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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1631

02/23/2017 Authored by Quam
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; sales and use; providing an exemption for certain items covered
1.3 by health plans and for certain durable medical equipment; amending Minnesota
1.4 Statutes 2016, section 297A.67, subdivisions 7, 7a.

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

1.6 Section 1. Minnesota Statutes 2016, section 297A.67, subdivision 7, is amended to read:

1.7 Subd. 7. **Drugs; medical devices.** (a) Sales of the following drugs and medical devices
1.8 for human use are exempt:

1.9 (1) drugs, including over-the-counter drugs;

1.10 (2) single-use finger-pricking devices for the extraction of blood and other single-use
1.11 devices and single-use diagnostic agents used in diagnosing, monitoring, or treating diabetes;

1.12 (3) insulin and medical oxygen for human use, regardless of whether prescribed or sold
1.13 over the counter;

1.14 (4) prosthetic devices;

1.15 (5) durable medical equipment for home use only;

1.16 (6) mobility enhancing equipment;

1.17 (7) prescription corrective eyeglasses; and

1.18 (8) kidney dialysis equipment, including repair and replacement parts.

1.19 (b) Exempt items include items purchased in transactions covered by:

1.20 (1) Medicare as defined under title XVIII of the Social Security Act, United States Code,
1.21 title 42, section 1395, et seq.; ø

2.1 (2) Medicaid as defined under title XIX of the Social Security Act, United States Code,
2.2 title 42, section 1396, et seq.;

2.3 (3) a health plan as defined in section 62A.011, subdivision 3; or

2.4 (4) a qualified health plan as defined in section 62A.011, subdivision 7.

2.5 (c) For purposes of this subdivision:

2.6 (1) "Drug" means a compound, substance, or preparation, and any component of a
2.7 compound, substance, or preparation, other than food and food ingredients, dietary
2.8 supplements, or alcoholic beverages that is:

2.9 (i) recognized in the official United States Pharmacopoeia, official Homeopathic
2.10 Pharmacopoeia of the United States, or official National Formulary, and supplement to any
2.11 of them;

2.12 (ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease;
2.13 or

2.14 (iii) intended to affect the structure or any function of the body.

2.15 (2) "Durable medical equipment" means equipment, including repair and replacement
2.16 parts, including single-patient use items, but not including mobility enhancing equipment,
2.17 that:

2.18 (i) can withstand repeated use;

2.19 (ii) is primarily and customarily used to serve a medical purpose;

2.20 (iii) generally is not useful to a person in the absence of illness or injury; and

2.21 (iv) is not worn in or on the body.

2.22 For purposes of this clause, "repair and replacement parts" includes all components or
2.23 attachments used in conjunction with the durable medical equipment, including repair and
2.24 replacement parts which are for single patient use only.

2.25 (3) "Mobility enhancing equipment" means equipment, including repair and replacement
2.26 parts, but not including durable medical equipment, that:

2.27 (i) is primarily and customarily used to provide or increase the ability to move from one
2.28 place to another and that is appropriate for use either in a home or a motor vehicle;

2.29 (ii) is not generally used by persons with normal mobility; and

3.1 (iii) does not include any motor vehicle or equipment on a motor vehicle normally
3.2 provided by a motor vehicle manufacturer.

3.3 (4) "Over-the-counter drug" means a drug that contains a label that identifies the product
3.4 as a drug as required by Code of Federal Regulations, title 21, section 201.66. The label
3.5 must include a "drug facts" panel or a statement of the active ingredients with a list of those
3.6 ingredients contained in the compound, substance, or preparation. Over-the-counter drugs
3.7 do not include grooming and hygiene products, regardless of whether they otherwise meet
3.8 the definition. "Grooming and hygiene products" are soaps, cleaning solutions, shampoo,
3.9 toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens.

3.10 (5) "Prescribed" and "prescription" means a direction in the form of an order, formula,
3.11 or recipe issued in any form of oral, written, electronic, or other means of transmission by
3.12 a duly licensed health care professional.

3.13 (6) "Prosthetic device" means a replacement, corrective, or supportive device, including
3.14 repair and replacement parts, worn on or in the body to:

3.15 (i) artificially replace a missing portion of the body;

3.16 (ii) prevent or correct physical deformity or malfunction; or

3.17 (iii) support a weak or deformed portion of the body.

3.18 Prosthetic device does not include corrective eyeglasses.

3.19 (7) "Kidney dialysis equipment" means equipment that:

3.20 (i) is used to remove waste products that build up in the blood when the kidneys are not
3.21 able to do so on their own; and

3.22 (ii) can withstand repeated use, including multiple use by a single patient, notwithstanding
3.23 the provisions of clause (2).

3.24 (8) A transaction is covered by Medicare or Medicaid if any portion of the cost of the
3.25 item purchased in the transaction is paid for or reimbursed by the federal government or
3.26 the state of Minnesota pursuant to the Medicare or Medicaid program, by a private insurance
3.27 company administering the Medicare or Medicaid program on behalf of the federal
3.28 government or the state of Minnesota, or by a managed care organization for the benefit of
3.29 a patient enrolled in a prepaid program that furnishes medical services in lieu of conventional
3.30 Medicare or Medicaid coverage pursuant to agreement with the federal government or the
3.31 state of Minnesota.

4.1 (9) A transaction is covered by a health plan or a qualified health plan if any portion of
4.2 the cost of the item purchased in the transaction is eligible to be paid for or reimbursed by
4.3 the plan, without regard to deductible, co-payment, or coinsurance provisions.

4.4 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
4.5 30, 2017.

4.6 Sec. 2. Minnesota Statutes 2016, section 297A.67, subdivision 7a, is amended to read:

4.7 Subd. 7a. **Accessories and supplies.** Accessories and supplies required for the effective
4.8 use of durable medical equipment for home use only or purchased in a transaction covered
4.9 by Medicare ~~or~~ Medicaid, health plan, or qualified health plan that are not already exempt
4.10 under subdivision 7, are exempt. Accessories and supplies for the effective use of a prosthetic
4.11 device, that are not already exempt under subdivision 7, are exempt. For purposes of this
4.12 subdivision "durable medical equipment," "prosthetic device," "Medicare," ~~and~~ "Medicaid,"
4.13 "health plan," and "qualified health plan" have the definitions given in subdivision 7.

4.14 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June
4.15 30, 2017.