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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4890

03/13/2024

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The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to state government; changing provisions covering technology platform,
1.3 pharmacy benefit manager, and data protection in vendor contracts; amending
1.4 Minnesota Statutes 2022, section 43A.231, subdivisions 4, 5, 6.

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

1.6 Section 1. Minnesota Statutes 2022, section 43A.231, subdivision 4, is amended to read:

1.7 Subd. 4. **Technology platform.** (a) ~~At least three months before the reverse auction~~
1.8 ~~process is scheduled to be completed,~~ The commissioner shall procure through a competitive
1.9 bidding process a contract with a professional services vendor for a technology platform
1.10 and any associated professional services necessary to operate the platform to:

1.11 (1) evaluate the qualifications of prospective pharmacy benefit manager bidders for the
1.12 pharmacy benefit manager procurement;

1.13 (2) automatically adjudicate prescription drug claims; and

1.14 (3) collect data on pharmacy reimbursement.

1.15 (b) The platform procured under paragraph (a) must have the following capabilities to
1.16 ensure optimal performance of the reverse auction and security of data:

1.17 (1) host and conduct an online automated reverse auction:

1.18 (i) using a software application and high-performance data infrastructure to intake,
1.19 cleanse, and normalize pharmacy benefit manager data; and

2.1 (ii) with development methods and information security standards that have been validated
2.2 by receiving Service Organization Control 2 (SOC 2) and National Institute of Standards
2.3 and Technology certification;

2.4 (2) automate repricing of diverse and complex pharmacy benefit manager prescription
2.5 drug pricing proposals to enable direct comparisons of the price of bids using all annual
2.6 claims data available for the program using code-based classification or prescription drugs
2.7 from nationally accepted drug sources;

2.8 (3) simultaneously evaluate, ~~within six hours~~, diverse and complex multiple proposals
2.9 from full-service pharmacy benefit managers that shall include at least guaranteed net cost,
2.10 Average Wholesale Price and National Average Drug Acquisition Cost (NADAC) pricing
2.11 models, as well as proposals from pharmacy benefit administrators and specialty drug and
2.12 rebate carve-out services providers; and

2.13 (4) produce an automated report and analysis of bids, including ranking of bids on the
2.14 comparative costs and qualitative aspects of the costs ~~within six hours~~ after the close of
2.15 each round of reverse auction bidding; and.

2.16 ~~(5) after the close of the reverse auction process, perform an electronic, line-by-line,
2.17 claim-by-claim review of all invoiced pharmacy benefit manager claims within six hours
2.18 of receipt that allows for an online comparison of pharmacy benefit manager invoices and
2.19 identifies all deviations from the specific terms of the services contract resulting from the
2.20 reverse auction.~~

2.21 (c) The commissioner may require additional capabilities or more rigorous standards
2.22 than those specified in paragraph (b).

2.23 (d) The commissioner shall not award the platform technology vendor contract under
2.24 this subdivision to:

2.25 (1) a pharmacy benefit manager;

2.26 (2) a subsidiary or affiliate of a pharmacy benefit manager; or

2.27 (3) a vendor who is managed by a pharmacy benefit manager or who receives, directly
2.28 or indirectly, remuneration from a pharmacy benefit manager for aggregating clients into
2.29 a contractual relationship with a pharmacy benefit manager.

2.30 ~~(e) The vendor who is awarded the contract under this subdivision must not subcontract
2.31 any part of the reverse auction process or the review described under paragraph (b), clause
2.32 (5).~~ The commissioner shall also hire a vendor to perform an electronic, line-by-line,
2.33 claim-by-claim review of all invoiced pharmacy benefit manager claims that allows for an

3.1 online comparison of pharmacy benefit manager invoices and identifies all deviations from
 3.2 the specific terms of the services contract resulting from the reverse auction. The claim
 3.3 review vendor and the platform vendor may be the same or they may be distinct.

