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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3282

03/17/2016 Authored by Schomacker, Liebling, Quam, Franson, Gruenhagen and others  
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act  
1.2 relating to human services; modifying county-based purchasing plan contract  
1.3 negotiations; amending Minnesota Statutes 2014, sections 256B.69, subdivisions  
1.4 3a, 33, 35; 256B.692, subdivisions 5, 6, 7; 256B.694.

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

1.6 Section 1. Minnesota Statutes 2014, section 256B.69, subdivision 3a, is amended to  
1.7 read:

1.8 Subd. 3a. **County authority.** (a) The commissioner, when implementing the  
1.9 medical assistance prepayment program within a county, must include the county board  
1.10 in the process of development, approval, and issuance of the request for proposals to  
1.11 provide services to eligible individuals within the proposed county. County boards must  
1.12 be given reasonable opportunity to make recommendations regarding the development,  
1.13 issuance, review of responses, and changes needed in the request for proposals. The  
1.14 commissioner must provide county boards the opportunity to review each proposal  
1.15 based on the identification of community needs under chapters 145A and 256E and  
1.16 county advocacy activities. If a county board finds that a proposal does not address  
1.17 certain community needs, the county board and commissioner shall continue efforts for  
1.18 improving the proposal and network prior to the approval of the contract. The county  
1.19 board shall make recommendations regarding the approval of local networks and their  
1.20 operations to ensure adequate availability and access to covered services. The provider  
1.21 or health plan must respond directly to county advocates and the state prepaid medical  
1.22 assistance ombudsperson regarding service delivery and must be accountable to the state  
1.23 regarding contracts with medical assistance funds. The county board may recommend a  
1.24 maximum number of participating health plans after considering the size of the enrolling

2.1 population; ensuring adequate access and capacity; considering the client and county  
2.2 administrative complexity; and considering the need to promote the viability of locally  
2.3 developed health plans. The county board or a single entity representing a group of county  
2.4 boards and the commissioner shall mutually select health plans for participation at the  
2.5 time of initial implementation of the prepaid medical assistance program in that county or  
2.6 group of counties and at the time of contract renewal. The commissioner shall also seek  
2.7 input for contract requirements from the county or single entity representing a group of  
2.8 county boards at each contract renewal and incorporate those recommendations into  
2.9 the contract negotiation process.

2.10 (b) At the option of the county board, the board may develop contract requirements  
2.11 related to the achievement of local public health goals to meet the health needs of medical  
2.12 assistance enrollees. These requirements must be reasonably related to the performance  
2.13 of health plan functions and within the scope of the medical assistance benefit set. If the  
2.14 county board and the commissioner mutually agree to such requirements, the department  
2.15 shall include such requirements in all health plan contracts governing the prepaid medical  
2.16 assistance program in that county at initial implementation of the program in that county  
2.17 and at the time of contract renewal. The county board may participate in the enforcement  
2.18 of the contract provisions related to local public health goals.

2.19 (c) For counties in which a prepaid medical assistance program has not been  
2.20 established, the commissioner shall not implement that program if a county board submits  
2.21 an acceptable and timely preliminary and final proposal under section 256B.692, until  
2.22 county-based purchasing is no longer operational in that county. For counties in which  
2.23 a prepaid medical assistance program is in existence on or after September 1, 1997, the  
2.24 commissioner must terminate contracts with health plans according to section 256B.692,  
2.25 subdivision 5, if the county board submits and the commissioner accepts a preliminary and  
2.26 final proposal according to that subdivision. The commissioner is not required to terminate  
2.27 contracts that begin on or after September 1, 1997, according to section 256B.692 until  
2.28 two years have elapsed from the date of initial enrollment.

2.29 (d) In the event that a county board or a single entity representing a group of county  
2.30 boards and the commissioner cannot reach agreement regarding: (i) the selection of  
2.31 participating health plans in that county; (ii) contract requirements; or (iii) implementation  
2.32 and enforcement of county requirements including provisions regarding local public  
2.33 health goals, the commissioner shall resolve all disputes after taking into account the  
2.34 recommendations of a three-person mediation panel. The panel shall be composed of one  
2.35 designee of the president of the association of Minnesota counties, one designee of the  
2.36 commissioner of human services, and one person selected jointly by the designee of

3.1 the commissioner of human services and the designee of the Association of Minnesota  
 3.2 Counties. Within a reasonable period of time before the hearing, the panelists and the  
 3.3 parties to the mediation must be provided all documents and information relevant to  
 3.4 the mediation. The parties to the mediation must be given 30 days' notice of a hearing  
 3.5 before the mediation panel. If the county involved has elected to implement county-based  
 3.6 purchasing, the three-person mediation panel shall be composed according to section  
 3.7 256B.692, subdivision 7.

3.8 (e) If a county which elects to implement county-based purchasing ceases to  
 3.9 implement county-based purchasing, it is prohibited from assuming the responsibility of  
 3.10 county-based purchasing for a period of five years from the date it discontinues purchasing.

