an equal basis for the service, whether the service is performed by a physician, osteopath, optometrist, chiropractor, or registered nurse meeting the requirements of section 62A.15, subdivision 3a, licensed under the laws of this state.

Sec. 4. Minnesota Statutes 2010, section 62A.047, is amended to read:

62A.047 CHILDREN'S HEALTH SUPERVISION SERVICES AND PRENATAL CARE SERVICES.

A policy of individual or group health and accident insurance regulated under this chapter, or individual or group subscriber contract regulated under chapter 62C, health maintenance contract regulated under chapter 62D, or health benefit certificate regulated under chapter 64B, issued, renewed, or continued to provide coverage to a Minnesota resident, must provide coverage for child health supervision services and prenatal care services. The policy, contract, or certificate must specifically exempt reasonable and customary charges for child health supervision services and prenatal care services from a deductible, co-payment, or other coinsurance or dollar limitation requirement. Nothing in this section prohibits a health plan company that has a network of providers from imposing a deductible, co-payment, or other coinsurance or dollar limitation requirement for child health supervision services and prenatal care services that are delivered by an out-of-network provider. This section does not prohibit the use of policy waiting periods ~~or preexisting condition limitations~~ for these services. Minimum benefits may be limited

to one visit payable to one provider for all of the services provided at each visit cited in this section subject to the schedule set forth in this section. ~~Nothing in this section applies to a commercial health insurance policy issued as a companion to a health maintenance organization contract, a policy designed primarily to provide coverage payable on a per diem, fixed indemnity, or nonexpense incurred basis, or a policy that provides only accident coverage.~~ Nothing in this section prevents a health plan company from using reasonable medical management techniques to determine the frequency, method, treatment, or setting for child health supervision services and prenatal care services.

A policy, contract, or certificate described under this section may not apply preexisting condition limitations to individuals under 19 years of age. This paragraph does not apply to individual coverage that is grandfathered plan coverage, as defined in section 62Q.01, subdivision 9.

"Child health supervision services" means pediatric preventive services, appropriate immunizations, developmental assessments, and laboratory services appropriate to the age of a child from birth to age six, and appropriate immunizations from ages six to 18, as defined by Standards of Child Health Care issued by the American Academy of Pediatrics. Reimbursement must be made for at least five child health supervision visits from birth to 12 months, three child health supervision visits from 12 months to 24 months, once a year from 24 months to 72 months.

"Prenatal care services" means the comprehensive package of medical and psychosocial support provided throughout the pregnancy, including risk assessment, serial surveillance, prenatal education, and use of specialized skills and technology, when needed, as defined by Standards for Obstetric-Gynecologic Services issued by the American College of Obstetricians and Gynecologists.

Sec. 5. Minnesota Statutes 2010, section 62A.17, subdivision 2, is amended to read:

Subd. 2. **Responsibility of employee.** Every covered employee electing to continue coverage shall pay the former employer, on a monthly basis, the cost of the continued coverage. The policy, contract, or plan must require the group policyholder or contract holder to, upon request, provide the employee with written verification from the insurer of the cost of this coverage promptly at the time of eligibility for this coverage and at any time during the continuation period. If the policy, contract, or health care plan is administered by a trust, every covered employee electing to continue coverage shall pay the trust the cost of continued coverage according to the eligibility rules established by the trust. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for similarly situated employees with respect to

whom neither termination nor layoff has occurred, without regard to whether such cost is paid by the employer or employee. The employee shall be eligible to continue the coverage until the employee becomes covered under another group health plan, or for a period of 18 months after the termination of or lay off from employment, whichever is shorter. For an individual age 19 or older, if the employee becomes covered under another group policy, contract, or health plan and the new group policy, contract, or health plan contains any preexisting condition limitations, the employee may, subject to the 18-month maximum continuation limit, continue coverage with the former employer until the preexisting condition limitations have been satisfied. The new policy, contract, or health plan is primary except as to the preexisting condition. In the case of a newborn child who is a dependent of the employee, the new policy, contract, or health plan is primary upon the date of birth of the child, regardless of which policy, contract, or health plan coverage is deemed primary for the mother of the child.

Sec. 6. Minnesota Statutes 2010, section 62A.21, subdivision 2a, is amended to read:

Subd. 2a. **Continuation privilege.** Every policy described in subdivision 1 shall contain a provision which permits continuation of coverage under the policy for the insured's former spouse and dependent children ~~upon~~ to the limiting age as defined in section 62Q.01, subdivision 7, who were covered on the day before entry of a valid decree of dissolution of marriage. The coverage shall be continued until the earlier of the following dates:

(a) the date the insured's former spouse becomes covered under any other group health plan; or

(b) the date coverage would otherwise terminate under the policy.

If the coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the insured on a monthly basis to the group policyholder for remittance to the insurer. The policy must require the group policyholder to, upon request, provide the insured with written verification from the insurer of the cost of this coverage promptly at the time of eligibility for this coverage and at any time during the continuation period. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouses and dependent children to the limiting age as defined in section 62Q.01, subdivision 7, with respect to whom the marital relationship has not dissolved, without regard to whether such cost is paid by the employer or employee.

Upon request by the insured's former spouse or dependent child to the limiting age as defined in section 62Q.01, subdivision 7, who was covered on the day before entry of

a valid decree of dissolution, a health carrier must provide the instructions necessary to enable the child or former spouse to elect continuation of coverage.

Sec. 7. Minnesota Statutes 2010, section 62A.21, subdivision 2b, is amended to read:

Subd. 2b. **Conversion privilege.** Every policy described in subdivision 1 shall contain a provision allowing a former spouse and dependent children to the limiting age as defined in section 62Q.01, subdivision 7, of an insured who were covered on the day before entry of a valid decree of dissolution, without providing evidence of insurability, to obtain from the insurer at the expiration of any continuation of coverage required under subdivision 2a or sections 62A.146 and 62A.20, conversion coverage providing at least the minimum benefits of a qualified plan as prescribed by section 62E.06 and the option of a number three qualified plan, a number two qualified plan, a number one qualified plan as provided by section 62E.06, subdivisions 1 to 3, provided application is made to the insurer within 30 days following notice of the expiration of the continued coverage and upon payment of the appropriate premium. The individual policy shall be renewable at the option of the covered person as long as the covered person is not covered under another qualified plan as defined in section 62E.02, subdivision 4. Any revisions in the table of rate for the individual policy shall apply to the covered person's original age at entry and shall apply equally to all similar policies issued by the insurer.

A policy providing reduced benefits at a reduced premium rate may be accepted by the covered person in lieu of the optional coverage otherwise required by this subdivision.

Sec. 8. Minnesota Statutes 2010, section 62A.25, subdivision 2, is amended to read:

Subd. 2. **Required coverage.** (a) Every policy, plan, certificate or contract to which this section applies shall provide benefits for reconstructive surgery when such service is incidental to or follows surgery resulting from injury, sickness or other diseases of the involved part or when such service is performed on a covered dependent child to the limiting age as defined in section 62Q.01, subdivision 7, because of congenital disease or anomaly which has resulted in a functional defect as determined by the attending physician.

