

## CHAPTER 43A

## DEPARTMENT OF EMPLOYEE RELATIONS

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## 43A.02 DEFINITIONS.

*[For text of subs 1 to 10, see M.S.1998]*

Subd. 11. **Class.** "Class" means one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with clarity to designate each position allocated to the class and that the same general qualifications are needed for performance of the duties of the class, and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

*[For text of subs 12 to 24, see M.S.1998]*

Subd. 25. **Judicial branch.** "Judicial branch" means all judges of the appellate courts, all employees of the appellate courts, including commissions, boards, and committees established by the supreme court, the board of law examiners, the law library, the office of the state public defender, district public defenders and their employees, all judges of all courts of law, district court referees, judicial officers, court reporters, law clerks, district administration employees under section 484.68, court administrator or employee of the court in a judicial district under section 480.181, subdivision 1, paragraph (b), guardian ad litem program employees, and other agencies placed in the judicial branch by law. Judicial branch does not include district administration or public defenders or their employees in the second and fourth judicial districts, court administrators not under section 480.181, subdivision 1, paragraph (b), or their staff under chapter 485, or other employees within the court system whose salaries are paid by the county, other than employees who remain on the county payroll under section 480.181, subdivision 2.

*[For text of subs 26 to 32, see M.S.1998]*

Subd. 33. **Protected groups.** For affirmative action purposes, "protected groups" means females, persons with disabilities, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.

*[For text of subs 34 to 40, see M.S.1998]*

**History:** 1999 c 182 s 2,3; 1999 c 216 art 7 s 1

**NOTE:** Laws 1999, chapter 216, article 7, section 46, subdivisions 1 and 3, provide specific effective dates for the state takeover of court administrative and miscellaneous costs under subdivision 25, as amended by Laws 1999, chapter 216, article 7, section 1.

**43A.04 GENERAL POWERS AND RESPONSIBILITIES OF COMMISSIONER.**

*[For text of subs 1 to 3, see M.S.1998]*

Subd. 4. **Administrative procedures.** The commissioner shall develop administrative procedures, which are not subject to the rulemaking provisions of the Administrative Procedure Act, to effect provisions of chapter 43A which do not directly affect the rights of or processes available to the general public. The commissioner may also adopt administrative procedures, not subject to the Administrative Procedure Act, which concern topics affecting the general public if those procedures concern only the internal management of the department or other agencies and if those elements of the topics which affect the general public are the subject of department rules.

Administrative procedures shall be reproduced and made available for comment to agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179A.01 to 179A.25, for at least 15 days prior to implementation and shall include but are not limited to:

(a) maintenance and administration of a plan of classification for all positions in the classified service and for comparisons of unclassified positions with positions in the classified service;

(b) procedures for administration of collective bargaining agreements and plans established pursuant to section 43A.18 concerning total compensation and the terms and conditions of employment for employees;

(c) procedures for effecting all personnel actions internal to the state service such as conduct of competitive promotional examinations, ranking and certification of employees for promotion, noncompetitive and qualifying appointments of employees and leaves of absence;

(d) maintenance and administration of employee performance appraisal, training and other programs; and

(e) procedures for pilots of the reengineered employee selection process. Employment provisions of this chapter, associated personnel rules adopted under subdivision 3, and administrative procedures established under clauses (a) and (c) may be waived for the purposes of these pilots. The pilots may affect the rights of and processes available to members of the general public seeking employment in the classified service. The commissioner will provide public notice of any pilot directly affecting the rights of and processes available to the general public and make the administrative procedures available for comment to the general public, agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179A.01 to 179A.25 for at least 30 days prior to implementation.

*[For text of subs 5 to 11, see M.S.1998]*

**History:** 1999 c 182 s 4

**43A.047 CONTRACTED SERVICES.**

(a) Executive agencies, including the Minnesota state colleges and universities system, must demonstrate that they cannot use available staff before hiring outside consultants or services. If use of consultants is necessary, agencies are encouraged to negotiate contracts that will involve permanent staff, so as to upgrade and maximize training of state employees.