3.11 (f) The commissioner shall not require that contractual disputes between  
 3.12 county-based purchasing entities and the commissioner be mediated by a panel that  
 3.13 includes a representative of the Minnesota Council of Health Plans.

3.14 (g) At the request of a county-purchasing entity, the commissioner shall adopt a  
 3.15 contract procurement or renewal schedule under which all counties included in the  
 3.16 entity's service area are reprocured or renewed at the same time.

3.17 (h) The commissioner shall provide a written report under section 3.195 to the chairs  
 3.18 of the legislative committees having jurisdiction over human services in the senate and the  
 3.19 house of representatives describing in detail the activities undertaken by the commissioner  
 3.20 to ensure full compliance with this section. The report must also provide an explanation  
 3.21 for any decisions of the commissioner not to accept the recommendations of a county or  
 3.22 group of counties required to be consulted under this section. The report must be provided  
 3.23 at least 30 days prior to the effective date of a new or renewed prepaid or managed care  
 3.24 contract in a county.

3.25 Sec. 2. Minnesota Statutes 2014, section 256B.69, subdivision 33, is amended to read:

3.26 Subd. 33. **Competitive bidding.** (a) For managed care contracts effective on or  
 3.27 after January 1, 2014, the commissioner may utilize a competitive price bidding program  
 3.28 for nonelderly, nondisabled adults and children in medical assistance and MinnesotaCare  
 3.29 in the seven-county metropolitan area. The program must allow a minimum of two  
 3.30 managed care plans to serve the metropolitan area.

3.31 (b) In designing the competitive bid program, the commissioner shall consider,  
 3.32 and incorporate where appropriate, the procedures and criteria used in the competitive  
 3.33 bidding pilot authorized under Laws 2011, First Special Session chapter 9, article 6,  
 3.34 section 96. The pilot program operating in Hennepin County under the authority of section

4.1 256B.0756, and county-based purchasing plans operating under the authority of section  
 4.2 256B.692, shall continue to be exempt from competitive bid.

4.3 (c) The commissioner shall use past performance data as a factor in selecting vendors  
 4.4 and shall consider this information, along with competitive bid and other information, in  
 4.5 determining whether to contract with a managed care plan under this subdivision. Where  
 4.6 possible, the assessment of past performance in serving persons on public programs shall  
 4.7 be based on encounter data submitted to the commissioner. The commissioner shall  
 4.8 evaluate past performance based on both the health outcomes of care and success rates  
 4.9 in securing participation in recommended preventive and early diagnostic care. Data  
 4.10 provided by managed care plans must be provided in a uniform manner as specified by  
 4.11 the commissioner and must include only data on medical assistance and MinnesotaCare  
 4.12 enrollees. The data submitted must include health outcome measures on reducing the  
 4.13 incidence of low birth weight established by the managed care plan under subdivision 32.

4.14 Sec. 3. Minnesota Statutes 2014, section 256B.69, subdivision 35, is amended to read:

4.15 Subd. 35. **Statewide procurement.** (a) For calendar year 2015, the commissioner  
 4.16 may extend a demonstration provider's contract under this section for a sixth year after  
 4.17 the most recent procurement. For calendar year 2015, section 16B.98, subdivision 5,  
 4.18 paragraph (b), and section 16C.05, subdivision 2, paragraph (b), shall not apply to  
 4.19 contracts under this section.

4.20 (b) For calendar year 2016 contracts under this section, the commissioner shall  
 4.21 procure through a statewide procurement, which includes all 87 counties, demonstration  
 4.22 providers, and participating entities as defined in section 256L.01, subdivision 7. The  
 4.23 commissioner shall publish a request for proposals by January 5, 2015. As part of the  
 4.24 procurement process, the commissioner shall:

4.25 (1) seek each individual county's input;

4.26 (2) organize counties into regional groups, and consider single counties for the  
 4.27 largest and most diverse counties; and

4.28 (3) seek regional and county input regarding the respondent's ability to fully and  
 4.29 adequately deliver required health care services, offer an adequate provider network,  
 4.30 provide care coordination with county services, and serve special populations, including  
 4.31 enrollees with language and cultural needs.

4.32 (c) Any statewide procurement process occurring after calendar year 2016 shall not  
 4.33 include counties participating in a county-based purchasing plan. Procurement for these  
 4.34 counties shall occur every five years or earlier upon the request of the county or group of  
 4.35 counties, but shall not occur earlier than every two years.

5.1 Sec. 4. Minnesota Statutes 2014, section 256B.692, subdivision 5, is amended to read:

5.2 Subd. 5. **County proposals.** (a) A county board that wishes to purchase or provide  
5.3 health care under this section must submit a preliminary proposal that substantially  
5.4 demonstrates the county's ability to meet all the requirements of this section in response  
5.5 to criteria for proposals issued by the department. Counties submitting preliminary  
5.6 proposals must establish a local planning process that involves input from medical  
5.7 assistance recipients, recipient advocates, providers and representatives of local school  
5.8 districts, labor, and tribal government to advise on the development of a final proposal  
5.9 and its implementation.