(b) The coverage limitations on reconstructive surgery in paragraph (a) do not apply to reconstructive breast surgery following mastectomies. In these cases, coverage for reconstructive surgery must be provided if the mastectomy is medically necessary as determined by the attending physician.

(c) Reconstructive surgery benefits include all stages of reconstruction of the breast on which the mastectomy has been performed, surgery and reconstruction of the other

breast to produce a symmetrical appearance, and prosthesis and physical complications at all stages of a mastectomy, including lymphedemas, in a manner determined in consultation with the attending physician and patient. Coverage may be subject to annual deductible, co-payment, and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Coverage may not:

(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section; and

(2) penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide monetary or other incentives to an attending provider to induce the provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section.

Written notice of the availability of the coverage must be delivered to the participant upon enrollment and annually thereafter.

Sec. 9. Minnesota Statutes 2010, section 62A.302, is amended to read:

62A.302 COVERAGE OF DEPENDENTS.

Subdivision 1. **Scope of coverage.** This section applies to:

(1) a health plan as defined in section 62A.011; and

~~(2) coverage described in section 62A.011, subdivision 3, clauses (4), (6), (7), (8), (9), and (10); and~~

~~(3)~~ (2) a policy, contract, or certificate issued by a community integrated service network licensed under chapter 62N.

Subd. 2. **Required coverage.** Every health plan included in subdivision 1 that provides dependent coverage must define "dependent" no more restrictively than the definition provided in section 62L.02.

Subd. 3. **Coverage of dependents by plans other than health plans.** Notwithstanding subdivision 2, the following definition of dependent applies to coverage described in section 62A.011, subdivision 3, clauses (4), (6), (7), (8), (9), and (10); and plans offered by the Minnesota Comprehensive Health Association. "Dependent" means an eligible employee's spouse, unmarried child who is under the age of 25 years, dependent child of any age who is disabled and who meets the eligibility criteria in section 62A.14, subdivision 2, or any other person whom state or federal law requires to be treated as a dependent. For the purpose of this definition, a child includes a child for whom the

employee or the employee's spouse has been appointed legal guardian and an adoptive child as provided in section 62A.27.

Subd. 4. **Grandchildren.** Nothing in this section shall be construed to require a health carrier to make coverage available for a grandchild unless the grandchild meets the requirements of section 62A.042. Coverage for grandchildren enrolled pursuant to section 62A.042 terminates when the first of the following occurs:

(1) the grandchild does not continue to reside with the covered grandparent;

(2) the grandparent does not provide the majority of the grandchild's support; or

(3) the grandchild reaches age 25, except as provided in section 62A.14.

Sec. 10. Minnesota Statutes 2010, section 62A.615, is amended to read:

62A.615 PREEXISTING CONDITIONS DISCLOSED AT TIME OF APPLICATION.

No insurer may cancel or rescind a health insurance policy for a preexisting condition of which the application or other information provided by the insured reasonably gave the insurer notice. No insurer may restrict coverage for a preexisting condition of which the application or other information provided by the insured reasonably gave the insurer notice unless the coverage is restricted at the time the policy is issued and the restriction is disclosed in writing to the insured at the time the policy is issued.

In addition, no health plan may restrict coverage for a preexisting condition for an individual who is under 19 years of age. This paragraph does not apply to individual coverage that is grandfathered plan coverage, as defined in section 62Q.01, subdivision 9.

Sec. 11. Minnesota Statutes 2010, section 62A.65, subdivision 5, is amended to read:

Subd. 5. **Portability and conversion of coverage.** (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under renewed, to a Minnesota resident that contains a preexisting condition limitation, preexisting condition exclusion, or exclusionary rider~~, unless the limitation or exclusion is permitted under this subdivision and under chapter 62L, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The~~. An individual age 19 or older may be subjected to an 18-month preexisting condition limitation, unless the individual has maintained continuous coverage as defined in section 62L.02. The individual must not be subjected to an exclusionary rider. An individual who is age 19 or older and who has maintained continuous coverage may be subjected to a onetime preexisting condition limitation of

up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02, at the time that the individual first is covered under an individual health plan by any health carrier. Credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. The individual must not be subjected to an exclusionary rider. Thereafter, the individual who is age 19 or older must not be subject to any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage as defined in section 62L.02. The prohibition on preexisting condition limitations for children age 18 or under does not apply to individual coverage that is grandfathered plan coverage, as defined in section 62Q.01, subdivision 9.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health plan issued by that health carrier, regardless of the size of the group, so long as the individual maintained continuous coverage as defined in section 62L.02. If the individual has available any continuation coverage provided under sections 62A.146; 62A.148; 62A.17, subdivisions 1 and 2; 62A.20; 62A.21; 62C.142; 62D.101; or 62D.105, or continuation coverage provided under federal law, the health carrier need not offer coverage under this paragraph until the individual has exhausted the continuation coverage. The offer must not be subject to underwriting, except as permitted under this paragraph. A health plan issued under this paragraph must be a qualified plan as defined in section 62E.02 and must not contain any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, except for any unexpired limitation or exclusion under the previous coverage. The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan. The offer of coverage by the health carrier must inform the individual that the coverage, including what is covered and the health care providers from whom covered care may be obtained, may not be the same as the individual's coverage under the group health plan. The offer of coverage by the health carrier must also inform the individual that the individual, if a Minnesota resident, may be eligible to obtain coverage from (i) other private sources of health coverage, or (ii) the Minnesota Comprehensive Health Association, without a preexisting condition limitation, and must provide the telephone number used by that association for enrollment purposes. The initial premium rate for the individual health plan must comply with subdivision 3. The premium rate upon renewal must comply with subdivision 2. In no event shall the premium rate exceed 100 percent of the premium charged for comparable individual coverage by the Minnesota Comprehensive Health

Association, and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Coverage issued under this paragraph must provide that it cannot be canceled or nonrenewed as a result of the health carrier's subsequent decision to leave the individual, small employer, or other group market. Section 72A.20, subdivision 28, applies to this paragraph.

Sec. 12. Minnesota Statutes 2010, section 62A.65, subdivision 6, is amended to read:

Subd. 6. **Guaranteed issue not required.** Nothing in this section requires a health carrier to initially issue a health plan to a Minnesota resident who is age 19 or older on the date the health plan becomes effective, except as otherwise expressly provided in subdivision 4 or 5.

Sec. 13. Minnesota Statutes 2010, section 62C.14, subdivision 5, is amended to read:

Subd. 5. **Disabled dependents.** A subscriber's individual contract or any group contract delivered or issued for delivery in this state and providing that coverage of a dependent child of the subscriber or a dependent child of a covered group member shall terminate upon attainment of a specified limiting age as defined in section 62Q.01, subdivision 7, shall also provide in substance that attainment of that age shall not terminate coverage while the child is (a) incapable of self-sustaining employment by reason of developmental disability, mental illness or disorder, or physical disability, and (b) chiefly dependent upon the subscriber or employee for support and maintenance, provided proof of incapacity and dependency is furnished by the subscriber within 31 days of attainment of the limiting age as defined in section 62Q.01, subdivision 7, and subsequently as required by the corporation, but not more frequently than annually after a two-year period following attainment of the age. Any notice regarding termination of coverage due to attainment of the limiting age must include information about this provision.

