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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2290

02/15/2012 Authored by Atkins, Murphy, E., Huntley, Hoppe, Hosch and others
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to commerce; establishing the Minnesota Insurance Marketplace;
1.3 prescribing its powers and duties; appropriating money; proposing coding for
1.4 new law as Minnesota Statutes, chapter 62V.

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

1.6 Section 1. **[62V.01] TITLE.**

1.7 This chapter may be cited as the "Minnesota Insurance Marketplace Act."

1.8 Sec. 2. **[62V.02] DEFINITIONS.**

1.9 Subdivision 1. **Scope.** For the purposes of this chapter, the following terms have
1.10 the meanings given.

1.11 Subd. 2. **Board.** "Board" means the board of directors specified in section 62V.04.

1.12 Subd. 3. **Health benefit plan.** "Health benefit plan" means a policy, contract,
1.13 certificate, or agreement defined in section 62A.011, subdivision 3, and a dental plan
1.14 defined in section 62Q.76, subdivision 3.

1.15 Subd. 4. **Health care program.** "Health care program" means any public health
1.16 care program administered by the commissioner of human services, including those
1.17 defined in chapters 256B and 256L.

1.18 Subd. 5. **Health carrier.** "Health carrier" has the meaning defined in section
1.19 62A.011.

1.20 Subd. 6. **Individual market.** "Individual market" means the market for health
1.21 insurance coverage offered to individuals.

1.22 Subd. 7. **Marketplace.** "Marketplace" means the Minnesota Insurance Marketplace.

2.1 Subd. 8. **Navigator.** "Navigator" means an entity determined by the marketplace
 2.2 as qualified to:

2.3 (1) conduct public education activities to raise awareness of the availability of
 2.4 health benefit plans;

2.5 (2) distribute information concerning enrollment in health benefit plans and the
 2.6 availability of health care programs, small business health insurance tax credits, premium
 2.7 assistance tax credits, and cost-sharing reductions;

2.8 (3) facilitate enrollment in health care programs and health benefit plans through the
 2.9 marketplace without receiving compensation from a carrier for such enrollment;

2.10 (4) provide referrals to any applicable office of health insurance consumer assistance
 2.11 or health insurance ombudsman established under section 2793 of the Public Health
 2.12 Service Act, or any other appropriate state agency or agencies, for any enrollee with a
 2.13 grievance, complaint, or question regarding the enrollee's health benefit plan or coverage,
 2.14 or a determination under that plan or coverage; and

2.15 (5) provide information in a manner that is culturally and linguistically appropriate
 2.16 to the needs of the population being served by the marketplace.

2.17 Subd. 9. **Small group market.** "Small group market" means the market for health
 2.18 insurance coverage offered to small employers as defined in section 62L.02, subdivision
 2.19 26.

2.20 Sec. 3. **[62V.03] MINNESOTA INSURANCE MARKETPLACE;**
 2.21 **ESTABLISHMENT.**

2.22 Subdivision 1. **Creation.** The Minnesota Insurance Marketplace is created as a
 2.23 board under section 15.012, paragraph (a), and shall have as its duties to:

2.24 (1) promote innovation, competition, value, market participation, affordability,
 2.25 meaningful choices, health improvement, care management, and portability of health
 2.26 benefit plans in the individual and small group markets;

2.27 (2) facilitate and simplify the comparison, choice, enrollment, and purchase of
 2.28 health benefit plans for individuals purchasing in the individual market and for employees
 2.29 and employers purchasing in the small group markets; and

2.30 (3) assist employers with access to small business health insurance tax credits and
 2.31 to assist individuals with access to health care programs and premium assistance tax
 2.32 credits and cost-sharing reductions.

2.33 Subd. 2. **Application of other law.** (a) The marketplace is subject to review by
 2.34 the legislative auditor under section 3.971.

3.1 (b) Board members of the marketplace are subject to section 10A.07 and the
 3.2 employees of the marketplace are subject to section 10A.071.

