

Subject DHS health care programs

Authors Liebling

Analyst Randall Chun

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## Article 1: Opioid Crisis Response

This article expands the membership of the Opiate Epidemic Response Advisory Council, and also modifies duties of the commissioner, council, and municipalities (defined broadly as specified local units of government) to reflect the availability of funding through the opioid settlement.

### Section Description - Article 1: Opioid Crisis Response

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#### 1 Establishment of the advisory council.

Amends § 256.042, subd. 1. The amendment to paragraph (a) requires the Opiate Epidemic Response Advisory Council to:

- review reports, data, and performance measures submitted by municipalities, in receipt of direct payment from settlement agreements; and
- consult with relevant stakeholders to review and provide recommendations for necessary revisions to required reporting related to measuring progress in addressing the harms of the opioid epidemic.

The amendment to paragraph (c) allows the council, in consultation with the commissioner of management and budget, to select municipality projects that include promising practices or theory-based activities for evaluation by the commissioner of management and budget. Also requires grants to these entities to be administered to support evaluation.

#### 2 Membership.

Amends § 256.042, subd. 2. Expands the size of the advisory council from 19 to 30 voting members as follows:

- increases from two to 11 the members representing Indian tribes, with one member representing each of the Tribal Nations; and
- adds two members to represent the urban American Indian population.

Requires at least one-half of council members have lived experience with opiate addiction.

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**3 Grants.**

Amends § 256.042, subd. 4. Requires the commissioner to award at least 40 percent of grants to projects that include a focus on addressing the opiate crisis in Black and Indigenous communities and communities of color.

**4 Reports.**

Amends § 256.042, subd. 5. The amendment to paragraph (a) requires the annual opiate advisory council report to the legislature to include information about municipality projects funded by settlement monies.

A new paragraph (d) requires municipalities receiving direct payments for settlement agreements to report annually to the commissioner on how the funds were used on opioid remediation. Specifies reporting criteria.

A new paragraph (e) requires municipalities, when reporting data and outcomes, to include information on the use of evidence-based and culturally relevant services, to the extent feasible.

A new paragraph (f) requires municipal projects using \$25,000 or more of settlement funds in a calendar year to also include a brief qualitative description of successes or challenges, and results using process and quality measures.

A new paragraph (g) defines “municipality” and “municipalities.”

## **Article 2: Health Care**

This article modifies covered services, eligibility, reimbursement, and administration under the medical assistance and MinnesotaCare programs, and also specifies eligibility determination and other procedures to be used following the end of the COVID-19 federal public health emergency.

**Section Description - Article 2: Health Care**

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**1 Adults who were in foster care at the age of 18.**

Amends § 256B.055, subd. 17. Allows MA to be paid, beginning January 1, 2023, for a person under age 26 who was in foster care and enrolled in another state’s Medicaid program while in foster care, in accordance with specified federal law. States that the section is effective January 1, 2023.

**Section Description - Article 2: Health Care**

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**2 Asset limitations for certain individuals.**

Amends § 256B.056, subd. 3. For individuals enrolled in MA during the COVID-19 federal public health emergency who are subject to asset limits, requires excess assets to be disregarded until 95 days after the individual's first renewal occurring after expiration of the COVID-19 public health emergency. States that the section is effective July 1, 2022, or upon federal approval, whichever is later.

**3 Period of eligibility.**

Amends § 256B.057, subd. 7. Allows a child under age 21, once determined eligible for MA, to be continuously eligible for the program for up to 12 months, unless:

- 1) the child reaches age 21;
- 2) the child requests voluntary termination of coverage;
- 3) the child ceases to be a Minnesota resident;
- 4) the child dies; or
- 5) the agency determines that eligibility was erroneously granted to the child due to agency error or enrollee fraud, abuse, or perjury.

States that the section is effective January 1, 2023, or upon federal approval, whichever is later.

**4 Doula services.**

Amends § 256B.0625, subd. 28b. Requires the commissioner to enroll doula agencies and individual treating doulas in order to provide direct reimbursement. States that the section is effective January 1, 2024, or upon federal approval, whichever is later.

**5 Other clinic services.**

Amends § 256B.0625, subd. 30. Effective July 1, 2022, allows an enrolled Indian Health Service facility or a Tribal health center operating under a 638 contract to elect to also enroll as a Tribal FQHC, and provides that requirements that apply to FQHCs under this subdivision do not apply unless necessary to comply with federal regulations. Directs the commissioner to establish an alternative payment method for Tribal FQHCs that uses the same methods and rates applicable to a Tribal facility or health center that does not enroll as a Tribal FQHC.