(b) If agencies reduce operating budgets, agencies must give priority to reducing spending on professional and technical service contracts before laying off permanent employees.

(c) Agencies must report to the commissioner of administration by November 1 each year on implementation of this section during the previous fiscal year. The reports must include amounts spent on professional and technical service contracts during the previous fiscal year. The commissioner shall compile the reports into a uniform format and forward them to the chairs of the senate finance and house ways and means committees by November 15.

**History:** 1999 c 250 art 1 s 71

**43A.06 POWERS AND RESPONSIBILITIES THROUGH THE LABOR RELATIONS BUREAU.**

*[For text of subds 1 to 7, see M.S.1998]*

Subd. 8. **Unfair labor practice charges.** The commissioner shall direct investigations and shall have authority to decide whether agencies in the executive branch shall settle unfair labor practice charges filed against the employer, appointing authorities or their agents pursuant to chapter 179A.

**History:** 1999 c 182 s 5

**43A.07 CLASSIFIED SERVICE.**

*[For text of subds 1 to 3, see M.S.1998]*

Subd. 4. **Effect of reclassification.** Except as provided in section 43A.17, subdivision 5, the incumbent of a position which has been reclassified shall continue in the position only if the employee is eligible for and is appointed to the position of the new class in accordance with the provisions of this chapter and the rules, administrative procedures or a collective bargaining agreement entered into under sections 179A.01 to 179A.25 governing reallocation or change in allocation of positions, promotion, transfer, and demotion. If the incumbent is ineligible to continue in the position and is not transferred, promoted or demoted, the layoff provisions of plans pursuant to section 43A.18 or a collective bargaining agreement entered into under sections 179A.01 to 179A.25 shall apply. Personnel changes required by the reclassification of positions shall be completed within a reasonable period of time, as prescribed by the commissioner, following the reclassification notice to an appointing authority.

*[For text of subd 5, see M.S.1998]*

Subd. 6. **Rights of incumbents of declassified positions.** Except for just cause, an incumbent with permanent status shall not be removed from a position which is declassified for a period of one year following the declassification. An appointing authority may remove an incumbent of a declassified position after one year with 30 days' prior notice. At any time after the declassification, and prior to the end of the 30-day notice period, if so requested, the employee shall be appointed within the same agency to a classified position comparable to the position that was declassified or, if a comparable position is unavailable, to a position in that agency comparable to that held immediately prior to being appointed to the declassified position. This section applies only to the incumbent at the time the position is declassified and not to employees subsequently appointed to the declassified position.

**History:** 1999 c 182 s 6,7

**43A.08 UNCLASSIFIED SERVICE.**

Subdivision 1. **Unclassified positions.** Unclassified positions are held by employees who are:

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the office of strategic and long-range planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (7) employees of the Washington, D.C., office of the state of Minnesota;

(8) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal Economic Opportunity Act work study program in the Perpich center for arts education and the Minnesota state colleges and universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(10) officers and enlisted persons in the national guard;

(11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(13) members of the state patrol; provided that selection and appointment of state patrol troopers must be made in accordance with applicable laws governing the classified service;

(14) chaplains employed by the state;

(15) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;

(16) student workers;

(17) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;

(18) employees unclassified pursuant to other statutory authority;

(19) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation; and

(20) the administrators and the deputy administrators at the state academies for the deaf and the blind.

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the departments of administration; agriculture; commerce; corrections; economic security; children, families, and learning; employee relations; trade and economic development; finance; health; human rights; labor and industry; natural resources; public safety; public service; human services; revenue; transportation; and veterans affairs; the housing finance and pollution control agencies; the state lottery; the state board of investment; the office of administrative hearings; the office of environmental assistance; the offices of the attorney general, secretary of state, state auditor, and state treasurer; the Minnesota state colleges and universities; the higher education services office; the Perpich center for arts education; and the Minnesota zoological board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

*[For text of subs 1b to 4, see M.S.1998]*

**History:** 1999 c 241 art 10 s 8

#### 43A.13 CERTIFICATION OF ELIGIBLES.

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Reemployment.** The commissioner may certify any eligible on the reemployment list for the class.

