

Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

(b) If parentage is contested at the administrative hearing, the administrative law judge may order temporary child support under section 257.62, subdivision 5, and shall refer the case to the district court.

(c) The district court may appoint counsel for an indigent alleged father only after the return of the blood or genetic test results from the testing laboratory.

Sec. 6. Minnesota Statutes 1997 Supplement, section 518.5512, subdivision 3, is amended to read:

Subd. 3. **COST-OF-LIVING ADJUSTMENT.** The public authority shall send notice of its application for a cost-of-living adjustment on the obligor in accord with section 518.641. The public authority shall, pending further order of the court, temporarily stay the adjustment of support upon receipt by the public authority of a request motion by the obligor to proceed directly to a contested administrative proceeding hearing under section 518.5511, subdivision 4.

Sec. 7. Minnesota Statutes 1996, section 518.5512, subdivision 4, is amended to read:

Subd. 4. **TERMINATION OF INTEREST CHARGING.** The public authority or a party bringing a motion under section 548.091, subdivision 1a, may proceed immediately to a contested administrative proceeding hearing under section 518.5511, subdivision 4.

Sec. 8. EVALUATION AND RECOMMENDATIONS.

The commissioner of human services, in consultation with the commissioner's advisory committee for child support enforcement, shall evaluate the extent to which the administrative process has met the legislative mandate to develop and implement an administrative process that is simple, streamlined, informal, uniform throughout the state, and accessible to parties without counsel. The commissioner shall present recommendations for further progress towards these mandates. The evaluation and recommendations shall be presented to the legislature by December 15, 1999.

Sec. 9. REPEALER.

Minnesota Statutes 1997 Supplement, section 518.5512, subdivision 3a, is repealed.

Presented to the governor March 27, 1998

Signed by the governor March 31, 1998, 10:54 a.m.

CHAPTER 339—S.F.No. 2267

An act relating to insurance; regulating terminations of workers' compensation self-insurance authority and commercial workers' compensation self-insurance groups; providing investment, funding, reporting, and transfer requirements; providing permanent health plan coverage for

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prostate cancer screenings; requiring a notice; amending Minnesota Statutes 1996, sections 79A.06, subdivision 5; 79A.22, subdivision 7, and by adding a subdivision; 79A.23, subdivisions 1 and 2; 79A.24, subdivisions 1, 2, and 4; 79A.26, subdivision 2; and 79A.31, subdivision 1; Minnesota Statutes 1997 Supplement, section 62J.65; Laws 1996, chapter 446, article 1, section 72.

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

Section 1. Minnesota Statutes 1997 Supplement, section 62J.25, is amended to read:

62J.25 MANDATORY MEDICARE ASSIGNMENT.

(a) Effective January 1, 1993, a health care provider shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 115 percent of the Medicare-approved amount for any Medicare-covered service provided.

(b) Effective January 1, 1994, a health care provider shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 110 percent of the Medicare-approved amount for any Medicare-covered service provided.

(c) Effective January 1, 1995, a health care provider shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 105 percent of the Medicare-approved amount for any Medicare-covered service provided.

(d) Effective January 1, 1996, a health care provider shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of the Medicare-approved amount for any Medicare-covered service provided.

(e) This section does not apply to ambulance services as defined in section 144E.001, subdivision 3, or medical supplies and equipment. A vendor of medical supplies and equipment that does not accept assignment under the federal Medicare program with respect to a purchase or lease of Medicare-covered supplies or equipment shall notify any purchaser who is a Medicare beneficiary and Minnesota resident, prior to the purchase, or at any time upon the request of the purchaser, that the vendor charges an amount in excess of the Medicare-approved amount.

Sec. 2. Minnesota Statutes 1996, section 79A.06, subdivision 5, is amended to read:

Subd. 5. **PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF-INSURED.** (a) Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period, the policy will discharge the obligation of the employer to maintain a security

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deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: ~~(a)~~(i) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or ~~(b)~~(ii) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(b) With respect to a self-insurer who terminates its self-insurance authority after the effective date of this clause, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment before termination.