**6 Investigational drugs, biological products, devices, and clinical trials.**

Amends § 256B.0625, subd. 64. Strikes language that prohibits MA and the EPSDT program from covering the costs of any services that are incidental to, associated with, or resulting from a clinical trial. Provides that any items purchased or services rendered solely to satisfy data collection and analysis for a clinical trial and not for direct clinical management of a member are not covered.

**Section Description - Article 2: Health Care**

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**7 Client error overpayment.**

Adds § 256B.161.

**Subd. 1. Scope.** Specifies the procedures that must be followed under MA when a local agency or DHS determines a person is liable for recovery of medical assistance incorrectly paid as a result of client error or a person is determined ineligible for medical assistance following an appeal. Provides that medical assistance incorrectly paid when the recipient is under age 21 is generally not recoverable from the recipient or recipient's estate.

**Subd. 2. Recovering client error overpayment.** (a) Prohibits the local agency or DHS from attempting recovery when the liable person voluntarily repays the overpayment amount or establishes a payment plan to repay the amount within 90 days. Requires recovery to be pursued when the liable person has not repaid any amount within six months of entering into the agreement.

(b) Specifies the procedures to be followed by the local agency or DHS when recovering overpayments.

**Subd. 3. Writing off client error overpayment.** Prohibits the local agency or DHS from attempting recovery of overpayments of less than \$350, unless specified conditions apply. Allows the local agency or DHS to write off any remaining balance after five years, upon a determination that it is no longer cost effective to attempt recovery of the remaining balance.

**8 Physician reimbursement.**

Amends § 256B.76, subd. 1. Allows MA to reimburse for the cost incurred to pay the Department of Health for metabolic testing of newborns who are MA recipients, when the sample is collected outside of an inpatient hospital or freestanding birth center (because the birth took place outside of these locations) or because it is not medically appropriate to collect the sample during the inpatient stay.

**9 Citizenship requirements.**

Amends § 256L.04, subd. 10. Allows children under age 19 who are undocumented to be eligible for MinnesotaCare. States that this section is effective January 1, 2024.

**10 Client error overpayment.**

Adds § 256B.161.

**Subd. 1. Scope.** Specifies the procedures under MinnesotaCare that must be followed when a local agency or DHS determines a person is liable for recovery of medical assistance incorrectly paid as a result of client error or is determined ineligible for medical assistance following an appeal. Provides that medical

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assistance incorrectly paid when the recipient is under age 21 is generally not recoverable from the recipient or recipient's estate.

**Subd. 2. Recovering client error overpayment.** (a) Prohibits the local agency or DHS from attempting recovery when the liable person voluntarily repays the overpayment amount or establishes a payment plan to repay the amount within 90 days. Requires recovery to be pursued when the liable person has not repaid any amount within six months of entering into the agreement.

(b) Specifies the procedures to be followed by the local agency or DHS when recovering overpayments.

**Subd. 3. Writing off client error overpayment.** Prohibits the local agency or DHS from attempting recovery of overpayments of less than \$350, unless specified conditions apply. Allows the local agency or DHS to write off any remaining balance after five years, upon a determination that it is no longer cost effective to attempt recovery of the remaining balance.

**11 Grants for periodic data matching.**

Amends Laws 2015, chapter 71, article 14, section 2, subdivision 5, as further amended. Maintains the general fund base for fiscal years 2020 and 2021 for grants to counties for costs related to periodic data matching.

**12 Waivers and modifications; federal funding extensions.**

Amends Laws 2020, First Special Session chapter 7, section 1, subd. 1, as further amended. Extends COVID-19 DHS waivers and modifications related to preserving health care coverage for MA and MinnesotaCare until the enrollee's first renewal following resumption of MA and MinnesotaCare renewals after the end of the federal COVID-19 public health emergency.

**13 Response to COVID-19 public health emergency.**

Amends Laws 2021, First Special Session chapter 7, article 1, § 36. Prohibits the commissioner of human services from collecting unpaid MA-EPD and MinnesotaCare premiums until the enrollee's first renewal after the resumption of MA renewals following the end of the federal public health emergency.

Allows periodic data matching to be suspended for up to 12 months following the resumption of MA and MinnesotaCare renewals after the end of the federal public health emergency.

Directs the commissioner of human services to take necessary actions to comply with federal guidance related to the appropriate redetermination of MA enrollee eligibility following the end of the federal public health emergency and allows the

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commissioner to waive current Minnesota statutes to the minimum level necessary to achieve federal compliance. Requires the commissioner to report to the legislature on changes implemented within 90 days.