Sec. 14. Minnesota Statutes 2010, section 62D.07, subdivision 3, is amended to read:

Subd. 3. **Required provisions.** Contracts and evidences of coverage shall contain:

(a) no provisions or statements which are unjust, unfair, inequitable, misleading, deceptive, or which are untrue, misleading, or deceptive as defined in section 62D.12, subdivision 1;

(b) a clear, concise and complete statement of:

(1) the health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health maintenance contract;

(2) any exclusions or limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or co-payment feature and requirements for referrals, prior authorizations, and second opinions;

(3) where and in what manner information is available as to how services, including emergency and out of area services, may be obtained;

(4) the total amount of payment and co-payment, if any, for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan is contributory or noncontributory with respect to group certificates; and

(5) a description of the health maintenance organization's method for resolving enrollee complaints and a statement identifying the commissioner as an external source with whom complaints may be registered; and

(c) on the cover page of the evidence of coverage and contract, a clear and complete statement of enrollees' rights. The statement must be in bold print and captioned "Important Enrollee Information and Enrollee Bill of Rights" and must include but not be limited to the following provisions in the following language or in substantially similar language approved in advance by the commissioner, except that paragraph (8) does not apply to prepaid health plans providing coverage for programs administered by the commissioner of human services:

ENROLLEE INFORMATION

(1) COVERED SERVICES: Services provided by (name of health maintenance organization) will be covered only if services are provided by participating (name of health maintenance organization) providers or authorized by (name of health maintenance organization). Your contract fully defines what services are covered and describes procedures you must follow to obtain coverage.

(2) PROVIDERS: Enrolling in (name of health maintenance organization) does not guarantee services by a particular provider on the list of providers. When a provider is no longer part of (name of health maintenance organization), you must choose among remaining (name of the health maintenance organization) providers.

(3) REFERRALS: Certain services are covered only upon referral. See section (section number) of your contract for referral requirements. All referrals to non-(name of health maintenance organization) providers and certain types of health care providers must be authorized by (name of health maintenance organization).

(4) EMERGENCY SERVICES: Emergency services from providers who are not affiliated with (name of health maintenance organization) will be covered ~~only if proper procedures are followed~~. Your contract explains the procedures and benefits associated with emergency care from (name of health maintenance organization) and non-(name of health maintenance organization) providers.

(5) EXCLUSIONS: Certain services or medical supplies are not covered. You should read the contract for a detailed explanation of all exclusions.

(6) CONTINUATION: You may convert to an individual health maintenance organization contract or continue coverage under certain circumstances. These continuation and conversion rights are explained fully in your contract.

(7) CANCELLATION: Your coverage may be canceled by you or (name of health maintenance organization) only under certain conditions. Your contract describes all reasons for cancellation of coverage.

(8) NEWBORN COVERAGE: If your health plan provides for dependent coverage, a newborn infant is covered from birth, but only if services are provided by participating (name of health maintenance organization) providers or authorized by (name of health maintenance organization). Certain services are covered only upon referral. (Name of health maintenance organization) will not automatically know of the infant's birth or that you would like coverage under your plan. You should notify (name of health maintenance organization) of the infant's birth and that you would like coverage. If your contract requires an additional premium for each dependent, (name of health maintenance organization) is entitled to all premiums due from the time of the infant's birth until the time you notify (name of health maintenance organization) of the birth. (Name of health maintenance organization) may withhold payment of any health benefits for the newborn infant until any premiums you owe are paid.

(9) PRESCRIPTION DRUGS AND MEDICAL EQUIPMENT: Enrolling in (name of health maintenance organization) does not guarantee that any particular prescription drug will be available nor that any particular piece of medical equipment will be available, even if the drug or equipment is available at the start of the contract year.

ENROLLEE BILL OF RIGHTS

(1) Enrollees have the right to available and accessible services including emergency services, as defined in your contract, 24 hours a day and seven days a week;

(2) Enrollees have the right to be informed of health problems, and to receive information regarding treatment alternatives and risks which is sufficient to assure informed choice;

(3) Enrollees have the right to refuse treatment, and the right to privacy of medical and financial records maintained by the health maintenance organization and its health care providers, in accordance with existing law;

(4) Enrollees have the right to file a complaint with the health maintenance organization and the commissioner of health and the right to initiate a legal proceeding when experiencing a problem with the health maintenance organization or its health care providers;

(5) Enrollees have the right to a grace period of 31 days for the payment of each premium for an individual health maintenance contract falling due after the first premium during which period the contract shall continue in force;

(6) Medicare enrollees have the right to voluntarily disenroll from the health maintenance organization and the right not to be requested or encouraged to disenroll except in circumstances specified in federal law; and

(7) Medicare enrollees have the right to a clear description of nursing home and home care benefits covered by the health maintenance organization.

Sec. 15. Minnesota Statutes 2010, section 62D.105, is amended to read:

62D.105 COVERAGE OF CURRENT SPOUSE AND CHILDREN.

Subdivision 1. **Requirement.** Every health maintenance contract, which in addition to covering the enrollee also provides coverage to the spouse and dependent children to the limiting age as defined in section 62Q.01, subdivision 7, of the enrollee who were covered on the day before entry of a valid decree of dissolution shall: (1) permit the spouse and dependent children to the limiting age as defined in section 62Q.01, subdivision 7, to elect to continue coverage when the enrollee becomes enrolled for benefits under title XVIII of the Social Security Act (Medicare); and (2) permit the dependent children to continue coverage when they cease to be dependent children to the limiting age as defined in section 62Q.01, subdivision 7, under the generally applicable requirement of the plan.

Subd. 2. **Continuation privilege.** The coverage described in subdivision 1 may be continued until the earlier of the following dates:

(1) the date coverage would otherwise terminate under the contract;

(2) 36 months after continuation by the spouse or dependent was elected; or

(3) the date the spouse or dependent children become covered under another group health plan or Medicare.

If coverage is provided under a group policy, any required fees for the coverage shall be paid by the enrollee on a monthly basis to the group contract holder for remittance to the health maintenance organization. In no event shall the fee charged exceed 102

percent of the cost to the plan for such coverage for other similarly situated spouse and dependent children to the limiting age as defined in section 62Q.01, subdivision 7, to whom subdivision 1 is not applicable, without regard to whether such cost is paid by the employer or employee.

Sec. 16. Minnesota Statutes 2010, section 62E.06, subdivision 1, is amended to read:

Subdivision 1. **Number three plan.** A plan of health coverage shall be certified as a number three qualified plan if it otherwise meets the requirements established by chapters 62A, 62C, and 62Q, and the other laws of this state, whether or not the policy is issued in Minnesota, and meets or exceeds the following minimum standards:

(a) The minimum benefits for a covered individual shall, subject to the other provisions of this subdivision, be equal to at least 80 percent of the cost of covered services in excess of an annual deductible which does not exceed $150 per person. The coverage shall include a limitation of $3,000 per person on total annual out-of-pocket expenses for services covered under this subdivision. The coverage shall be subject to a maximum lifetime benefit of not less than $1,000,000.