(c) A former member who terminated its self-insurance authority before the effective date of this clause who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is \$500 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(d) A former member who terminated its self-insurance authority before the effective date of this clause, and who is paying assessments within the first seven years after ceasing to be self-insured under paragraph (a), clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(e) A former member who has paid the security fund according to paragraphs (b) to (d) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; pro-

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vided that the member furnishes verified data regarding those benefits to the security fund.

(f) In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

Sec. 3. Minnesota Statutes 1996, section 79A.22, subdivision 7, is amended to read:

Subd. 7. **INVESTMENTS.** (a) Any securities purchased by the common claims fund shall be in such denominations and with dates of maturity to ensure securities may be redeemable at sufficient time and in sufficient amounts to meet the fund's current and long-term liabilities.

(b) Cash assets of the common claims fund may be invested in the following securities:

(1) ~~direct obligations of the United States government, except mortgage-backed securities of the Government National Mortgage Association;~~

(2) ~~bonds, notes, debentures, and other instruments which are obligations of agencies and instrumentalities of the United States including, but not limited to, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the federal Home Loan Bank, the Student Loan Marketing Association, and the Farm Credit System, and their successors, but not including collateralized mortgage obligations or mortgage pass-through instruments;~~

(3) ~~bonds or securities that are issued by the state of Minnesota and that are secured by the full faith and credit of the state;~~

(4) ~~certificates of deposit which are insured by the federal Deposit Insurance Corporation and are issued by a Minnesota depository institution;~~

(5) ~~obligations of, or instruments unconditionally guaranteed by, Minnesota depository institutions whose long-term debt rating is at least AA-, or Aa3, or their equivalent by at least two nationally recognized rating agencies.~~

(b) Cash assets of the self-insurer's fund may be invested as provided in section 60A.11 for a casualty insurance company, provided that investment in real estate of or indebtedness from a member company or affiliates is prohibited. In addition, investment in the following is allowed:

(1) savings accounts or certificates of deposit in a duly chartered commercial bank located within the state of Minnesota and insured through the Federal Deposit Insurance Corporation;

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(2) share accounts or savings certificates in a duly chartered savings association or savings bank located within the state of Minnesota and insured through the Federal Deposit Insurance Corporation;

(3) direct obligations of the United States Treasury, such as notes, bonds, or bills;

(4) a bond or security issued by the state of Minnesota and backed by the full faith and credit of the state;

(5) a credit union where the employees of the self-insurer are members if the credit union is located in Minnesota and insured through the National Credit Union Administration; or

(6) real estate, common stock, preferred stock, or corporate bonds listed on the New York, American Stock Exchange or NASDAQ Stock Market, so long as these investments are not issued by any member company or affiliate and the total in all other allowable categories make up at least 75 percent of the total required in the common claims fund.

Sec. 4. Minnesota Statutes 1996, section 79A.22, is amended by adding a subdivision to read:

Subd. 13. COMMON CLAIMS FUND; FIVE-YEAR EXCEPTION. For commercial group self-insurers who have been in existence for five years or more, a level of funding in the common claims fund must be maintained at not less than the greater of either:

(1) one year's claim losses paid in the most recent year; or

(2) one-third of the security deposit posted with the department of commerce according to section 79A.24, subdivision 2.

This provision supersedes any requirements under subdivisions 11 and 12 and Minnesota Rules, part 2780.5000.

Sec. 5. Minnesota Statutes 1996, section 79A.23, subdivision 1, is amended to read:

Subdivision 1. **REQUIRED REPORTS TO COMMISSIONER.** Each commercial self-insurance group shall submit the following documents to the commissioner.

(a) An annual report shall be submitted by April 1 showing the incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation on a calendar year basis, in a manner and on forms available from the commissioner. In addition each group will submit a quarterly interim loss report showing incurred losses for all its membership.

(b) Each commercial self-insurance group shall submit within 45 days of the end of each quarter:

(1) a schedule showing all the members who participate in the group, their date of inception, and date of withdrawal, if applicable;

(2) a separate section identifying which members were added or withdrawn during that quarter; and

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(3) an internal financial statement and copies of the fiscal agent's statements supporting the balances in the common claims fund.