*[For text of subs 4 to 8, see M.S.1998]*

Subd. 9. [Repealed, 1999 c 182 s 20]

**History:** 1999 c 182 s 8

#### 43A.15 NONCOMPETITIVE AND QUALIFYING APPOINTMENTS.

*[For text of subs 1 to 5, see M.S.1998]*

Subd. 6. **Appointments through transfer or demotion.** The commissioner may authorize the transfer or demotion of an employee in the classified service within an agency or between agencies. Prior to authorizing a transfer or demotion, the commissioner shall determine that the employee to be transferred or demoted is qualified for the new position. An authorized transfer may result in the movement of an employee between agencies in the same class or between or within agencies in different classes provided that the compensation for the classes is similar.

The commissioner may enter into arrangements with public personnel agencies in other jurisdictions for the purpose of effecting transfers or voluntary demotions of employees between jurisdictions.

*[For text of subs 7 to 14, see M.S.1998]*

Subd. 15. **Reinstatement.** An appointing authority may directly reinstate a person who is a former permanent or probationary employee of the job class, within four years of separation from the class.

**History:** 1999 c 182 s 9,10

#### 43A.17 SALARY LIMITS, RATES, RANGES AND EXCEPTIONS.

*[For text of subs 1 to 3, see M.S.1998]*

Subd. 4. **Exceptions.** (a) The commissioner may without regard to subdivision 1 establish special salary rates and plans of compensation designed to attract and retain exceptionally qualified doctors of medicine. These rates and plans shall be included in the commissioner's plan. In establishing salary rates and eligibility for nomination for payment at special rates, the commissioner shall consider the standards of eligibility established by national medical specialty boards where appropriate. The incumbents assigned to these special ranges shall be excluded from the collective bargaining process.

(b) The commissioner may without regard to subdivision 1, but subject to collective bargaining agreements or compensation plans, establish special salary rates designed to attract and retain exceptionally qualified employees in the following positions:

- (1) information systems staff;
- (2) actuaries in the departments of health, human services, and commerce; and
- (3) epidemiologists in the department of health.

*[For text of subs 5 to 7, see M.S.1998]*

Subd. 8. **Accumulated vacation leave.** The commissioner of employee relations shall not agree to a collective bargaining agreement or recommend a compensation plan pursuant to section 43A.18, subdivisions 1, 2, 3, and 4, nor shall an arbitrator issue an award under sections 179A.01 to 179A.25, if the compensation plan, agreement, or award permits an employee to convert accumulated vacation leave into cash before separation from state service.

This section does not prohibit the commissioner from negotiating a collective bargaining agreement or recommending approval of a compensation plan which: (1) permits an employee to receive payment for accumulated vacation leave upon beginning an unpaid leave of absence approved for more than one year in duration if the leave of absence is not for the purpose of accepting an unclassified position in state civil service; (2) permits an employee to receive payment for accumulated vacation leave upon layoff; or (3) permits an employee to receive payment for accumulated vacation leave if a change in employment results in the employee being ineligible to accrue further vacation leave.

*[For text of subs 9 to 11, see M.S.1998]*

Subd. 12. [Repealed, 1999 c 221 s 9]

**History:** 1999 c 182 s 11; 1999 c 221 s 3

#### **43A.18 TOTAL COMPENSATION; COLLECTIVE BARGAINING AGREEMENTS; PLANS.**

Subdivision 1. **Collective bargaining agreements.** Except as provided in section 43A.01 and to the extent they are covered by a collective bargaining agreement, the compensation, terms and conditions of employment for all employees represented by an exclusive representative certified pursuant to chapter 179A shall be governed solely by the collective bargaining agreement executed by the parties and approved by the legislature.

*[For text of subs 2 to 8, see M.S.1998]*

**History:** 1999 c 182 s 12

#### **43A.19 AFFIRMATIVE ACTION.**

*[For text of subd 1, see M.S.1998]*

Subd. 3. **Exemptions.** Implementation of the provisions of this section shall not be deemed a violation of other provisions of this chapter or chapter 363.

