SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 3019

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DATE	D-PG	OFFICIAL STATUS
02/11/2020	4724	Introduction and first reading Referred to Health and Human Services Finance and Policy
02/13/2020	4764	Author stricken Benson Chief author stricken, shown as co-author Pratt Chief author added Jensen
02/17/2020	4771a	Comm report: To pass as amended and re-refer to Commerce and Consumer Protection Finance and Policy
	4793	Author added Abeler
02/20/2020	4825a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy
03/02/2020	5130	Author added Benson
	5131	Withdrawn and re-referred to Health and Human Services Finance and Policy
03/09/2020	5320a	Comm report: To pass as amended and re-refer to Finance
03/11/2020	5398a	Comm report: To pass as amended
	5402	Second reading See HF3100

A bill for an act

relating to health care; establishing an insulin safety net program; requiring health plan companies to provide notice to enrollees with dependent child coverage when that coverage ends; appropriating money; amending Minnesota Statutes 2019 Supplement, sections 151.06, subdivision 6; 214.122; proposing coding for new law in Minnesota Statutes, chapters 62Q; 151.

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

Section 1. **[62Q.678] DEPENDENT CHILD NOTICE.**

Group health plans and health plan companies that offer group or individual health plans with dependent coverage must provide written notice to an enrollee with dependent-child coverage that the dependent child's coverage ends when the child reaches the age of 26. Notice must be sent to the enrollee at the enrollee's last known address at least 60 days before the dependent child reaches the age of 26. The notice must include the date on which coverage ends and information on accessing the MNsure website as applicable.

Sec. 2. Minnesota Statutes 2019 Supplement, section 151.06, subdivision 6, is amended to read:

Subd. 6. **Information provision; sources of lower cost prescription drugs.** (a) The board shall publish a page on its website that provides regularly updated information concerning:

(1) patient assistance programs offered by drug manufacturers, including information on how to access the programs;

(2) the insulin safety net program established in section 151.74, including information on how to access the program;

(3) the prescription drug assistance program established by the Minnesota Board of Aging under section 256.975, subdivision 9;

~~(3)~~ (4) the websites through which individuals can access information concerning eligibility for and enrollment in Medicare, medical assistance, MinnesotaCare, and other government-funded programs that help pay for the cost of health care;

~~(4)~~ (5) availability of providers that are authorized to participate under section 340b of the federal Public Health Services Act, United States Code, title 42, section 256b;

~~(5)~~ (6) having a discussion with the pharmacist or the consumer's health care provider about alternatives to a prescribed drug, including a lower cost or generic drug if the drug prescribed is too costly for the consumer; and

~~(6)~~ (7) any other resource that the board deems useful to individuals who are attempting to purchase prescription drugs at lower costs.

(b) The board must prepare educational materials, including brochures and posters, based on the information it provides on its website under paragraph (a). The materials must be in a form that can be downloaded from the board's website and used for patient education by pharmacists and by health care practitioners who are licensed to prescribe. The board is not required to provide printed copies of these materials.

(c) The board shall require pharmacists and pharmacies to make available to patients information on sources of lower cost prescription drugs, including information on the availability of the website established under paragraph (a).

Sec. 3. **[151.74] INSULIN SAFETY NET PROGRAM.**

Subdivision 1. **Establishment.** (a) By July 1, 2020, each manufacturer must establish procedures to make insulin available in accordance with this section to eligible individuals who are in urgent need of insulin or who are in need of access to an affordable insulin supply.

(b) For purposes of this section, the following definitions apply:

(1) "manufacturer" means a manufacturer engaged in the manufacturing of insulin that is self-administered on an outpatient basis;

(2) "navigator" has the meaning provided in section 62V.02; and

(3) "pharmacy" means a pharmacy located in Minnesota and licensed under section 151.19 that operates in the community or outpatient license category under Minnesota Rules, part 6800.0350.

(c) Any manufacturer with an annual gross revenue of $2,000,000 or less from insulin sales in Minnesota is exempt from this section. To request a waiver under this paragraph, the manufacturer must submit a request to the Board of Pharmacy that includes documentation indicating that the manufacturer is eligible for an exemption.