The $3,000 limitation on total annual out-of-pocket expenses and the $1,000,000 maximum lifetime benefit shall not be subject to change or substitution by use of an actuarially equivalent benefit.

(b) Covered expenses shall be the usual and customary charges for the following services and articles when prescribed by a physician:

(1) hospital services;

(2) professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a physician or at the physician's direction;

(3) drugs requiring a physician's prescription;

(4) services of a nursing home for not more than 120 days in a year if the services would qualify as reimbursable services under Medicare;

(5) services of a home health agency if the services would qualify as reimbursable services under Medicare;

(6) use of radium or other radioactive materials;

(7) oxygen;

(8) anesthetics;

(9) prostheses other than dental but including scalp hair prostheses worn for hair loss suffered as a result of alopecia areata;

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

(11) diagnostic x-rays and laboratory tests;

(12) oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;

(13) services of a physical therapist;

(14) transportation provided by licensed ambulance service to the nearest facility qualified to treat the condition; or a reasonable mileage rate for transportation to a kidney dialysis center for treatment; and

(15) services of an occupational therapist.

(c) Covered expenses for the services and articles specified in this subdivision do not include the following:

(1) any charge for care for injury or disease either (i) arising out of an injury in the course of employment and subject to a workers' compensation or similar law, (ii) for which benefits are payable without regard to fault under coverage statutorily required to be contained in any motor vehicle, or other liability insurance policy or equivalent self-insurance, or (iii) for which benefits are payable under another policy of accident and health insurance, Medicare, or any other governmental program except as otherwise provided by section 62A.04, subdivision 3, clause (4);

(2) any charge for treatment for cosmetic purposes other than for reconstructive surgery when such service is incidental to or follows surgery resulting from injury, sickness, or other diseases of the involved part or when such service is performed on a covered dependent child <u>to the limiting age as defined in section 62Q.01, subdivision 7,</u> because of congenital disease or anomaly which has resulted in a functional defect as determined by the attending physician;

(3) care which is primarily for custodial or domiciliary purposes which would not qualify as eligible services under Medicare;

(4) any charge for confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician, provided, however, that if the institution does not have semiprivate rooms, its most common semiprivate room charge shall be considered to be 90 percent of its lowest private room charge;

(5) that part of any charge for services or articles rendered or prescribed by a physician, dentist, or other health care personnel which exceeds the prevailing charge in the locality where the service is provided; and

(6) any charge for services or articles the provision of which is not within the scope of authorized practice of the institution or individual rendering the services or articles.

(d) The minimum benefits for a qualified plan shall include, in addition to those benefits specified in clauses (a) and (e), benefits for well baby care, effective July 1, 1980, subject to applicable deductibles, coinsurance provisions, and maximum lifetime benefit limitations.

(e) Effective July 1, 1979, the minimum benefits of a qualified plan shall include, in addition to those benefits specified in clause (a), a second opinion from a physician on all surgical procedures expected to cost a total of $500 or more in physician, laboratory, and hospital fees, provided that the coverage need not include the repetition of any diagnostic tests.

(f) Effective August 1, 1985, the minimum benefits of a qualified plan must include, in addition to the benefits specified in clauses (a), (d), and (e), coverage for special dietary treatment for phenylketonuria when recommended by a physician.

(g) Outpatient mental health coverage is subject to section 62A.152, subdivision 2.

Sec. 17. Minnesota Statutes 2010, section 62L.02, subdivision 11, is amended to read:

Subd. 11. **Dependent.** "Dependent" means an eligible employee's spouse, ~~unmarried child who is under the age of 25 years~~ dependent child to the limiting age as defined in section 62Q.01, subdivision 7, dependent child of any age who is disabled and who meets the eligibility criteria in section 62A.14, subdivision 2, or any other person whom state or federal law requires to be treated as a dependent for purposes of health plans. For the purpose of this definition, a dependent child to the limiting age as defined in section 62Q.01, subdivision 7, includes a child for whom the employee or the employee's spouse has been appointed legal guardian and an adoptive child as provided in section 62A.27.

Sec. 18. Minnesota Statutes 2010, section 62L.02, subdivision 14a, is amended to read:

Subd. 14a. **Guaranteed issue.** "Guaranteed issue" means that a health carrier shall not decline an application by a small employer for any health benefit plan offered by that health carrier and shall not decline to cover under a health benefit plan any eligible employee or eligible dependent, including persons who become eligible employees or eligible dependents after initial issuance of the health benefit plan, subject to the health carrier's right to impose preexisting condition limitations permitted under this chapter and the federal act as defined in section 62Q.01, subdivision 8.

Sec. 19. Minnesota Statutes 2010, section 62L.02, subdivision 19, is amended to read:

Subd. 19. **Late entrant.** "Late entrant" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period applicable to the employee or dependent under the terms of the health benefit plan, provided that the initial enrollment period must be a period of at least 30 days. However, an eligible employee or dependent must not be considered a late entrant if:

(1) the individual was covered under qualifying coverage at the time the individual was eligible to enroll in the health benefit plan, declined enrollment on that basis, and presents to the health carrier a certificate of termination of the qualifying coverage, due to loss of eligibility for that coverage, or proof of the termination of employer contributions toward that coverage, provided that the individual maintains continuous coverage and requests enrollment within 30 days of termination of qualifying coverage or termination of the employer's contribution toward that coverage. For purposes of this clause, loss of eligibility includes loss of eligibility as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment. For purposes of this clause, an individual is not a late entrant if the individual elects coverage under the health benefit plan rather than accepting continuation coverage for which the individual is eligible under state or federal law with respect to the individual's previous qualifying coverage;

(2) the individual has lost coverage under another group health plan due to the expiration of benefits available under the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, as amended, and any state continuation laws applicable to the employer or health carrier, provided that the individual maintains continuous coverage and requests enrollment within 30 days of the loss of coverage;

(3) the individual is a new spouse of an eligible employee, provided that enrollment is requested within 30 days of becoming legally married;

(4) the individual is a new dependent child to the limiting age as defined in section 62Q.01, subdivision 7, of an eligible employee, provided that enrollment is requested within 30 days of becoming a dependent;

(5) the individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; ~~or~~

(6) a court has ordered that coverage be provided for a former spouse or dependent child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of the court order~~.~~; or

(7) the individual has enrolled according to the requirements of the federal act, as defined in section 62Q.01, subdivision 8.

Sec. 20. Minnesota Statutes 2010, section 62L.03, subdivision 4, is amended to read:

Subd. 4. **Underwriting restrictions.** (a) Health carriers may apply underwriting restrictions to coverage for health benefit plans for small employers, including any preexisting condition limitations, only as expressly permitted under this chapter and the federal act, as defined in section 62Q.01, subdivision 8. For purposes of this section, "underwriting restrictions" means any refusal of the health carrier to issue or renew coverage, any premium rate higher than the lowest rate charged by the health carrier for the same coverage, any preexisting condition limitation, preexisting condition exclusion, or any exclusionary rider.