(c) The commercial self-insurance group shall submit an annual certified financial audit report of the commercial self-insurance group fund by April 1 of the following year. The report must be accompanied by an expense schedule showing the commercial self-insurance group's operational costs for the same year including service company charges, accounting and actuarial fees, fund administration charges, reinsurance premiums, commissions, and any other costs associated with the administration of the group program.

(d) An officer of the commercial self-insurance group shall, under oath, attest to the accuracy of each report submitted under paragraphs (a), (b), and (c). Upon sufficient cause, the commissioner shall require the commercial self-insurance group to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors:

(1) where the losses reported appear significantly different from similar types of groups;

(2) where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or

(3) where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of the commercial self-insurance group.

If any discrepancy is found, the commissioner shall require changes in the commercial self-insurance group's business plan or service company recordkeeping practices.

(e) Each commercial self-insurance group shall submit by August ~~September~~ 15 a copy of the group's annual federal and state income tax returns or provide proof that it has received an exemption from these filings.

(f) With the annual loss report each commercial self-insurance group shall report to the commissioner any worker's compensation claim where the full, undiscounted value is estimated to exceed \$50,000, in a manner and on forms prescribed by the commissioner.

(g) Each commercial self-insurance group shall submit by May 1 a list of all members and the percentage of premium each represents to the total group's premium for the previous calendar year.

(h) Each commercial self-insurance group shall submit by May 1 the following documents prepared by the group's certified public accountant:

(1) a compiled combined financial statement of group members and a list of members included in this statement; and

(2) a report that the statements which were combined have met the requirements of subdivision 2.

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(i) If any group member comprises over 25 percent of total group premium, that member's financial statement must be reviewed or audited, and must be submitted to the commissioner, at the commissioner's option, must be filed with the department of commerce by May 1 of the following year.

(j) Each commercial self-insurance group shall submit a copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

Sec. 6. Minnesota Statutes 1996, section 79A.23, subdivision 2, is amended to read:

Subd. 2. **REQUIRED REPORTS FROM MEMBERS TO GROUP.** Each member of the commercial self-insurance group shall, by April 1, submit to the group its most recent annual financial statement, together with other financial information the group may require. These financial statements submitted must not have a fiscal year end date older than January 15 of the group's calendar year end. Individual group members constituting at least ~~75~~ 50 percent of the group's annual premium shall submit to the group reviewed or audited financial statements. The remaining members may submit compilation level statements.

Sec. 7. Minnesota Statutes 1996, section 79A.24, subdivision 1, is amended to read:

Subdivision 1. **ANNUAL SECURING OF LIABILITY.** Each year every commercial self-insurance group shall secure its estimated future ~~incurred liabilities~~ liability for the payment of compensation and the performance of the obligations of its membership imposed under chapter 176. A new deposit must be posted within 30 days of the filing of the commercial self-insurance group's annual actuarial report with the commissioner.

Sec. 8. Minnesota Statutes 1996, section 79A.24, subdivision 2, is amended to read:

Subd. 2. **MINIMUM DEPOSIT.** The minimum deposit is 150 percent of the commercial self-insurance group's estimated future ~~incurred liabilities~~ liability for the payment of compensation as determined by an actuary. If all the members of the commercial self-insurance group have submitted reviewed or audited financial statements to the group's accountant, this minimum deposit shall be 110 percent of the commercial self-insurance group's estimated future ~~incurred liabilities~~ liability for the payment of workers' compensation as determined by an actuary. The group must file a letter with the commissioner from the group's accountant which confirms that the compiled combined financial statements were prepared from members reviewed or audited financial statements only before the lower security deposit is allowed. Each actuarial study shall include a projection of future losses during a one-year period until the next scheduled actuarial study, less payments anticipated to be made during that time. Deduction should be made for the total amount which is estimated to be returned to the commercial self-insurance group from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the required reports are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the group's selected retention limit of the workers' com-

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pensation reinsurance association. The posting or depositing of security under this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

Sec. 9. Minnesota Statutes 1996, section 79A.24, subdivision 4, is amended to read:

Subd. 4. **CUSTODIAL ACCOUNTS.** (a) All surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited in accordance with the provisions of section 79A.071.