**History:** 1999 c 182 s 13

#### **43A.20 PERFORMANCE APPRAISAL AND PAY.**

The commissioner shall design and maintain a performance appraisal system under which each employee in the civil service in the executive branch shall be evaluated and counseled on work performance at least once a year. Individual pay increases for all employees not represented by an exclusive representative certified pursuant to chapter 179A shall be based on the evaluation and other factors the commissioner includes in the plans developed pursuant to section 43A.18. Collective bargaining agreements entered into pursuant to chapter 179A may, and are encouraged to, provide for pay increases based on employee work performance.

**History:** 1999 c 182 s 14

#### **43A.22 BENEFITS; INTENT.**

(a) It is the intent of the state to provide eligible employees and other eligible persons with life insurance and hospital, medical, and dental benefits coverage through provider organizations, hereafter referred to as "carriers," authorized to do business in the state.

(b) The commissioner may self-insure any hospital and medical plan offered under sections 43A.22 to 43A.31 to promote reasonably stable and predictable premiums for hospital and medical benefits paid by the state and its employees and to promote affordable, ongoing relationships between employees and dependents and their medical providers. The commissioner shall consult with the commissioners of commerce and health and human services regarding the development and reporting of quality of care measures.

**History:** 1999 c 250 art 1 s 72

#### **43A.23 CONTRACTING AUTHORITY.**

Subdivision 1. **General.** The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the judgment of the commissioner are best qualified to underwrite and service the benefit plans. Contracts entered into with carriers are not subject to the requirements of sections 16C.16 to 16C.19. The commissioner may negotiate premium rates and coverage provisions with all carriers licensed under chapters 62A, 62C, and 62D. The commissioner may also negotiate reasonable restrictions to be applied to all carriers under chapters 62A, 62C, and 62D. Contracts to underwrite the benefit plans must be bid or negotiated separately from contracts to service the benefit plans, which may be awarded only on the basis of competitive bids. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers, and any other factors which the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The commissioner shall, to the extent feasible, make hospital and medical benefits available from at least one carrier licensed to do business pursuant to each of chapters 62A, 62C, and 62D. The commissioner need not provide health maintenance organization services to an employee who resides in an area which is not served by a licensed health maintenance organization. The commissioner may refuse to allow a health maintenance organization to continue as a carrier. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in substantial additional administrative costs. A carrier licensed under chapter 62A is exempt from the tax imposed by section 60A.15 on premiums paid to it by the state.

All self-insured hospital and medical service products must comply with coverage mandates, data reporting, and consumer protection requirements applicable to the licensed carrier administering the product, had the product been insured, including chapters 62J, 62M, and 62Q. Any self-insured products that limit coverage to a network of providers or provide different levels of coverage between network and nonnetwork providers shall comply with section 62D.123 and geographic access standards for health maintenance organizations adopted by the commissioner of health in rule under chapter 62D.

Subd. 2. **Contract to contain statement of benefits.** (a) Each contract under sections 43A.22 to 43A.30 shall contain a detailed statement of benefits offered and shall include any maximums, limitations, exclusions, and other definitions of benefits the commissioner deems necessary or desirable. Each hospital and medical benefits contract shall provide benefits at least equal to those required by section 62E.06, subdivision 2.

(b) All summaries of benefits describing the hospital and medical service benefits offered to state employees must comply with laws and rules for content and clarity applicable to the licensed carrier administering the product. Referral procedures must be clearly described. The commissioners of commerce and health, as appropriate, shall review the summaries of benefits, whether written or electronic, and advise the commissioner of employee relations on any changes needed to ensure compliance.