Subd. 2. **Eligibility for urgent-need safety net program.** (a) To be eligible to receive an urgent-need supply of insulin under this section, an individual must attest to:

(1) being a resident of Minnesota;

(2) not being enrolled in medical assistance or MinnesotaCare;

(3) not having access to prescription drug coverage that limits the total amount of cost-sharing that the enrollee is required to pay for a 30-day supply of insulin, including co-payments, deductibles, or coinsurance, to $75 or less, regardless of the type or amount of insulin prescribed;

(4) not having received an urgent-need supply of insulin through this program within the previous 12 months; and

(5) being in urgent need of insulin.

(b) For purposes of this subdivision, "urgent need of insulin" means having readily available for use less than a seven-day supply of insulin and in need of insulin in order to avoid the likelihood of suffering significant health consequences.

Subd. 3. **Pharmacy duties; access to urgent-need insulin.** (a) An individual in urgent need of insulin may present themselves to a pharmacy for the purpose of receiving an urgent-need supply of insulin.

(b) The individual must:

(1) attest to the pharmacist that the individual meets the eligibility requirements described in subdivision 2;

(2) have a valid insulin prescription; and

(3) present the pharmacist with identification indicating Minnesota residency in the form of a valid Minnesota identification card, driver's license, or permit. If the individual in urgent need of insulin is under the age of 18, the individual's parent or legal guardian must provide the pharmacist with proof of residency.

(c) Upon receipt of the information described in paragraph (b), the pharmacist shall dispense the prescribed insulin in an amount that is equivalent to a 30-day supply. The

pharmacy must notify the health care practitioner who issued the prescription order no later than 72 hours after the insulin is dispensed.

(d) The pharmacy shall submit to the manufacturer of the dispensed insulin product a claim for payment in accordance with the claims processing requirements agreed to by the pharmacy and the manufacturer. The manufacturer shall reimburse the pharmacy for the insulin dispensed in an amount that at least covers the pharmacy's acquisition cost for the dispensed insulin, or may supply the pharmacy with the insulin product in the amount that was dispensed.

(e) The pharmacy may collect an insulin co-payment from the individual in an amount not to exceed $75 for the 30-day supply of insulin dispensed.

(f) The pharmacy shall also provide each eligible individual with the information sheet described in subdivision 7 and a list of trained navigators provided by the Board of Pharmacy for the individual to contact if the individual is in need of accessing ongoing insulin coverage options, including:

(1) assistance in applying for medical assistance or MinnesotaCare;

(2) assistance in applying for a qualified health plan offered through MNsure, subject to open and special enrollment periods;

(3) providing information on providers who participate in prescription drug discount programs, including providers who are authorized to participate in the 340B program under section 340b of the federal Public Health Services Act, United States Code, title 42, section 256b; and

(4) assistance in accessing insulin manufacturers' patient assistance programs, co-payment assistance programs, and other foundation-based programs.

Subd. 4. **Continuing safety net program; general.** (a) Each manufacturer shall make a patient assistance program available to any individual who meets the requirements of this subdivision. Each manufacturer's patient assistance programs must meet the requirements of this section. Each manufacturer shall provide the Board of Pharmacy with information regarding the manufacturer's patient assistance program, including 24-hour, seven days a week contact information for individuals to call for assistance in accessing the program.

(b) To be eligible to participate in a manufacturer's patient assistance program, the individual must:

(1) be a Minnesota resident;

(2) have a family income that is equal to or less than 400 percent of the federal poverty guidelines;

(3) not be enrolled in medical assistance or MinnesotaCare;

(4) not be eligible to receive health care through a federally funded program or receive prescription drug benefits through the Department of Veterans Affairs; and

(5) not have access to prescription drug coverage through an individual or group health plan that limits the total amount of cost-sharing that an enrollee is required to pay for a 30-day supply of insulin, including co-payments, deductibles, or coinsurance to $75 or less, regardless of the type or amount of insulin needed.

(c) Notwithstanding the requirement in paragraph (b), clause (4), an individual who is enrolled in Medicare Part D is eligible for a manufacturer's patient assistance program if the individual has spent $1,000 on prescription drugs in the current calendar year and meets the eligibility requirements in paragraph (b), clauses (1) to (3).