3.3 (c) Data on individuals and employees of employers utilizing the marketplace that
 3.4 are collected or generated by the marketplace are private data on individuals as defined
 3.5 in section 13.02, subdivision 12. Data on employers utilizing the marketplace that are
 3.6 collected or generated by the marketplace are nonpublic data as defined in section
 3.7 13.02, subdivision 9. Notwithstanding the definition of summary data in section 13.02,
 3.8 subdivision 19, summary data prepared under this subdivision may be derived from
 3.9 nonpublic data.

3.10 (d) All meetings of the board shall comply with the open meeting law in chapter
 3.11 13D, except that:

3.12 (1) meetings regarding labor negotiations may be closed at the discretion of the
 3.13 board;

3.14 (2) meetings regarding contract negotiations may be closed at the discretion of
 3.15 the board; and

3.16 (3) meetings regarding private, not public, nonpublic, or trade secret information
 3.17 are closed to the public.

3.18 (e) The marketplace and provisions specified under this chapter are exempt from
 3.19 chapters 14, including section 14.386; 16C, with the exception of section 16C.16; and 16E.

3.20 **Sec. 4. [62V.04] GOVERNANCE.**

3.21 Subdivision 1. **Board.** The marketplace is governed by a board of directors with
 3.22 19 members.

3.23 Subd. 2. **Appointments.** (a) Subsequent to the initial staggered appointment periods
 3.24 under subdivision 3, board membership of the marketplace consists of the following:

3.25 (1) four members representing the interests of individual consumers served by the
 3.26 marketplace. Members are appointed by the governor to serve four-year terms following
 3.27 the initial staggered term lot determination;

3.28 (2) four members representing the interests of individual consumers, employees, and
 3.29 small employers that reflect the cultural diversity and geography of Minnesota and the
 3.30 population served by the marketplace; members are appointed to serve four-year terms
 3.31 following the initial staggered term lot determination, whereas the Subcommittee on
 3.32 Committees of the Committee on Rules and Administration of the senate appoints one
 3.33 member recommended by the majority and one member recommended by the minority
 3.34 and the speaker of the house appoints one member recommended by the majority and one
 3.35 member recommended by the minority;

4.1 (3) two members representing the interests of individual consumers and small
4.2 employers served by the marketplace; members shall be appointed to serve four-year
4.3 terms by the board after consideration of a list supplied by board members serving on a
4.4 nominating committee;

4.5 (4) four members with demonstrated expertise, leadership, and innovation in the
4.6 areas of health benefits administration, health care finance, health plan purchasing, the
4.7 health care delivery system; and practitioners, public health, health disparities, or health
4.8 policy issues related to the small group and individual markets and the uninsured that
4.9 represent the cultural diversity and geography of Minnesota and the population served
4.10 by the marketplace. Members are appointed to serve four-year terms following the
4.11 initial staggered term lot determination, whereas the Subcommittee on Committees
4.12 of the Committee on Rules and Administration of the senate appoints one member
4.13 recommended by the majority and one member recommended by the minority and the
4.14 speaker of the house appoints one member recommended by the majority and one member
4.15 recommended by the minority;

4.16 (5) two members representing health care providers, health carriers, insurance
4.17 producers, organizations with experience assisting people with health care coverage, or
4.18 other organizations that may provide services to or through the marketplace; members
4.19 shall be appointed to serve four-year terms by the board after consideration of a list
4.20 supplied by board members serving on a nominating committee;

4.21 (6) the commissioner of commerce;

4.22 (7) the commissioner of health; and

4.23 (8) the commissioner of human services.

4.24 (b) Section 15.0597 shall apply to all appointments, except the commissioners.

4.25 Subd. 3. **Terms.** (a) Board members may serve no more than two consecutive
4.26 terms, except that commissioners shall serve until replaced.

4.27 (b) A majority of the members of the board constitutes a quorum, and the affirmative
4.28 vote of a majority of members of the board is necessary and sufficient for action taken by
4.29 the board with the exception of subdivision 4.

4.30 (c) A board member may resign at any time by giving written notice to the board.