*[For text of subd . 3, see M.S.1998]*

**History:** 1999 c 250 art 1 s 73,74

#### **43A.24 ELIGIBILITY FOR STATE PAID INSURANCE AND BENEFITS.**

*[For text of subd . 1, see M.S.1998]*

Subd. 2: **Other eligible persons.** The following persons are eligible for state paid life insurance and hospital, medical, and dental benefits as determined in applicable collective bargaining agreements or by the commissioner or by plans pursuant to section 43A.18, subdivision 6, or by the board of regents for employees of the University of Minnesota not covered by collective bargaining agreements. Coverages made available, including optional coverages, are as contained in the plan established pursuant to section 43A.18, subdivision 2:

(a) a member of the state legislature, provided that changes in benefits resulting in increased costs to the state shall not be effective until expiration of the term of the members of the existing house of representatives. An eligible member of the state legislature may decline to be enrolled for state paid coverages by filing a written waiver with the commissioner. The waiver shall not prohibit the member from enrolling the member or dependents for optional coverages, without cost to the state, as provided for in section 43A.26. A member of the state legislature who returns from a leave of absence to a position previously occupied in the civil service shall be eligible to receive the life insurance and hospital, medical, and dental benefits to which the position is entitled;

(b) a permanent employee of the legislature or a permanent employee of a permanent study or interim committee or commission or a state employee on leave of absence to work for the legislature, during a regular or special legislative session;

(c) a judge of the appellate courts or an officer or employee of these courts; a judge of the district court, a judge of county court, or a judge of county municipal court; a district court referee, judicial officer, court reporter, or law clerk; a district administrator; an employee of the office of the district administrator that is not in the second or fourth judicial district; a court administrator or employee of the court administrator in a judicial district under section 480.181, subdivision 1, paragraph (b), and a guardian ad litem program employee;

(d) a salaried employee of the public employees retirement association;

(e) a full-time military or civilian officer or employee in the unclassified service of the department of military affairs whose salary is paid from state funds;

(f) a salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(g) an employee of the regents of the University of Minnesota;

(h) notwithstanding section 43A.27, subdivision 3, an employee of the state of Minnesota or the regents of the University of Minnesota who is at least 60 and not yet 65 years of age on July 1, 1982, who is otherwise eligible for employee and dependent insurance and benefits pursuant to section 43A.18 or other law, who has at least 20 years of service and retires, earlier than required, within 60 days of March 23, 1982; or an employee who is at least 60 and not yet 65 years of age on July 1, 1982, who has at least 20 years of state service and retires, earlier than required, from employment at Rochester state hospital after July 1, 1981; or an employee who is at least 55 and not yet 65 years of age on July 1, 1982, and is covered by the Minnesota state retirement system correctional employee retirement plan or the state patrol retirement fund, who has at least 20 years of state service and retires, earlier than required, within 60 days of March 23, 1982. For purposes of this clause, a person retires when the person terminates active employment in state or University of Minnesota service and applies for a retirement annuity. Eligibility shall cease when the retired employee attains the age of 65, or when the employee chooses not to receive the annuity that the employee has applied for. The retired employee shall be eligible for coverages to which the employee was entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established pursuant to section 43A.18, for employees in positions equivalent to that from which retired, provided that the retired employee shall not be eligible for state-paid life insurance. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program;

(i) an employee of an agency of the state of Minnesota identified through the process provided in this paragraph who is eligible to retire prior to age 65. The commissioner and the exclusive representative of state employees shall enter into agreements under section 179A.22 to identify employees whose positions are in programs that are being permanently eliminated or reduced due to federal or state policies or practices. Failure to reach agreement identifying these employees is not subject to impasse procedures provided in chapter 179A.



The commissioner must prepare a plan identifying eligible employees not covered by a collective bargaining agreement in accordance with the process outlined in section 43A.18, subdivisions 2 and 3. For purposes of this paragraph, a person retires when the person terminates active employment in state service and applies for a retirement annuity. Eligibility ends as provided in the agreement or plan, but must cease at the end of the month in which the retired employee chooses not to receive an annuity, or the employee is eligible for employer-paid health insurance from a new employer. The retired employees shall be eligible for coverages to which they were entitled at the time of retirement, subject to any changes in coverage through collective bargaining or plans established under section 43A.18 for employees in positions equivalent to that from which they retired, provided that the retired employees shall not be eligible for state-paid life insurance;

(j) employees of the state board of public defense, with eligibility determined by the state board of public defense in consultation with the commissioner of employee relations; and

(k) employees of the health data institute under section 62J.451, subdivision 12, as paid for by the health data institute.