(d) An individual who is interested in participating in a manufacturer's patient assistance program may apply directly to the manufacturer; apply through the individual's health care practitioner, if the practitioner participates; or contact a trained navigator for assistance in finding a long-term insulin supply solution, including assistance in applying to a manufacturer's patient assistance program.

Subd. 5. **Continuing safety net program; manufacturer's responsibilities.** (a) Upon receipt of an application for the manufacturer's patient assistance program, the manufacturer shall process the application and determine eligibility. The manufacturer shall notify the applicant of the determination within ten business days of receipt of the application. If necessary, the manufacturer may request additional information from the applicant. If additional information is needed, the manufacturer must notify the applicant within five business days of receipt of the application as to what information is being requested. Within three business days of receipt of the requested information, the manufacturer must determine eligibility and notify the applicant of the determination. If the individual has been determined to be not eligible, the manufacturer must include the reasons for denying eligibility in the notification. The individual may seek an appeal of the determination in accordance with subdivision 8.

(b) If the individual is determined to be eligible, the manufacturer shall provide the individual with an eligibility statement or other indication that the individual has been determined eligible for the manufacturer's patient assistance program. An individual's eligibility is valid for 12 months, and is renewable upon a redetermination of eligibility.

(c) If the eligible individual has prescription drug coverage through an individual or group health plan, the manufacturer may determine that the individual's insulin needs are better addressed through the use of the manufacturer's co-payment assistance program, in which case, the manufacturer shall inform the individual and provide the individual with the necessary coupons to submit to a pharmacy.

Subd. 6. **Continuing safety net program; process.** (a) The individual shall submit to a pharmacy the statement of eligibility provided by the manufacturer under subdivision 5, paragraph (b). Upon receipt of an individual's eligibility status, the pharmacy shall submit an order containing the name of the insulin product and the daily dosage amount as contained in a valid prescription to the product's manufacturer.

(b) The pharmacy must include with the order to the manufacturer the following information:

(1) the pharmacy's name and shipping address;

(2) office telephone number, fax number, e-mail address, and contact name; and

(3) any specific days or times when deliveries are not accepted by the pharmacy.

(c) Upon receipt of an order from a pharmacy and the information described in paragraph (b), the manufacturer shall send to the pharmacy a 90-day supply of insulin as ordered, unless a lesser amount is requested in the order, at no charge to the individual or pharmacy.

(d) Except as authorized under paragraph (e), the pharmacy shall provide the insulin to the individual at no charge to the individual. The pharmacy shall not provide insulin received from the manufacturer to any individual other than the individual associated with the specific order. The pharmacy shall not seek reimbursement for the insulin received from the manufacturer or from any third-party payer.

(e) The pharmacy may charge the individual a co-payment not to exceed $25 for each 90-day supply if the insulin is sent to the pharmacy.

(f) The pharmacy may submit to a manufacturer a reorder for an individual if the individual's eligibility statement has not expired. Upon receipt of a reorder from a pharmacy, the manufacturer must send to the pharmacy an additional 90-day supply of the product, unless a lesser amount is requested, at no charge to the individual or pharmacy if the individual's eligibility statement has not expired.

(g) Notwithstanding paragraph (c), a manufacturer may send the insulin as ordered directly to the individual if the manufacturer provides a mail order service option.

Subd. 7. **Board of Pharmacy and MNsure responsibilities.** (a) The Board of Pharmacy shall develop an information sheet to post on its website and provide a link to the information sheet on the board's website for pharmacies, health care practitioners, hospital emergency departments, urgent care clinics, and community health clinics. The information sheet must contain:

(1) a description of the urgent-need insulin safety net program, including how to access the program;

(2) a description of each insulin manufacturer's patient assistance program and cost-sharing assistance program, including 24-hour, seven days a week contact information on accessing the assistance programs for each manufacturer;

(3) information on how to contact a trained navigator for assistance in applying for medical assistance, MinnesotaCare, a qualified health plan, or an insulin manufacturer's patient assistance programs; and

(4) notification that an individual in need of assistance may contact their local county social service department for more information or assistance in accessing ongoing affordable insulin options.

