

the commissioner during periods of ice cover on public waters, must be given by the permittee. Minimum notice consists of publication of the location and date of commencement of the aeration system in a newspaper of general circulation in the area where the system is proposed to be operated at least two times between five and 60 days before aeration is started.

Sec. 19. CONSTRUCTION OF SEAWALL BY HENNEPIN COUNTY ON LAKE MINNETONKA.

Notwithstanding Minnesota Statutes, section 103G.245, subdivision 1, the commissioner of natural resources shall issue a public waters work permit authorizing Hennepin county to construct a new seawall at the site of the county's water patrol building located at Spring Park Bay on Lake Minnetonka, provided that the new seawall may not extend more than 15 feet further into the lake than the existing seawall.

Sec. 20. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor May 22, 1995

Signed by the governor May 24, 1995, 10:16 a.m.

CHAPTER 219—H.F.No. 96

An act relating to insurance; health plans; prohibiting provisions that grant the health carrier a subrogation right, except where the covered person has been fully compensated from another source; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Section 1. [62A.095] SUBROGATION CLAUSES REGULATED.

Subdivision 1. APPLICABILITY. No health plan shall be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

Subd. 2. SUBROGATION CLAUSE; LIMITS. No health plan described in subdivision 1 shall contain a subrogation, reimbursement, or similar clause that provides subrogation, reimbursement, or similar rights to the health carrier issuing the health plan, unless:

(1) the clause provides that it applies only after the covered person has received a full recovery from another source; and

(2) the clause provides that the health carrier's subrogation right is subject to subtraction for actual monies paid to account for the pro rata share of the covered person's costs, disbursements, and reasonable attorney fees, and other expenses incurred in obtaining the recovery from another source unless the health carrier is separately represented by an attorney.

New language is indicated by underline, deletions by ~~strikeout~~.

If the health carrier is separately represented by an attorney, the health carrier and the covered person, by their attorneys, may enter into an agreement regarding allocation of the covered person's costs, disbursements, and reasonable attorney fees and other expenses. If the health carrier and covered person cannot reach agreement on allocation, the health carrier and covered person shall submit the matter to binding arbitration.

Nothing in this section shall limit a health carrier's right to recovery from another source which may otherwise exist at law.

For the purposes of this section, full recovery does not include payments made by a health plan to or for the benefit of a covered person.

Subd. 3. RETROACTIVE AMENDMENTS REGULATED. No addition of, or amendment of, a subrogation, reimbursement, or similar clause in a health plan shall be applied to the disadvantage of a covered person with respect to benefits provided by the health carrier in connection with an injury, illness, condition, or other covered situation that originated prior to the addition of or amendment to the clause.

Sec. 2. [62A.096] NOTICE OF SUBROGATION CLAIM REQUIRED.

A person covered by a health carrier who makes a claim against a collateral source for damages that include repayment for medical and medically-related expenses incurred for the covered person's benefit shall provide timely notice, in writing, to the health carrier of the pending or potential claim. Notwithstanding any other law to the contrary, the statute of limitations applicable to the rights with respect to reimbursement or subrogation by the health carrier against the covered person does not commence to run until the notice has been given.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective January 1, 1996, and apply to plans in effect on that date and plans offered, sold, or issued on or after that date.

Presented to the governor May 22, 1995

Signed by the governor May 24, 1995, 10:17 a.m.

CHAPTER 220—S.F.No. 106

An act relating to the organization and operation of state government; appropriating money for environmental, natural resource, and agricultural purposes; adding provisions relating to native vegetation; modifying provisions relating to disposition of certain revenues from state trust lands, sales of software, agricultural and environmental loans and grants, food handlers, ethanol and oxygenated fuels, registration fees for recreational vehicles and boats, the citizen's council on Voyageurs National Park, local recreation grants, state trails

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