**History:** 1999 c 216 art 7 s 2

**NOTE:** Laws 1999, chapter 216, article 7, section 46, subdivisions 1 and 3, provide specific effective dates for the state takeover of court administrative and miscellaneous costs under subdivision 2, as amended by Laws 1999, chapter 216, article 7, section 2.

### 43A.27 ELIGIBILITY FOR INDIVIDUAL PAID INSURANCE AND BENEFITS.

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Retired employees.** (a) A person may elect to purchase at personal expense individual and dependent hospital, medical, and dental coverages if the person is:

(1) a retired employee of the state or an organization listed in subdivision 2 or section 43A.24, subdivision 2, who, at separation of service:

(i) is immediately eligible to receive a retirement benefit under chapter 354B or an annuity under a retirement program sponsored by the state or such organization of the state;

(ii) immediately meets the age and service requirements in section 352.115, subdivision 1; and

(iii) has five years of service or meets the service requirement of the collective bargaining agreement or plan, whichever is greater; or

(2) a retired employee of the state who is at least 50 years of age and has at least 15 years of state service.

(b) The commissioner shall offer at least one plan which is actuarially equivalent to those made available through collective bargaining agreements or plans established under section 43A.18 to employees in positions equivalent to that from which retired.

(c) A spouse of a person eligible under paragraph (a) may purchase the coverage listed in this subdivision if the spouse was a dependent under the retired employee's coverage at the time of the retiree's death.

(d) Coverages must be coordinated with relevant health insurance benefits provided through the federally sponsored Medicare program. Until the retired employee reaches age 65, the retired employee and dependents must be pooled in the same group as active employees for purposes of establishing premiums and coverage for hospital, medical, and dental insurance. Coverage for retired employees and their dependents may not discriminate on the basis of evidence of insurability or preexisting conditions unless identical conditions are imposed on active employees in the group that the employee left. Appointing authorities shall provide notice to employees no later than the effective date of their retirement of the right to exercise the option provided in this subdivision. The retired employee must notify the commissioner or designee of the commissioner within 30 days after the effective date of the retirement of intent to exercise this option.

*[For text of subs 4 and 5, see M.S.1998]*

**History:** 1999 c 222 art 19 s 1

**43A.30 PAYMENT OF PREMIUMS.**

*[For text of subs 1 to 4, see M.S.1998]*

Subd. 5. **Administration.** The commissioner of employee relations may administer the employee insurance program. The commissioner may assess agencies, and employers of persons eligible for state-paid insurance and benefits under section 43A.24, the cost of these administrative services, including diagnostic and referral services provided by the employee assistance program under section 43A.319, and include it in the amounts billed for life insurance, hospital, medical, and dental benefits, and optional coverages authorized. Receipts from the assessments must be deposited in the state treasury and credited to a special account in the employee insurance trust fund and are appropriated to the commissioner to pay these administrative costs.

Subd. 6. **Contingency reserve.** The commissioner shall maintain a contingency reserve within the employee insurance trust fund. The reserve must be used to increase the controls over medical plan provisions and insurance costs for the state's employee populations. The reserve consists of appropriations from the general fund, receipts from billings to agencies, and credited investment gains and losses attributable to balances in the account. The state board of investment shall invest the assets of the account according to section 11A.24.

**History:** 1999 c 250 art 1 s 75,114

**43A.31 ADMINISTRATION.**

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Commissioner reports.** The commissioner shall transmit a report each biennium to the legislative commission on employee relations concerning the operation of sections 43A.22 to 43A.30, including a study of local and statewide market trends regarding provider concentration, costs, and other factors as they may relate to the state's health benefits purchasing strategy. The commissioner shall consult with the commissioners of commerce and health in the conduct of this study. The commissioner shall also report the number, type, and disposition of complaints relating to the insurance programs offered by the commissioner.