(b) Health carriers may collect information relating to the case characteristics and demographic composition of small employers, as well as health status and health history information about employees, and dependents of employees, of small employers.

(c) Except as otherwise authorized for late entrants, preexisting conditions may be excluded by a health carrier for an individual age 19 or older for a period not to exceed 12 months from the enrollment date of an eligible employee or dependent, but exclusionary riders must not be used. Late entrants who are age 19 or older may be subject to a preexisting condition limitation not to exceed 18 months from the enrollment date of the late entrant, but must not be subject to any exclusionary rider or preexisting condition exclusion. When calculating any length of preexisting condition limitation, a health carrier shall credit the time period an eligible employee or dependent was previously covered by qualifying coverage, provided that the individual maintains continuous coverage. The credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. Section 60A.082, relating to replacement of group coverage, and the rules adopted under that section apply to this chapter, and this chapter's requirements are in addition to the requirements of that section and the rules adopted under it. A health carrier shall, at the time of first issuance or renewal of a health benefit plan on or after July 1, 1993, credit against any preexisting condition limitation or exclusion permitted under this section, the time period prior to July 1, 1993, during which an eligible employee or dependent was covered by qualifying coverage, if the person has maintained continuous coverage.

(d) Health carriers shall not use pregnancy as a preexisting condition under this chapter.

Sec. 21. Minnesota Statutes 2010, section 62L.05, subdivision 9, is amended to read:

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~~ to the limiting age as defined in section 62Q.01, subdivision 7, disabled ~~children and dependents~~ dependent children, 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.

Sec. 22. Minnesota Statutes 2010, section 62Q.01, is amended by adding a subdivision to read:

Subd. 7. **Dependent child to the limiting age.** For purposes of chapters 60A, 62A to 62U, and 43A, the term "dependent child to the limiting age" or "dependent children to the limiting age" means those individuals who are eligible and covered as a dependent child under the terms of a health plan who have not yet attained 26 years of age. A health plan shall not deny or restrict eligibility for a dependent child to the limiting age based on financial dependency, residency, martial status, or student status. For coverage under plans offered by the Minnesota Comprehensive Health Association, dependent to the limiting age means dependent as defined in section 62A.302, subdivision 3. Notwithstanding the provisions in this subdivision, a health plan may include:

(1) eligibility requirements regarding the absence of other health plan coverage as permitted by the federal act as defined in section 62Q.01, subdivision 8, for grandfathered plan coverage as defined in section 62Q.01, subdivision 9; or

(2) an age greater than 26 in its policy, contract, or certificate of coverage.

Sec. 23. Minnesota Statutes 2010, section 62Q.01, is amended by adding a subdivision to read:

Subd. 8. **Federal act.** "Federal act" means the federal Public Law 111-148, 124 Stat. 119, as amended by the federal Public Law 111-152, 124 Stat. 1029, to be codified as amended in scattered sections of United States Code, titles 26 and 42, and all amendments thereto from time to time, or implementing regulations issued thereunder.

Sec. 24. Minnesota Statutes 2010, section 62Q.01, is amended by adding a subdivision to read:

Subd. 9. **Grandfathered plan coverage.** "Grandfathered plan coverage" means a group or individual health plan in which an individual was enrolled on March 23, 2010, for as long as it maintains that status in accordance with the requirements of the federal act, as defined in section 62Q.01, subdivision 8.

Sec. 25. Minnesota Statutes 2010, section 62Q.021, is amended to read:

62Q.021 FEDERAL ACT; COMPLIANCE REQUIRED.

Subdivision 1. **Compliance with 1996 federal law.** Each health plan company shall comply with the federal Health Insurance Portability and Accountability Act of 1996, including any federal regulations adopted under that act, to the extent that it imposes a requirement that applies in this state and that is not also required by the laws of this state. This section does not require compliance with any provision of the federal act prior to the effective date provided for that provision in the federal act. The commissioner shall enforce this section.

Subd. 2. **Compliance with 2010 federal law.** Each health plan company shall comply with the federal act as defined in section 62Q.01, subdivision 8, to the extent that it imposes a requirement that applies in this state and that is not also required by the laws of this state. This section does not require compliance with any provision of the federal act prior to the effective date provided for that provision in the federal act. The commissioner shall enforce this section.

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

Sec. 26. Minnesota Statutes 2010, section 62Q.23, is amended to read:

62Q.23 GENERAL SERVICES.

(a) Health plan companies shall comply with all continuation and conversion of coverage requirements applicable to health maintenance organizations under state or federal law.

(b) Health plan companies shall comply with sections 62A.047, 62A.27, and any other coverage required under chapter 62A of newborn infants, dependent children ~~who do not reside with a covered person~~ to the limiting age as defined in section 62Q.01, subdivision 7, disabled ~~children and dependents~~ dependent children, and adopted children. A health plan company providing dependent coverage shall comply with section 62A.302.

(c) Health plan companies shall comply with the equal access requirements of section 62A.15.

Sec. 27. Minnesota Statutes 2010, section 62Q.43, subdivision 2, is amended to read:

Subd. 2. **Access requirement.** Every closed-panel health plan must allow enrollees ~~who are full-time students~~ under the age of ~~25~~ 26 years to change their designated clinic or physician at least once per month, as long as the clinic or physician is part of the health plan company's statewide clinic or physician network. A health plan company shall not

charge enrollees who choose this option higher premiums or cost sharing than would otherwise apply to enrollees who do not choose this option. A health plan company may require enrollees to provide 15 days' written notice of intent to change their designated clinic or physician.

Sec. 28. **[62Q.46] PREVENTIVE ITEMS AND SERVICES.**

Subdivision 1. **Coverage for preventive items and services.** (a) "Preventive items and services" means:

(1) evidence-based items or services that have in effect a rating of A or B in the recommendations of the United States Preventive Services Task Force as of September 23, 2010, with respect to the individual involved. For purposes of this paragraph, the United States Preventive Services Task Force recommendations regarding breast cancer screening, mammography, and prevention issued in or around November 2009 are not considered to be current;

(2) immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved. For purposes of this paragraph, a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, is considered in effect after it has been adopted by the Director of the Centers for Disease Control and Prevention, and a recommendation is considered to be for routine use if it is listed on the Immunization Schedules of the Centers for Disease Control and Prevention;

(3) evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration for infants, children, and adolescents; and

(4) evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration for women.

(b) A health plan must provide coverage for preventive items and services at a participating provider without imposing cost-sharing requirements, including a deductible, coinsurance, or co-payment. Nothing in this section prohibits a health plan company that has a network of providers from excluding coverage or imposing cost-sharing requirements for preventive items or services that are delivered by an out-of-network provider.

(c) A health plan is not required to provide coverage for any items or services specified in any recommendation or guideline described in paragraph (a) after the recommendation or guideline is no longer included as a preventive item or service as defined in paragraph (a). Annually, a health plan company must determine whether any

additional items or services must be covered without cost-sharing requirements or whether any items or services are no longer required to be covered.