(b) The board shall also inform each individual who accesses urgent-need insulin through the insulin safety net program or accesses a manufacturer's patient assistance program that the individual may participate in a survey conducted by the Department of Health regarding satisfaction with the program. The board shall provide contact information for the individual to learn more about the survey and how to participate. This information may be included on the information sheet described in paragraph (a).

(c) MNsure, in consultation with the Board of Pharmacy and the commissioner of human services, shall develop a training program for navigators to provide navigators with information and resources necessary to assist individuals in accessing appropriate long-term insulin options.

(d) MNsure, in consultation with the Board of Pharmacy, shall compile a list of navigators who have completed the training program, and who are available to assist individuals in accessing affordable insulin coverage options. The list shall be made available through the board's website and to pharmacies and health care practitioners who dispense and prescribe insulin.

(e) If a navigator assists an individual in accessing an insulin manufacturer's patient assistance program, MNsure, within the available appropriation, shall pay the navigator a

onetime application assistance bonus of $25. If a navigator receives an assistance bonus or other compensation under section 62V.05, subdivision 4, or 256.962, subdivision 5, the navigator shall not receive compensation under this paragraph.

Subd. 8. **Dispute resolution.** (a) If an individual disagrees with a manufacturer's determination of eligibility under subdivision 5, the individual may contact the Board of Pharmacy to request the use of a three-person panel to review eligibility. The panel shall be composed of three persons designated by the board. The panel shall be provided with all documents submitted by the individual to the manufacturer. The panel must render a decision within ten business days and the decision of the panel is final.

(b) If the panel determines that the individual is eligible, the manufacturer shall provide the individual with an eligibility statement in accordance with subdivision 5.

Subd. 9. **Penalty.** If a manufacturer fails to comply with this section, the board may assess an administrative penalty of up to $100,000 for each year of noncompliance. Any penalty assessed under this subdivision shall be deposited in a separate account in the special revenue fund.

Subd. 10. **Reports.** (a) By February 15 of each year, beginning February 15, 2021, each manufacturer shall report to the Board of Pharmacy the following:

(1) the number of Minnesota residents who accessed and received insulin on an urgent-need basis under this section in the preceding calendar year;

(2) the number of Minnesota residents participating in the manufacturer's patient assistance program in the preceding calendar year, including the number of Minnesota residents who the manufacturer determined were ineligible for their patient assistance program; and

(3) the value of the insulin provided by the manufacturer under clauses (1) and (2).

For purposes of this paragraph, "value" means the wholesale acquisition cost of the insulin provided.

(b) By March 15 of each year, beginning March 15, 2021, the Board of Pharmacy shall submit the information reported in paragraph (a) to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance. The board shall also include in the report any administrative penalties assessed under subdivision 9, including the name of the manufacturer and amount of the penalty assessed.

Subd. 11. **Program review; legislative auditor.** The legislative auditor is requested to conduct a program review to determine:

(1) whether the manufacturers are meeting the responsibilities required under this section, including but not limited to:

(i) reimbursing pharmacies under subdivision 3;

(ii) determining eligibility in a timely manner and notifying the individuals as required under subdivision 5; and

(iii) providing pharmacies with insulin product under the manufacturers' patient assistance program;

(2) whether the training program developed for navigators is adequate and easily accessible for navigators interested in becoming trained, and that there is a sufficient number of trained navigators to provide assistance to individuals in need of assistance; and

(3) the effectiveness of the manufacturers' public awareness campaigns in terms of what each campaign involved, its focus, and to the extent practicable, whether it was successful.

Subd. 12. **Program satisfaction; surveys.** (a) The commissioner of health, in consultation with the Board of Pharmacy and individuals who are insulin-dependent, shall develop and conduct a survey of individuals who have accessed urgent-need insulin through the program and who are accessing or have accessed a manufacturers' patient assistance program since the commencement of the insulin safety net program; and a survey of pharmacies that have dispensed insulin on an urgent-need basis under the program and have participated in the manufacturers' patient assistance programs under this section.