*[For text of subd 3, see M.S.1998]*

Subd. 5. **Customer assistance.** The commissioner shall employ staff for the purposes of assisting state employees and their dependents in:

- (1) understanding their benefits and coverage levels;
- (2) obtaining information and responses to questions regarding issues of coverage, benefits, and service from carriers and providers; and
- (3) making use of all grievance, appeals, and complaint resolution processes provided by law or contract.

**History:** 1999 c 250 art 1 s 76,77

**43A.317 MINNESOTA EMPLOYEES INSURANCE PROGRAM.**

*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Administration.** After consulting with the chairs of the senate governmental operations and veterans committee and the house of representatives governmental operations and veterans affairs policy committee, the commissioner may determine when the program provided under this section is available. When the commissioner makes the program available, the commissioner shall, consistent with the provisions of this section, administer the program and determine its coverage options, funding and premium arrangements, contractual arrangements, and all other matters necessary to administer the program. The commissioner's contracting authority for the program, including authority for competitive bidding and negotiations, is governed by section 43A.23.

Subd. 4. **Advisory committee.** After the commissioner consults as required in subdivision 3 and then determines to make the program available, the commissioner shall establish a

ten-member advisory committee that includes five members who represent eligible employers and five members who represent eligible individuals. The committee shall advise the commissioner on issues related to administration of the program. The committee is governed by sections 15.014 and 15.059, and continues to exist while the program remains in operation.

*[For text of subs 5 to 12, see M.S.1998]*

**History:** 1999 c 182 s 15,16

#### **43A.318 PUBLIC EMPLOYEES GROUP LONG-TERM CARE INSURANCE PROGRAM.**

Subdivision 1. **Definitions.** (a) **Scope.** For the purposes of this section, the terms defined have the meaning given them.

(b) **Advisory committee; committee.** "Advisory committee" or "committee" means the committee created under subdivision 3.

(c) **Committee member; member.** "Committee member" or "member" means a person serving on the advisory committee created under subdivision 3.

(d) **Eligible person.** "Eligible person" means:

(1) an active member of a public pension plan of the state;

(2) an employee or elected official of the state who is not eligible for participation in a public employee pension plan of the state; or

(3) a spouse or parent of a person described in clause (1) or (2), regardless of the enrollment status in the program of the person described in clause (1) or (2).

(e) **Program.** "Program" means the statewide public employees long-term care insurance program created under subdivision 2.

(f) **Public employee pension plan.** "Public employee pension plan" means any Minnesota public pension plan or fund that provides pension or retirement coverage for state employees.

(g) **Qualified vendor.** "Qualified vendor" means an entity licensed or authorized to underwrite, provide, or administer group long-term care insurance benefits in this state.

Subd. 2. **Program creation; general provisions.** (a) The commissioner may administer a program to make long-term care coverage available to eligible persons. The commissioner may determine the program's funding arrangements, request bids from qualified vendors, and negotiate and enter into contracts with qualified vendors. Contracts are not subject to the requirements of section 16C.16 or 16C.19. Contracts must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The program may not be self-insured until the commissioner has completed an actuarial study of the program and reported the results of the study to the legislature and self-insurance has been specifically authorized by law.

(b) The program may provide coverage for home, community, and institutional long-term care and any other benefits as determined by the commissioner. Coverage is optional. The enrolled eligible person must pay the full cost of the coverage.

(c) The commissioner shall promote activities that attempt to raise awareness of the need for long-term care insurance among residents of the state and encourage the increased prevalence of long-term care coverage. These activities must include the sharing of knowledge gained in the development of the program.

(d) The commissioner may employ and contract with persons and other entities to perform the duties under this section and may determine their duties and compensation consistent with this chapter.

(e) The benefits provided under this section are not terms and conditions of employment as defined under section 179A.03, subdivision 19, and are not subject to collective bargaining.

(f) The commissioner shall establish underwriting criteria for entry of all eligible persons into the program. Eligible persons who would be immediately eligible for benefits may not enroll.

(g) Eligible persons who meet underwriting criteria may enroll in the program upon hiring and at other times established by the commissioner.

(h) An eligible person enrolled in the program may continue to participate in the program even if an event, such as termination of employment, changes the person's employment status.