## **Article 3: Health Insurance Access**

This article establishes a buy-in option that would allow families and individuals with income above the MinnesotaCare income limit, but who meet all other program eligibility requirements, to purchase MinnesotaCare coverage under a sliding scale beginning January 1, 2025.

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**Section Description**

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**1 General requirements.**

Amends § 256L.04, subd. 1c. Provides that the provision of law stating that a MinnesotaCare enrollee is not eligible for enrollment in a qualified health plan with advance payment of the federal premium tax credit does not apply to persons eligible for the buy-in option under subdivision 15. States that this section is effective January 1, 2025, or upon federal approval, whichever is later.

**2 Ineligibility.**

Amends § 256L.04, subd. 7a. Makes a conforming change, by exempting persons enrolled under the buy-in option from a provision that prohibits adults from being enrolled in MinnesotaCare if their income is greater than the program income limit. States that this section is effective January 1, 2025, or upon federal approval, whichever is later.

**3 Persons eligible for buy-in option.**

Amends § 256L.04, by adding subd. 15. (a) Allows families and individuals with income above the MinnesotaCare income limit, who meet all other MinnesotaCare eligibility requirements, to be eligible for the buy-in option. Provides that all other provisions of chapter 256L apply unless otherwise specified.

(b) States that families and individuals with income within or above the maximum income limit, who are ineligible for MinnesotaCare solely due to access to employer-subsidized coverage, are eligible for the buy-in option.

(c) Allows families and individuals to enroll in MinnesotaCare under this subdivision only during an annual open enrollment period or special enrollment period, as designated by MNSure.

| Section | Description  |
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|         | States that this section is effective January 1, 2025, or upon federal approval, whichever is later.   |
| 4       | <p><b>General requirements.</b></p> <p>Amends § 256L.07, subd. 1. Makes a conforming change, by exempting persons whose income increases above 200 percent of FPG from MinnesotaCare disenrollment if they continue MinnesotaCare enrollment through the buy-in option. States that this section is effective January 1, 2025, or upon federal approval, whichever is later.</p>   |
| 5       | <p><b>Must not have access to employer-subsidized minimum essential coverage.</b></p> <p>Amends § 256L.07, subd. 2. States that the provision that families or individuals with access to subsidized health coverage are not eligible for MinnesotaCare does not apply to families or individuals who enroll through the buy-in option. States that this section is effective January 1, 2025, or upon federal approval, whichever is later.</p>   |
| 6       | <p><b>Sliding fee scale; monthly individual or family income.</b></p> <p>Amends § 256L.15, subd. 2.</p> <p>The amendment to paragraph (c) requires the commissioner to continue the lower premiums for MinnesotaCare enrollees (reflecting compliance with federal American Rescue Plan Act requirements) on an ongoing basis, without regard to any sunset of the ARPA requirements. Also makes conforming changes, by striking the premium scale listed in current law. (This premium scale is not currently applied, given that MinnesotaCare as part of federal compliance uses the lower premium scales required by ARPA for 2021 and 2022).</p> <p>A new paragraph (d) requires the commissioner to establish a sliding premium scale for persons eligible through the buy-in option, to be effective January 1, 2025. Exempts persons 20 years of age or younger from these premiums.</p> <p>States that the section is effective January 1, 2023, except that the sliding premium scale for persons eligible for the buy-in option is effective January 1, 2025, and is contingent upon implementation of the buy-in option.</p> |
| 7       | <p><b>Transition to MinnesotaCare buy-in option.</b></p> <p>(a) Requires the commissioner of human services to continue to administer MinnesotaCare as a basic health program.</p> <p>(b) Requires the commissioner, by January 1, 2025, to implement a buy-in option. Requires the commissioner to present to the legislature, by December 15, 2023, an</p>   |

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implementation plan for the buy-in option and any additional legislative changes needed for implementation.

(c) Requires the commissioner to seek any federal waivers, approvals, and legislative changes necessary to implement a MinnesotaCare buy-in option, including but not limited to those necessary to allow the state to:

- 1) continue to receive federal basic health program payments and to receive other federal funding; and
- 2) receive federal payments equal to the value of premium tax credits and cost-sharing reductions that MinnesotaCare enrollees with income greater than 200 percent of FPG would otherwise have received.

(d) Requires the commissioner, in implementing this section, to consult with the commissioner of commerce and the MNSure board. Allows the commissioner to contract for technical and actuarial assistance.

States that the section is effective the day following final enactment.

## Article 4: Forecast Adjustments

This article makes forecast adjustments.

## Article 5: Appropriations

This article contains appropriations and riders related to programs administered by the commissioner of human services and the MNSure board.



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