(d) Nothing prevents a health plan company from using reasonable medical management techniques to determine the frequency, method, treatment, or setting for a preventive item or service to the extent not specified in the recommendation or guideline.

(e) This section does not apply to grandfathered plan coverage, as defined in section 62Q.01, subdivision 9. This section does not apply to plans offered by the Minnesota Comprehensive Health Association.

Subd. 2. **Coverage for office visits in conjunction with preventive items and services.** (a) A health plan may impose cost-sharing requirements with respect to an office visit if preventive item or service is billed separately or is tracked as individual encounter data separately from the office visit.

(b) A health plan must not impose cost-sharing requirements with respect to an office visit if a preventive item or service is not billed separately or is not tracked as an individual encounter data separately from the office visit and the primary purpose of the office visit is the delivery of the preventive item or service.

(c) A health plan may impose cost-sharing requirements with respect to an office visit if a preventive item or service is not billed separately or is not tracked as individual encounter data separately from the office visit and the primary purpose of the office visit is not the delivery of the preventive item or service.

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

Sec. 29. Minnesota Statutes 2010, section 62Q.52, is amended to read:

62Q.52 DIRECT ACCESS TO OBSTETRIC AND GYNECOLOGIC SERVICES.

(a) Health plan companies shall allow female enrollees direct access to ~~obstetricians and gynecologists~~ providers who specialize in obstetrics and gynecology for the following services:

(1) ~~annual preventive health examinations, which shall include a gynecologic examination, and any subsequent obstetric or gynecologic visits determined to be medically necessary by the examining obstetrician or gynecologist, based upon the findings of the examination~~ evaluation and necessary treatment for obstetric conditions or emergencies;

(2) maternity care; and

(3) evaluation and necessary treatment for ~~acute~~ gynecologic conditions or emergencies, including annual preventive health examinations.

(b) For purposes of this section, "direct access" means that a female enrollee may obtain the obstetric and gynecologic services specified in paragraph (a) from ~~obstetricians and gynecologists~~ providers who specialize in obstetrics and gynecology in the enrollee's network without a referral from, or prior approval through, another physician, the health plan company, or its representatives.

(c) Health plan companies shall not require higher co-payments, coinsurance, deductibles, or other enrollee cost-sharing for direct access.

(d) This section applies only to services described in paragraph (a) that are covered by the enrollee's coverage, but coverage of a preventive health examination for female enrollees must not exclude coverage of a gynecologic examination.

Sec. 30. Minnesota Statutes 2010, section 62Q.55, is amended to read:

62Q.55 EMERGENCY SERVICES.

(a) Enrollees have the right to available and accessible emergency services, 24 hours a day and seven days a week. The health plan company shall inform its enrollees how to obtain emergency care ~~and, if prior authorization for emergency services is required, shall make available a toll-free number, which is answered 24 hours a day, to answer questions about emergency services and to receive reports and provide authorizations, where appropriate,~~ for treatment of emergency medical conditions. Emergency services shall be covered whether provided by participating or nonparticipating providers and whether provided within or outside the health plan company's service area. In reviewing a denial for coverage of emergency services, the health plan company shall take the following factors into consideration:

(1) a reasonable layperson's belief that the circumstances required immediate medical care that could not wait until the next working day or next available clinic appointment;

(2) the time of day and day of the week the care was provided;

(3) the presenting symptoms, including, but not limited to, severe pain, to ensure that the decision to reimburse the emergency care is not made solely on the basis of the actual diagnosis;

(4) the enrollee's efforts to follow the health plan company's established procedures for obtaining emergency care; and

(5) any circumstances that precluded use of the health plan company's established procedures for obtaining emergency care.

(b) The health plan company may require enrollees to notify the health plan company of nonreferred emergency care as soon as possible, but not later than 48 hours, after the emergency care is initially provided. However, emergency care which would have been covered under the contract had notice been provided within the set time frame must be covered.

(c) Notwithstanding paragraphs (a) and (b), a health plan company, health insurer, or health coverage plan that is in compliance with the rules regarding accessibility of services adopted under section 62D.20 is in compliance with this section.

Sec. 31. **[62Q.57] DESIGNATION OF PRIMARY CARE PROVIDER.**

A health plan that requires or provides for the designation of a participating primary care provider must allow a child enrolled in the health plan to designate a physician who specializes in pediatrics as the child's primary care provider, if such provider participates in the network of the health plan.

Sec. 32. Minnesota Statutes 2010, section 62Q.68, subdivision 1, is amended to read:

Subdivision 1. **Application.** For purposes of sections 62Q.68 to 62Q.72, the terms defined in this section have the meanings given them. For purposes of sections 62Q.69 and 62Q.70, the term "health plan company" does not include an insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01 or a nonprofit health service plan corporation regulated under chapter 62C that only provides dental coverage or vision coverage. For purposes of sections 62Q.69 through 62Q.73, the term "health plan company" does not include the Comprehensive Health Association created under chapter 62E. Section 62Q.70 does not apply to individual coverage. However, a health plan company offering individual coverage that is grandfathered plan coverage as defined in section 62Q.01, subdivision 9, may, pursuant to section 62Q.69, subdivision 3, paragraph (c), follow the process outlined in section 62Q.70.

Sec. 33. Minnesota Statutes 2010, section 62Q.69, subdivision 3, is amended to read:

Subd. 3. **Notification of complaint decisions.** (a) The health plan company must notify the complainant in writing of its decision and the reasons for it as soon as practical but in no case later than 30 days after receipt of a written complaint. If the health plan company cannot make a decision within 30 days due to circumstances outside the control of the health plan company, the health plan company may take up to 14 additional days to notify the complainant of its decision. If the health plan company takes any additional

days beyond the initial 30-day period to make its decision, it must inform the complainant, in advance, of the extension and the reasons for the extension.

(b) For group coverage, if the decision is partially or wholly adverse to the complainant, the notification must inform the complainant of the right to appeal the decision to the health plan company's internal appeal process described in section 62Q.70 and the procedure for initiating an appeal.

(c) For individual coverage, if the decision is partially or wholly adverse to the complainant, the notification must inform the complainant of the right to submit the complaint decision to the external review process described in section 62Q.73 and the procedure for initiating the external process. Notwithstanding the provisions in this subdivision, a health plan company offering individual coverage that is grandfathered plan coverage as defined in section 62Q.01, subdivision 9, may instead follow the process for group coverage outlined in paragraph (b).

~~(c)~~ (d) The notification must also inform the complainant of the right to submit the complaint at any time to either the commissioner of health or commerce for investigation and the toll-free telephone number of the appropriate commissioner.

Sec. 34. Minnesota Statutes 2010, section 62Q.70, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** (a) Each health plan company shall establish an internal appeal process for reviewing a health plan company's decision regarding a complaint filed in accordance with section 62Q.69. The appeal process must meet the requirements of this section. This section applies only to group coverage. However, a health plan company offering individual coverage that is grandfathered plan coverage as defined in section 62Q.01, subdivision 9, may, pursuant to section 62Q.69, subdivision 3, paragraph (c), follow the process outlined in this section.