(b) Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the commercial self-insurance group's and member's assets in favor of the commissioner to the extent of any then unsecured portion of the commercial self-insurance group's incurred liabilities. The perfected security interest is transferred to any cash or securities thereafter posted by the commercial self-insurance group with the state treasurer and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner. The commercial self-insurance group loses all right, title, and interest in and any right to control all assets or obligations posted or left on deposit as security. In the event of a declaration of bankruptcy or insolvency by a court of competent jurisdiction, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer it to the commercial self-insurance group security fund for application to the commercial self-insurance group's incurred liability.

(c) No securities in physical form on deposit with the state treasurer or the commissioner or custodial accounts assigned to the state shall be released or exchanged without an order from the commissioner. No security can be exchanged more than once every 90 days.

(d) Any securities deposited with the state treasurer or with a custodial account assigned to the state treasurer or letters of credit or surety bonds held by the commissioner may be exchanged or replaced by the depositor with any other acceptable securities or letters of credit or surety bond of like amount so long as the market value of the securities or amount of the surety bonds or letter of credit equals or exceeds the amount of the deposit required. If securities are replaced by surety bond, the commercial self-insurance group must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities.

(e) ~~The commissioner shall return on an annual basis to the commercial self-insurance group all amounts of security determined by the commissioner to be in excess of the statutory requirements for the group to self-insure, including that necessary for administrative costs, legal fees, and the payment of any future workers' compensation claims.~~

Sec. 10. Minnesota Statutes 1996, section 79A.26, subdivision 2, is amended to read:

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Subd. 2. **BOARD OF TRUSTEES.** The commercial security fund shall be governed by a board consisting of a minimum of three and maximum of five trustees. The trustees shall be representatives of commercial self-insurance groups who shall be elected by the participants of the commercial security fund, each group having one vote. The trustees initially elected by the participants shall serve staggered terms of either two or three years. Thereafter, trustees shall be elected to three-year terms and shall serve until their successors are elected and assume office pursuant to the bylaws of the commercial security fund. Two additional trustees shall be appointed by the commissioner. ~~These trustees shall serve four-year terms.~~ Initially, one of these trustees shall serve a two-year term. Thereafter, the trustees shall be appointed to four-year terms, and shall serve until their successors are appointed and assume office according to the bylaws of the commercial security fund. In addition to the trustees elected by the participants or appointed by the commissioner, the commissioner of labor and industry or the commissioner's designee shall be an ex officio, nonvoting member of the board of trustees. A member of the board of trustees may designate another person to act in the member's place as though the member were acting and the designee's actions shall be deemed those of the member.

Sec. 11. Minnesota Statutes 1996, section 79A.31, subdivision 1, is amended to read:

Subdivision 1. **WITHDRAWAL.** Any group self-insurer that is a member as of ~~August 1, 1995,~~ of the self-insurers' security fund established under section 79A.09, may ~~until January 1, 1996,~~ elect to withdraw from that fund and become a member of the commercial self-insurance group security fund established under section 79A.26. The transferring group shall be subject to the provisions and requirements of sections 79A.19 to 79A.32 as of the date of transfer. Additional security may be required pursuant to section 79A.24. Group self-insurers electing to transfer to the commercial self-insurance group fund shall not be subject to the provisions of section 79A.06, subdivision 5, including, but not limited to, assessments by the self-insurers' security fund. Notice of transfer must be filed by November 1 for all transfers that must be effective at midnight on December 31.

Sec. 12. Laws 1996, chapter 446, article 1, section 72, is amended to read:

Sec. 72. **REPEALER.**

(a) Minnesota Statutes 1994, sections 60A.40; 60B.27; 62I.20; 65A.25; and 72A.205, are repealed.

(b) Laws 1995, chapter 140, section 1, is repealed.

(c) ~~Section 51 is repealed effective August 1, 1998.~~

Sec. 13. **EFFECTIVE DATE.**

Sections 2 to 12 are effective the day following final enactment.

Presented to the governor March 27, 1998

Signed by the governor March 31, 1998, 10:55 a.m.

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