(i) Participating public employee pension plans and public employers may provide automatic pension or payroll deduction for payment of long-term care insurance premiums to qualified vendors contracted with under this section.

(j) The premium charged to program enrollees must include an administrative fee to cover all program expenses incurred in addition to the cost of coverage. All fees collected are appropriated to the commissioner for the purpose of administering the program.

**Subd. 3. Advisory committee.** (a) The committee consists of:

(1) the executive directors or designees of the Minnesota state retirement system, the public employees retirement association, and the teachers retirement association;

(2) one member of the investment advisory committee of the state board of investment provided under section 11A.08 appointed by the board;

(3) one staff member of the department of human services appointed by the commissioner of human services;

(4) one staff member of the department of commerce appointed by the commissioner of commerce;

(5) one member of the medical community with clinical knowledge of long-term care appointed by the commissioner of employee relations; and

(6) six members representing the interests of eligible persons, including exclusive representatives of employees as defined by section 179A.03, subdivision 8, and unrepresented employees appointed by the commissioner of employee relations.

(b) Appointment to and removal from the committee must be in the manner provided in section 15.059.

(c) The members of the committee described in paragraph (a), clauses (1) to (5), serve without term limits. The terms of members described in paragraph (a), clause (6), are governed by section 15.059, subdivision 2.

(d) Members serve without compensation, but are eligible for reimbursement of expenses in the same manner and amount as authorized under section 43A.18, subdivision 2.

(e) The committee shall advise the commissioner on program issues, including, but not limited to, benefits, coverage, funding, eligibility, enrollment, underwriting, and marketing.

**Subd. 4. Long-term care insurance trust fund.** (a) The long-term care insurance trust fund in the state treasury consists of deposits of the premiums received from persons enrolled in the program. All money in the fund is appropriated to the commissioner to pay premiums, claims, refunds, administrative costs, and other related service costs. The commissioner shall reserve an amount of money sufficient to cover the actuarially estimated costs of claims incurred but unpaid. The trust fund must be used solely for the purpose of the program.

(b) The state board of investment shall invest the money in the fund according to section 11A.24. Investment income and losses attributable to the fund must be credited to or deducted from the fund.

**Subd. 5. Private sources.** This section does not prohibit or limit individuals or local governments from purchasing long-term care insurance through other private sources.

**History:** 1999 c 250 art 1 s 78

**NOTE:** The commissioner of employee relations may not implement the long-term care insurance plan under this section, as added by Laws 1999, chapter 250, article 1, section 78, until April 1, 2000. Laws 1999, chapter 250, article 1, section 116.

#### 43A.319 EMPLOYEE ASSISTANCE PROGRAM.

The commissioner shall provide an employee assistance program of training, diagnostic, and referral services for state employees and their dependents.

**History:** 1984 c 531 s 3; 1984 c 544 s 44; 1984 c 655 art.2 s 13 subd 1; 1986 c 444; 1987 c 365 s 11; 1989 c 343 s 5; 1993 c 337 s 2; 1999 c 250 art 1 s 114

**43A.40** [Repealed, 1999 c 182 s 20]

**43A.41** [Repealed, 1999 c 182 s 20]

**43A.42** [Repealed, 1999 c 182 s 20]

**43A.421 SUPPORTED WORK PROGRAM.**

A total of 50 full-time positions within agencies of state government may be selected for inclusion for a supported work program for persons with severe disabilities. A full-time position may be shared by up to three persons with severe disabilities and their job coach. The job coach is not a state employee within the scope of section 43A.02, subdivision 21, or 179A.03, subdivision 14, unless the job coach holds another position within the scope of section 43A.02, subdivision 21, or 179A.03, subdivision 14.

**History:** 1999 c 182 s 17

**43A.43 PROGRAM MANAGEMENT.**

Subd. 2. [Repealed, 1999 c 182 s 20]

**43A.44** [Repealed, 1999 c 182 s 20]

**43A.45** [Repealed, 1999 c 182 s 20]

**43A.46** [Repealed, 1999 c 182 s 20]

**43A.465** [Repealed, 1999 c 182 s 20]