4.31 (d) Initial appointments under subdivision 2, paragraph (a), clauses (1), (2), and (4),
4.32 must be appointed and convene the first meeting of the board within 90 days of enactment.
4.33 Initial appointments under subdivision 2, paragraph (a), clauses (3) and (5), shall be
4.34 made after consideration of a list supplied by board members serving on a nominating
4.35 committee, but within 135 days of enactment.

5.1 (e) The appointed members under subdivision 2, paragraph (a), clauses (1), (2), and
5.2 (4), have an initial term of three, four, or five years, determined by lot by the secretary of
5.3 state.

5.4 Subd. 4. **Conflicts of interest.** (a) Within one year prior to or at any time during
5.5 their appointed term, board members appointed under subdivision 2, paragraph (a),
5.6 clauses (1), (2), and (4), shall not be employed by, be a member of the board of directors
5.7 of, or otherwise be a representative of a health carrier, health care provider, navigator, or
5.8 other entity in the business of or potentially in the business of selling items or services of
5.9 significant value to or through the marketplace. A conflict of interest is cause for removal
5.10 from the board. Members with a conflict of interest appointed under subdivision 2,
5.11 paragraph (a), clauses (1), (2), and (4), shall be removed by the board following notice,
5.12 hearing, and a two-thirds vote of the board.

5.13 (b) No more than three of the members appointed under subdivision 2, paragraph
5.14 (a), clauses (3) and (5), may have a conflict of interest.

5.15 (c) All board members are subject to section 10A.07.

5.16 Subd. 5. **Officers.** Officers of the board are elected by members of the board and
5.17 serve for one year, except that one of the governor's appointments described in subdivision
5.18 2, paragraph (a), clause (1), shall be designated by the governor as acting chair until a
5.19 chair is elected by a majority of the board, but in no case shall the designated chair act as
5.20 chair for longer than 135 days after the date of enactment of this act.

5.21 Subd. 6. **Vacancies.** If a vacancy occurs for a board seat, appointment by the entity
5.22 specified in subdivision 2 shall occur within 90 days, and the newly appointed member
5.23 shall serve the remainder of the term. If a vacancy exists by reason of death, resignation,
5.24 or otherwise, a majority of the remaining board members constitutes a quorum.

5.25 Subd. 7. **Compensation.** Board members may be compensated in accordance
5.26 with section 15.0575.

5.27 Subd. 8. **Assets and personnel.** (a) Existing assets and personnel managed by the
5.28 commissioner of commerce for the design and development of the marketplace shall be
5.29 transferred to the board within 60 days of the convening of the first board meeting.

5.30 (b) The board shall designate a director that:

5.31 (1) must not have been employed by, a member of the board of directors of, or
5.32 otherwise a representative of a health carrier, health care provider, navigator, or other
5.33 entity in the business of or potentially in the business of selling items or services of
5.34 significant value to or through the marketplace for at least one year prior to appointment;

5.35 (2) is a full-time employee of the marketplace in the unclassified service whose
5.36 compensation is governed by a plan prepared by the board, submitted to the commissioner

6.1 of management and budget for review and comment within 14 days of its receipt, and
6.2 approved by the Legislative Coordinating Commission and the legislature under section
6.3 3.855, except that section 15A.0815, subdivision 5, paragraph (e), does not apply;

6.4 (3) shall administer all of the powers and responsibilities of the marketplace; and

6.5 (4) shall hire and supervise the staff of the marketplace, including managerial staff in
6.6 the unclassified service whose compensation is governed by a plan prepared by the board,
6.7 submitted to the commissioner of management and budget for review and comment within
6.8 14 days of its receipt, and approved by the Legislative Coordinating Commission and the
6.9 legislature under section 3.855, except that section 15A.0815, subdivision 5, paragraph
6.10 (e) does not apply.

6.11 Sec. 5. **[62V.05] RESPONSIBILITIES AND POWERS OF THE**
6.12 **MARKETPLACE.**

6.13 (a) The marketplace board shall implement and operate the marketplace in
6.14 accordance with this chapter and take all actions necessary to ensure that the marketplace
6.15 is determined under federal law to be ready to operate no later than January 1, 2014. The
6.16 marketplace board shall establish bylaws and procedures governing the operations of the
6.17 marketplace, including processes to gather public comment, provide public notice in the
6.18 State Register, and procure goods and services.