(b) The survey for individuals shall cover overall satisfaction with the program, including but not limited to:

(1) accessibility to urgent-need insulin;

(2) adequacy of the information sheet and list of navigators received from the pharmacy;

(3) whether the individual contacted a navigator and, if so, if the navigator was helpful and knowledgeable;

(4) whether the individual accessed the manufacturers' patient assistance program and, if so, how easy was it to access application forms, apply to the manufacturers' programs, and receive the insulin product from the pharmacy; and

(5) whether the individual is still in need of a long-term solution for affordable insulin.

(c) The survey for the pharmacies shall include, but is not limited to:

(1) timeliness of reimbursement from the manufacturers for urgent-need insulin dispensed by the pharmacy;

(2) ease in submitting insulin product orders to the manufacturers; and

(3) timeliness of receiving insulin orders from the manufacturers.

(d) The commissioner may contract with a nonprofit entity to develop and conduct the survey and to evaluate the survey results.

(e) By January 15, 2022, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance containing the results of the surveys.

Subd. 13. **Sunset.** This section expires December 31, 2023, except final reports required to be submitted under subdivision 10 must be submitted as required by February 15, 2024, and March 15, 2024.

Sec. 4. Minnesota Statutes 2019 Supplement, section 214.122, is amended to read:

214.122 INFORMATION PROVISION; PHARMACEUTICAL ASSISTANCE PROGRAMS.

(a) The Board of Medical Practice and the Board of Nursing shall at least annually inform licensees who are authorized to prescribe prescription drugs of the availability of the Board of Pharmacy's website that contains information on resources and programs to assist patients with the cost of prescription drugs. The boards shall provide licensees with the website address established by the Board of Pharmacy under section 151.06, subdivision 6, and the materials described under section 151.06, subdivision 6, paragraph (b). The boards shall also ensure that licensees are provided with information on the insulin safety net program established in section 151.74, and a link to the Board of Pharmacy's information sheet on how patients can apply for the program.

(b) Licensees must make available to patients information on sources of lower cost prescription drugs, including information on the availability of the website established by the Board of Pharmacy under section 151.06, subdivision 6.

Sec. 5. **PUBLIC AWARENESS CAMPAIGN.**

(a) Each insulin manufacturer defined under Minnesota Statutes, section 151.74, subdivision 1, shall conduct a public awareness campaign to create awareness of the insulin

safety net program established under Minnesota Statutes, section 151.74, and on the availability of the manufacturer's patient assistance programs. The campaign must include a contact number for individuals to call if an individual is in urgent need of insulin or in need of accessing ongoing affordable insulin options.

(b) Before conducting the public awareness campaign described in paragraph (a), each manufacturer shall submit to the commissioner of health a description of the proposed campaign. The commissioner shall review each proposal and provide assistance and necessary suggestions to ensure that the campaign accomplishes the intended purpose.

Sec. 6. **SEVERABILITY.**

If any provision of this act is found to be unconstitutional or void, the remaining provisions of this act are valid.

Sec. 7. **APPROPRIATIONS.**

(a) $250,000 is appropriated in fiscal year 2020 from the health care access fund to the Board of Directors of MNsure to train navigators to assist individuals and provide compensation as required under Minnesota Statutes, section 151.74, subdivision 7. Of this appropriation, $108,000 is for implementing the training requirements for navigators and $142,000 is for application assistance bonus payments. This is a onetime appropriation and is available until December 31, 2023.

(b) $76,000 is appropriated in fiscal year 2021 from the health care access fund to the Board of Pharmacy to implement Minnesota Statutes, section 151.74. The base for this appropriation is $76,000 in fiscal year 2022; $76,000 in fiscal year 2023; $38,000 in fiscal year 2024; and $0 in fiscal year 2025.

(c) $136,000 in fiscal year 2021 is appropriated from the health care access fund to the commissioner of health to implement the survey to assess program satisfaction in Minnesota Statutes, section 151.74, subdivision 12. The base for this appropriation is $80,000 in fiscal year 2022 and $0 in fiscal year 2023. This is a onetime appropriation.