(b) The person or persons with authority to resolve or recommend the resolution of the internal appeal must not be solely the same person or persons who made the complaint decision under section 62Q.69.

(c) The internal appeal process must permit the receipt of testimony, correspondence, explanations, or other information from the complainant, staff persons, administrators, providers, or other persons as deemed necessary by the person or persons investigating or presiding over the appeal.

Sec. 35. Minnesota Statutes 2010, section 62Q.71, is amended to read:

62Q.71 NOTICE TO ENROLLEES.

Each health plan company shall provide to enrollees a clear and concise description of its complaint resolution procedure, if applicable under section 62Q.68, subdivision 1, and the procedure used for utilization review as defined under chapter 62M as part of the member handbook, subscriber contract, or certificate of coverage. If the health plan company does not issue a member handbook, the health plan company may provide the description in another written document. The description must specifically inform enrollees:

(1) how to submit a complaint to the health plan company;

(2) if the health plan includes utilization review requirements, how to notify the utilization review organization in a timely manner and how to obtain certification for health care services;

(3) how to request an appeal either through the procedures described in ~~sections 62Q.69 and~~ section 62Q.70, if applicable, or through the procedures described in chapter 62M;

(4) of the right to file a complaint with either the commissioner of health or commerce at any time during the complaint and appeal process;

(5) of the toll-free telephone number of the appropriate commissioner; and

(6) of the right, for individual and group coverage, to obtain an external review under section 62Q.73 and a description of when and how that right may be exercised~~.~~, including that under most circumstances an enrollee must exhaust the internal complaint or appeal process prior to external review. However, an enrollee may proceed to external review without exhausting the internal complaint or appeal process under the following circumstances:

(i) the health plan company waives the exhaustion requirement;

(ii) the health plan company is considered to have waived the exhaustion requirement by failing to substantially comply with any requirements including, but not limited to, time limits for internal complaints or appeals; or

(iii) the enrollee has applied for an expedited external review at the same time the enrollee qualifies for and has applied for an expedited internal review under chapter 62M.

Sec. 36. Minnesota Statutes 2010, section 62Q.73, is amended to read:

62Q.73 EXTERNAL REVIEW OF ADVERSE DETERMINATIONS.

Subdivision 1. **Definition.** For purposes of this section, "adverse determination" means:

(1) for individual coverage, a complaint decision relating to a health care service or claim that is partially or wholly adverse to the complainant;

(2) individual coverage offered by a health plan that is grandfathered plan coverage as defined in section 62Q.01, subdivision 9, may instead apply the definition of "adverse determination" for group coverage in clause (3);

~~(1)~~ (3) for group coverage, a complaint decision relating to a health care service or claim that has been appealed in accordance with section 62Q.70 and the appeal decision is partially or wholly adverse to the complainant;

~~(2)~~ (4) any initial determination not to certify that has been appealed in accordance with section 62M.06 and the appeal did not reverse the initial determination not to certify; ~~or~~

~~(3)~~ (5) a decision relating to a health care service made by a health plan company licensed under chapter 60A that denies the service on the basis that the service was not medically necessary~~.~~; or

(6) the enrollee has met the requirements of subdivision 6, paragraph (e).

An adverse determination does not include complaints relating to fraudulent marketing practices or agent misrepresentation.

Subd. 2. **Exception.** (a) This section does not apply to governmental programs except as permitted under paragraph (b). For purposes of this subdivision, "governmental programs" means the prepaid medical assistance program, the MinnesotaCare program, the prepaid general assistance medical care program, the demonstration project for people with disabilities, and the federal Medicare program.

(b) In the course of a recipient's appeal of a medical determination to the commissioner of human services under section 256.045, the recipient may request an expert medical opinion be arranged by the external review entity under contract to provide independent external reviews under this section. If such a request is made, the cost of the review shall be paid by the commissioner of human services. Any medical opinion obtained under this paragraph shall only be used by a state human services referee as evidence in the recipient's appeal to the commissioner of human services under section 256.045.

(c) Nothing in this subdivision shall be construed to limit or restrict the appeal rights provided in section 256.045 for governmental program recipients.

Subd. 3. **Right to external review.** (a) Any enrollee or anyone acting on behalf of an enrollee who has received an adverse determination may submit a written request for an external review of the adverse determination, if applicable under section 62Q.68, subdivision 1, or 62M.06, to the commissioner of health if the request involves a health plan company regulated by that commissioner or to the commissioner of commerce if the request involves a health plan company regulated by that commissioner. Notification of

the enrollee's right to external review must accompany the denial issued by the insurer. The written request must be accompanied by a filing fee of $25. The fee may be waived by the commissioner of health or commerce in cases of financial hardship and must be refunded if the adverse determination is completely reversed. No enrollee may be subject to filing fees totaling more than $75 during a plan year for group coverage or policy year for individual coverage.

(b) Nothing in this section requires the commissioner of health or commerce to independently investigate an adverse determination referred for independent external review.

(c) If an enrollee requests an external review, the health plan company must participate in the external review. The cost of the external review in excess of the filing fee described in paragraph (a) shall be borne by the health plan company.

(d) The enrollee must request external review within six months from the date of the adverse determination.

Subd. 4. **Contract.** Pursuant to a request for proposal, the commissioner of administration, in consultation with the commissioners of health and commerce, shall contract with ~~an organization~~ at least three organizations or business ~~entity~~ entities to provide independent external reviews of all adverse determinations submitted for external review. The contract shall ensure that the fees for services rendered in connection with the reviews ~~be~~ are reasonable.

Subd. 5. **Criteria.** ~~(a)~~ The request for proposal must require that the entity demonstrate:

(1) no conflicts of interest in that it is not owned, a subsidiary of, or affiliated with a health plan company ~~or~~, utilization review organization, or a trade organization of health care providers;

(2) an expertise in dispute resolution;

(3) an expertise in health-related law;

(4) an ability to conduct reviews using a variety of alternative dispute resolution procedures depending upon the nature of the dispute;

(5) an ability to maintain written records, for at least three years, regarding reviews conducted and provide data to the commissioners of health and commerce upon request on reviews conducted; ~~and~~

(6) an ability to ensure confidentiality of medical records and other enrollee information~~.~~;

(7) accreditation by a nationally recognized private accrediting organization; and

(8) the ability to provide an expedited external review process.

~~(b) The commissioner of administration shall take into consideration, in awarding the contract according to subdivision 4, any national accreditation standards that pertain to an external review entity.~~

Subd. 6. **Process.** (a) Upon receiving a request for an external review, the commissioner shall assign an external review entity on a random basis. The assigned external review entity must provide immediate notice of the review to the enrollee and to the health plan company. Within ten business days of receiving notice of the review, the health plan company and the enrollee must provide the assigned external review entity with any information that they wish to be considered. Each party shall be provided an opportunity to present its version of the facts and arguments. The assigned external review entity must furnish to the health plan company any additional information submitted by the enrollee within one business day of receipt. An enrollee may be assisted or represented by a person of the enrollee's choice.

(b) As part of the external review process, any aspect of an external review involving a medical determination must be performed by a health care professional with expertise in the medical issue being reviewed.