6.19 (b) The marketplace may:

6.20 (1) contract with eligible entities as necessary to provide services needed to
6.21 implement and operate the marketplace;

6.22 (2) enter into information-sharing agreements with federal and state agencies and
6.23 other entities provided such agreements include adequate protections with respect to the
6.24 confidentiality and integrity of the information to be shared and comply with all applicable
6.25 state and federal laws, regulations, and rules;

6.26 (3) seek and receive money from government agencies, philanthropic organizations,
6.27 and public and private sources, to fund the costs of implementing and operating the
6.28 marketplace and risk adjustment;

6.29 (4) establish a navigator program that:

6.30 (i) creates different categories of navigators, with appropriate responsibilities,
6.31 designed to address the specific needs of the populations served by the marketplace, in
6.32 particular, those experiencing the highest levels of uninsurance and health disparities;

6.33 (ii) ensures that each category of navigator meets training and certification
6.34 requirements that align with the level of service provided;

- 7.1 (iii) provides compensation to navigators that aligns with the level of service
 7.2 provided; and
- 7.3 (iv) allows for performance-based compensation; and
- 7.4 (5) take other actions reasonably required to implement the provisions of this chapter.
- 7.5 (c) Funds received by the marketplace must be deposited in a dedicated fund and
 7.6 are appropriated to the marketplace for the purpose for which they were received. Funds
 7.7 appropriated do not cancel and are available until expended.
- 7.8 (d) The marketplace shall submit a progress report to the legislature by March 15,
 7.9 2013, on the progress of establishing the marketplace in accordance with this chapter,
 7.10 and an annual report by January 15 of each year thereafter, that includes a report on the
 7.11 performance of the marketplace operations and on meeting the marketplace duties, and an
 7.12 accounting of the marketplace budget activities.

7.13 **Sec. 6. [62V.06] PROTECTING INSURANCE MARKET COMPETITION.**

7.14 Subdivision 1. **Supervision.** The commissioner of commerce shall supervise the
 7.15 establishment of the marketplace for up to 60 days after the convening of the first board
 7.16 meeting.

7.17 Subd. 2. **Evaluation of coverage levels.** The commissioner of commerce shall
 7.18 evaluate the actuarial value level for all health benefit plans offered by health carriers in
 7.19 the individual and small group markets.

7.20 Subd. 3. **Promote fair competition.** (a) Standards and certification requirements
 7.21 under state and federal laws, regulations, and rules shall apply uniformly to all health
 7.22 benefit plans offered inside and outside the marketplace, except grandfathered plans as
 7.23 defined under federal law.

7.24 (b) All health carriers that issue health benefit plans in the individual market shall
 7.25 offer at least one health benefit plan at each actuarial value level.

7.26 (c) All health carriers that issue health benefit plans in the small group market shall
 7.27 offer at least one health benefit plan at each actuarial value level.

7.28 (d) All health carriers that issue health benefit plans in the individual market or
 7.29 small group market shall make available to the marketplace each health benefit plan it
 7.30 offers outside the marketplace.

7.31 (e) The marketplace shall monitor the stability of risk pools, risk-sharing, and
 7.32 premium variability in the individual market and the small group market.

7.33 Subd. 4. **Protection of data.** All applicable state and federal laws, regulations,
 7.34 and rules apply with respect to the confidentiality, integrity, and classification of the
 7.35 government data received by the marketplace. Notwithstanding any law to the contrary,

8.1 the marketplace has access to private and nonpublic data on providers, health carriers,
8.2 and third-party administrators that are maintained by the commissioners of health and
8.3 commerce and needed by the marketplace for risk adjustment, monitoring adverse
8.4 selection, and health plan quality. The definitions in section 13.02 apply to this section.

8.5 Sec. 7. **EFFECTIVE DATE.**

8.6 This act is effective the day following final enactment. Health benefit plan coverage
8.7 is available through the marketplace for coverage to be effective January 1, 2014.