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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4397

02/28/2024 Authored by Liebling
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to human services; clarifying use of asset verification system authorization;
1.3 excluding state tax credits, rebates, and refunds from income; permitting electronic
1.4 notice to the commissioner for probate matters; making health care administration
1.5 statutory corrections; repealing certain reports; amending Minnesota Statutes 2022,
1.6 sections 256.9657, subdivision 8; 256B.056, subdivisions 1a, 10; 524.3-801;
1.7 Minnesota Statutes 2023 Supplement, sections 256.0471, subdivision 1; 256B.0701,
1.8 subdivision 6; 256B.764; 256L.03, subdivision 1.

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

1.10 Section 1. Minnesota Statutes 2023 Supplement, section 256.0471, subdivision 1, is
1.11 amended to read:

1.12 Subdivision 1. Qualifying overpayment. Any overpayment for assistance granted under
1.13 the MFIP program formerly codified under sections 256.031 to 256.0361 and the AFDC
1.14 program formerly codified under sections 256.72 to 256.871; for assistance granted under
1.15 chapters 119B, 256D, 256I, 256J, and 256K; for state-funded medical assistance under
1.16 chapter 256B and state-funded MinnesotaCare under chapter 256L granted pursuant to
1.17 section 256.045, subdivision 10; for state-funded medical assistance and state-funded
1.18 MinnesotaCare under chapters 256B and 256L; and for assistance granted under the
1.19 Supplemental Nutrition Assistance Program (SNAP), except agency error claims, become
1.20 a judgment by operation of law 90 days after the notice of overpayment is personally served
1.21 upon the recipient in a manner that is sufficient under rule 4.03(a) of the Rules of Civil
1.22 Procedure for district courts, or by certified mail, return receipt requested. This judgment
1.23 shall be entitled to full faith and credit in this and any other state.

1.24 EFFECTIVE DATE. This section is effective July 1, 2024.

2.1 Sec. 2. Minnesota Statutes 2022, section 256.9657, subdivision 8, is amended to read:

2.2 Subd. 8. **Commissioner's duties.** ~~(a) Beginning October 1, 2023, the commissioner of~~
 2.3 ~~human services shall annually report to the chairs and ranking minority members of the~~
 2.4 ~~legislative committees with jurisdiction over health care policy and finance regarding the~~
 2.5 ~~provider surcharge program. The report shall include information on total billings, total~~
 2.6 ~~collections, and administrative expenditures for the previous fiscal year. This paragraph~~
 2.7 ~~expires January 1, 2032.~~

2.8 ~~(b)~~ (a) The surcharge shall be adjusted by inflationary and caseload changes in future
 2.9 bienniums to maintain reimbursement of health care providers in accordance with the
 2.10 requirements of the state and federal laws governing the medical assistance program,
 2.11 including the requirements of the Medicaid moratorium amendments of 1991 found in
 2.12 Public Law No. 102-234.

2.13 ~~(e)~~ (b) The commissioner shall request the Minnesota congressional delegation to support
 2.14 a change in federal law that would prohibit federal disallowances for any state that makes
 2.15 a good faith effort to comply with Public Law 102-234 by enacting conforming legislation
 2.16 prior to the issuance of federal implementing regulations.

2.17 Sec. 3. Minnesota Statutes 2022, section 256B.056, subdivision 1a, is amended to read:

2.18 Subd. 1a. **Income and assets generally.** (a)(1) Unless specifically required by state law
 2.19 or rule or federal law or regulation, the methodologies used in counting income and assets
 2.20 to determine eligibility for medical assistance for persons whose eligibility category is based
 2.21 on blindness, disability, or age of 65 or more years, the methodologies for the Supplemental
 2.22 Security Income program shall be used, except as provided ~~under~~ in clause (2) and
 2.23 subdivision 3, paragraph (a), clause (6).

2.24 (2) State tax credits, rebates, and refunds must not be counted as income. State tax credits,
 2.25 rebates, and refunds must not be counted as assets for a period of 12 months after the month
 2.26 of receipt.

2.27 ~~(2)~~ (3) Increases in benefits under title II of the Social Security Act shall not be counted
 2.28 as income for purposes of this subdivision until July 1 of each year. Effective upon federal
 2.29 approval, for children eligible under section 256B.055, subdivision 12, or for home and
 2.30 community-based waiver services whose eligibility for medical assistance is determined
 2.31 without regard to parental income, child support payments, including any payments made
 2.32 by an obligor in satisfaction of or in addition to a temporary or permanent order for child
 2.33 support, and Social Security payments are not counted as income.