5.10 (b) The county board must submit a final proposal that demonstrates the ability to  
5.11 meet all the requirements of this section.

5.12 (c) For a county in which the prepaid medical assistance program is in existence, the  
5.13 county board must submit a preliminary proposal at least 15 months prior to termination of  
5.14 health plan contracts in that county and a final proposal six months prior to the health plan  
5.15 contract termination date in order to begin enrollment after the termination. Nothing in  
5.16 this section shall impede or delay implementation or continuation of the prepaid medical  
5.17 assistance program in counties for which the board does not submit a proposal, or submits  
5.18 a proposal that is not in compliance with this section.

5.19 (d) Once a county or group of counties has elected to implement county-based  
5.20 purchasing, the commissioner shall not replace, terminate, or fail to renew the  
5.21 county-based purchasing plan in that county or group of counties, except as permitted  
5.22 in subdivision 6, paragraph (b).

5.23 Sec. 5. Minnesota Statutes 2014, section 256B.692, subdivision 6, is amended to read:

5.24 Subd. 6. **Commissioner's authority.** (a) The commissioner may:

5.25 (1) reject any preliminary or final proposal that:

5.26 (a) (1) substantially fails to meet the requirements of this section; ~~or;~~

5.27 ~~(b) that~~ (2) the commissioner determines would substantially impair the state's  
5.28 ability to purchase health care services in other areas of the state; ~~or;~~

5.29 ~~(c)~~ (3) would substantially impair an enrollee's choice of care systems when  
5.30 reasonable choice is possible; ~~or~~

5.31 ~~(d)~~ (4) would substantially impair the implementation and operation of the  
5.32 Minnesota senior health options demonstration project authorized under section 256B.69,  
5.33 subdivision 23; ~~and,~~

5.34 ~~(2) assume operation of a county's purchasing of health care for enrollees in medical~~  
5.35 ~~assistance in the event that the contract with the county is terminated.~~

6.1 (b) If a county or group of counties is providing health care through a county-based  
 6.2 purchasing plan and the county, group of counties, or the plan substantially fails to comply  
 6.3 with the applicable requirements of this section or section 256B.69, or the county or group  
 6.4 of counties elects to cease providing health care through a county-based purchasing plan,  
 6.5 the commissioner may terminate the contract with the county or group of counties and  
 6.6 shall assume the operation of purchasing health care for enrollees covered under the  
 6.7 county-based purchasing plan upon the termination of the contract subject to subdivision 7.

6.8 Sec. 6. Minnesota Statutes 2014, section 256B.692, subdivision 7, is amended to read:

6.9 Subd. 7. **Dispute resolution.** In the event the commissioner rejects a proposal  
 6.10 under subdivision 6, paragraph (a), or the commissioner intends to terminate the contract  
 6.11 with the county under subdivision 6, paragraph (b), the county board or a single entity  
 6.12 representing a group of county boards may request the recommendation of a three-person  
 6.13 mediation panel. The commissioner shall resolve all disputes after taking into account the  
 6.14 recommendations of the mediation panel. The panel shall be composed of one designee of  
 6.15 the president of the Association of Minnesota Counties requesting county board or the  
 6.16 single entity representing a group of county boards, one designee of the commissioner of  
 6.17 human services, and one person selected jointly by the designee of the commissioner of  
 6.18 human services and the designee of the Association of Minnesota Counties requesting  
 6.19 county board or the single entity representing a group of county boards. Within a  
 6.20 reasonable period of time before the hearing, the panelists and parties to the mediation  
 6.21 must be provided all documents and information relevant to the mediation. The parties to  
 6.22 the mediation must be given 30 days' notice of a hearing before the mediation panel.

6.23 Sec. 7. Minnesota Statutes 2014, section 256B.694, is amended to read:

6.24 **256B.694 SOLE-SOURCE OR SINGLE-PLAN MANAGED CARE**  
 6.25 **CONTRACT.**

6.26 (a) The commissioner shall contract on a single health plan basis with county-based  
 6.27 purchasing plans that have been approved under section 256B.692 in counties where the  
 6.28 county board has elected to operate a county-based purchasing plan.

6.29 (b) The commissioner shall consider, and may approve, contracting on a  
 6.30 single-health plan basis with county-based purchasing plans, or with other qualified health  
 6.31 plans that have coordination arrangements with counties, to serve persons enrolled in state  
 6.32 public health care programs, in order to promote better coordination or integration of  
 6.33 health care services, social services and other community-based services, provided that

- 7.1 all requirements applicable to health plan purchasing, including those in ~~sections~~ section
- 7.2 ~~256B.69 and 256B.692~~, are satisfied.