(c) An external review shall be made as soon as practical but in no case later than 40 days after receiving the request for an external review and must promptly send written notice of the decision and the reasons for it to the enrollee, the health plan company, and the commissioner who is responsible for regulating the health plan company.

(d) The external review entity and the clinical reviewer assigned must not have a material professional, familial, or financial conflict of interest with:

(1) the health plan company that is the subject of the external review;

(2) the enrollee, or any parties related to the enrollee, whose treatment is the subject of the external review;

(3) any officer, director, or management employee of the health plan company;

(4) a plan administrator, plan fiduciaries, or plan employees;

(5) the health care provider, the health care provider's group, or practice association recommending treatment that is the subject of the external review;

(6) the facility at which the recommended treatment would be provided; or

(7) the developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended.

(e)(1) An expedited external review must be provided if the enrollee requests it after receiving:

(i) an adverse determination that involves a medical condition for which the time frame for completion of an expedited internal appeal would seriously jeopardize the life

or health of the enrollee or would jeopardize the enrollee's ability to regain maximum function and the enrollee has simultaneously requested an expedited internal appeal;

(ii) an adverse determination that concerns an admission, availability of care, continued stay, or health care service for which the enrollee received emergency services but has not been discharged from a facility; or

(iii) an adverse determination that involves a medical condition for which the standard external review time would seriously jeopardize the life or health of the enrollee or jeopardize the enrollee's ability to regain maximum function.

(2) The external review entity must make its expedited determination to uphold or reverse the adverse determination as expeditiously as possible but within no more than 72 hours after the receipt of the request for expedited review and notify the enrollee and the health plan company of the determination.

(3) If the external review entity's notification is not in writing, the external review entity must provide written confirmation of the determination within 48 hours of the notification.

Subd. 7. **Standards of review.** (a) For an external review of any issue in an adverse determination that does not require a medical necessity determination, the external review must be based on whether the adverse determination was in compliance with the enrollee's health benefit plan.

(b) For an external review of any issue in an adverse determination by a health plan company licensed under chapter 62D that requires a medical necessity determination, the external review must determine whether the adverse determination was consistent with the definition of medically necessary care in Minnesota Rules, part 4685.0100, subpart 9b.

(c) For an external review of any issue in an adverse determination by a health plan company, other than a health plan company licensed under chapter 62D, that requires a medical necessity determination, the external review must determine whether the adverse determination was consistent with the definition of medically necessary care in section 62Q.53, subdivision 2.

(d) For an external review of an adverse determination involving experimental or investigational treatment, the external review entity must base its decision on all documents submitted by the health plan company and enrollee, including medical records the attending physician or health care professional's recommendation, consulting reports from health care professionals, the terms of coverage, federal Food and Drug Administration approval, and medical or scientific evidence or evidence-based standards.

Subd. 8. **Effects of external review.** A decision rendered under this section shall be nonbinding on the enrollee and binding on the health plan company. The health plan

company may seek judicial review of the decision on the grounds that the decision was arbitrary and capricious or involved an abuse of discretion.

Subd. 9. **Immunity from civil liability.** A person who participates in an external review by investigating, reviewing materials, providing technical expertise, or rendering a decision shall not be civilly liable for any action that is taken in good faith, that is within the scope of the person's duties, and that does not constitute willful or reckless misconduct.

Subd. 10. **Data reporting.** The commissioners shall make available to the public, upon request, summary data on the decisions rendered under this section, including the number of reviews heard and decided and the final outcomes. Any data released to the public must not individually identify the enrollee initiating the request for external review.

Sec. 37. Minnesota Statutes 2010, section 62Q.80, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Community-based" means located in or primarily relating to the community, as determined by the board of a community-based health initiative that is served by the community-based health care coverage program.

(b) "Community-based health care coverage program" or "program" means a program administered by a community-based health initiative that provides health care services through provider members of a community-based health network or combination of networks to eligible individuals and their dependents who are enrolled in the program.

(c) "Community-based health initiative" or "initiative" means a nonprofit corporation that is governed by a board that has at least 80 percent of its members residing in the community and includes representatives of the participating network providers and employers, or a county-based purchasing organization as defined in section 256B.692.

(d) "Community-based health network" means a contract-based network of health care providers organized by the community-based health initiative to provide or support the delivery of health care services to enrollees of the community-based health care coverage program on a risk-sharing or nonrisk-sharing basis.

(e) "Dependent" means an eligible employee's spouse or ~~unmarried~~ child who is under the age of ~~19~~ 26 years.

Sec. 38. **[72A.328] RESCISSION.**

Subdivision 1. **Prohibition on retroactively terminating coverage.** (a) A health carrier, as defined in section 62A.011, may not retroactively terminate coverage under a health plan with respect to an individual, including a group to which the individual

belongs or family coverage in which the individual is included, after the individual is covered under the health plan, unless:

(1) the individual or a person seeking coverage on behalf of the individual, performs an act, practice, or omission that constitutes fraud;

(2) the individual makes an intentional misrepresentation or omission of material fact, as prohibited by the terms of the health plan;

(3) the individual has failed to timely pay required premiums or contributions toward the cost of coverage; or

(4) the individual has coverage under an employer health plan, and the employee pays no premiums for coverage after termination of eligibility, and the cancellation or discontinuance of coverage is effective retroactively to the date of termination of eligibility due to a delay in administrative record keeping.

(b) Retroactive termination is otherwise permitted by law.

(c) This section does not apply to any benefits classified as excepted benefits under United States Code, title 42, section 300gg-91(c), or regulations enacted there under from time to time.

Subd. 2. **Notice required.** A health carrier shall provide at least 30 days advance written notice to each individual who would be affected by the proposed rescission of coverage before coverage under the plan may be terminated retroactively.

Sec. 39. Minnesota Statutes 2010, section 471.61, subdivision 1a, is amended to read:

Subd. 1a. **Dependents.** Notwithstanding the provisions of Minnesota Statutes 1969, section 471.61, as amended by Laws 1971, chapter 451, section 1, the word "dependents" as used therein shall mean spouse and ~~minor unmarried~~ children under the age of ~~18~~ 26 years ~~and dependent students under the age of 25 years actually dependent upon the employee~~.

Sec. 40. **REPEALER.**

Minnesota Statutes 2010, section 62E.02, subdivision 7, is repealed effective the day following final enactment.

Sec. 41. **SUNSET.**

If any provisions of the federal act relating to any provisions of this act are repealed, rendered invalid by final judicial decree, or in the event the state is granted a federal waiver from implementing provisions of the federal act, then the related provisions in this act must sunset unless legislation is signed into law that specifically extends the

related provisions of this act. The commissioner of commerce must act within 30 days of the repeal, invalidation, or waiver to ensure uniform implementation of this sunset provision, taking into account the timing of health plan contract changes that may need to be made as groups or policies renew. This action may take the form of a bulletin or a notice in the Minnesota State Register.

62E.02 DEFINITIONS.

Subd. 7. **Dependent.** "Dependent" means a spouse or unmarried child under the age of 25, or a dependent child of any age who is disabled.