3.4 Sec. 2. Minnesota Statutes 2022, section 43A.231, subdivision 5, is amended to read:

3.5 Subd. 5. **Report; savings determination; process for selecting successor pharmacy**
 3.6 **benefit manager.** (a) The commissioner of management and budget, with the assistance of
 3.7 an actuarial consultant, shall compare the following: (1) actual, electronically adjudicated
 3.8 prescription drug costs under the first two years of the contract that begins on January 1,
 3.9 2023, with a pharmacy benefit manager that was selected by the reverse auction; and (2) a
 3.10 projection of what prescription drug costs would have been for those same two years under
 3.11 the pharmacy benefit manager contract in effect from 2018 to 2022, ~~with appropriate~~
 3.12 ~~adjustment for any adopted~~ considering either material formulary or beneficiary utilization
 3.13 changes. The projection must use may also consider industry-recognized data sources, or
 3.14 both. The comparison shall also factor in the costs of the vendor contracts hired by the
 3.15 commissioner under this section. The commissioner of management and budget shall report
 3.16 the results of the comparison to the legislative auditor and to the chairs and ranking minority
 3.17 members of the committees in the senate and house of representatives with jurisdiction over
 3.18 state government finance and policy by ~~March~~ September 1, 2025.

3.19 (b) The commissioner of management and budget must require the actuarial consultant
 3.20 to take appropriate measures to ensure that the consultant's work is not compromised by a
 3.21 conflict of interest.

3.22 (c) By ~~April~~ October 1, 2025, the legislative auditor shall provide a report to the
 3.23 commissioner of management and budget and to the chairs and ranking minority members
 3.24 of the committees in the senate and house of representatives with jurisdiction over state
 3.25 government finance and policy. The legislative auditor's report must make a determination
 3.26 as to whether the commissioner's report accurately performs the comparison required under
 3.27 paragraph (a).

3.28 (d) The ~~technology platform vendor~~ vendors hired under this section shall provide to
 3.29 the commissioner of management and budget and to the legislative auditor the electronically
 3.30 adjudicated prescription drug data and any other support or assistance required by the
 3.31 commissioner of management and budget to prepare a report and for the legislative auditor
 3.32 to validate the accuracy of the commissioner's results of the comparison, by deadlines
 3.33 established by the commissioner of management and budget and the legislative auditor.

4.1 Individual-identifying data received from the technology platform vendor is private data
4.2 on individuals, as defined by section 13.02, subdivision 12.

4.3 (e) If the commissioner of management and budget determines that meaningful savings
4.4 on prescription drug costs were not achieved, based on the comparison required under
4.5 paragraph (a), ~~with appropriate adjustment for any adopted~~ considering either material
4.6 formulary or beneficiary utilization changes, or both, the commissioner may forego the use
4.7 of a reverse auction for procurement of a successor pharmacy benefit manager contract. If
4.8 the commissioner of management and budget determines that meaningful savings have been
4.9 achieved, the commissioner must select the successor pharmacy benefit manager contract
4.10 using the reverse auction process described in this section. If the commissioner's comparison
4.11 in paragraph (a) finds that meaningful savings are not achieved, the commissioner's report
4.12 under paragraph (a) must include the commissioner's findings that support a determination
4.13 that meaningful savings were not achieved, analysis of the factors that caused a failure to
4.14 achieve meaningful savings, and recommendations for how meaningful savings could be
4.15 achieved in the next contract with a pharmacy benefit manager.

4.16 Sec. 3. Minnesota Statutes 2022, section 43A.231, subdivision 6, is amended to read:

4.17 Subd. 6. **Data protections.** The commissioner of management and budget may only
4.18 enter into an agreement with ~~a technology platform vendor~~ vendors under this section if the
4.19 ~~agreement~~ agreements provides privacy protections for data collected and maintained by
4.20 the ~~technology platform vendor~~ vendors, including:

4.21 (1) procedures for the prevention of unauthorized access or use;

4.22 (2) a prohibition on the sale of data collected and maintained as provided in the
4.23 agreement; and

4.24 (3) a prohibition on dissemination of data unless authorized by state or federal law or
4.25 the agreement.