3.1 (b)(1) The modified adjusted gross income methodology as defined in United States
3.2 Code, title 42, section 1396a(e)(14), shall be used for eligibility categories based on:

3.3 (i) children under age 19 and their parents and relative caretakers as defined in section
3.4 256B.055, subdivision 3a;

3.5 (ii) children ages 19 to 20 as defined in section 256B.055, subdivision 16;

3.6 (iii) pregnant women as defined in section 256B.055, subdivision 6;

3.7 (iv) infants as defined in sections 256B.055, subdivision 10, and 256B.057, subdivision
3.8 1; and

3.9 (v) adults without children as defined in section 256B.055, subdivision 15.

3.10 For these purposes, a "methodology" does not include an asset or income standard, or
3.11 accounting method, or method of determining effective dates.

3.12 (2) For individuals whose income eligibility is determined using the modified adjusted
3.13 gross income methodology in clause (1):

3.14 (i) the commissioner shall subtract from the individual's modified adjusted gross income
3.15 an amount equivalent to five percent of the federal poverty guidelines; and

3.16 (ii) the individual's current monthly income and household size is used to determine
3.17 eligibility for the 12-month eligibility period. If an individual's income is expected to vary
3.18 month to month, eligibility is determined based on the income predicted for the 12-month
3.19 eligibility period.

3.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.21 Sec. 4. Minnesota Statutes 2022, section 256B.056, subdivision 10, is amended to read:

3.22 Subd. 10. **Eligibility verification.** (a) The commissioner shall require women who are
3.23 applying for the continuation of medical assistance coverage following the end of the
3.24 12-month postpartum period to update their income and asset information and to submit
3.25 any required income or asset verification.

3.26 (b) The commissioner shall determine the eligibility of private-sector health care coverage
3.27 for infants less than one year of age eligible under section 256B.055, subdivision 10, or
3.28 256B.057, subdivision 1, paragraph (c), and shall pay for private-sector coverage if this is
3.29 determined to be cost-effective.

3.30 (c) The commissioner shall verify assets and income for all applicants, and for all
3.31 recipients upon renewal.

4.1 (d) The commissioner shall utilize information obtained through the electronic service
4.2 established by the secretary of the United States Department of Health and Human Services
4.3 and other available electronic data sources in Code of Federal Regulations, title 42, sections
4.4 435.940 to 435.956, to verify eligibility requirements. The commissioner shall establish
4.5 standards to define when information obtained electronically is reasonably compatible with
4.6 information provided by applicants and enrollees, including use of self-attestation, to
4.7 accomplish real-time eligibility determinations and maintain program integrity.

4.8 (e) Each person applying for or receiving medical assistance under section 256B.055,
4.9 subdivision 7, and any other person whose resources are required by law to be disclosed to
4.10 determine the applicant's or recipient's eligibility must authorize the commissioner to obtain
4.11 information from financial institutions to ~~identify unreported accounts~~ verify assets as
4.12 required in section 256.01, subdivision 18f. If a person refuses or revokes the authorization,
4.13 the commissioner may determine that the applicant or recipient is ineligible for medical
4.14 assistance. For purposes of this paragraph, an authorization to ~~identify unreported accounts~~
4.15 verify assets meets the requirements of the Right to Financial Privacy Act, United States
4.16 Code, title 12, chapter 35, and need not be furnished to the financial institution.

4.17 (f) County and tribal agencies shall comply with the standards established by the
4.18 commissioner for appropriate use of the asset verification system specified in section 256.01,
4.19 subdivision 18f.

4.20 Sec. 5. Minnesota Statutes 2023 Supplement, section 256B.0701, subdivision 6, is amended
4.21 to read:

4.22 Subd. 6. **Recuperative care facility rate.** (a) The recuperative care facility rate is for
4.23 facility costs and must be paid from state money in an amount equal to the ~~medical assistance~~
4.24 ~~room and board~~ MSA equivalent rate as defined in section 256I.03, subdivision 11a, at the
4.25 time the recuperative care services were provided. The eligibility standards in chapter 256I
4.26 do not apply to the recuperative care facility rate. The recuperative care facility rate is only
4.27 paid when the recuperative care services rate is paid to a provider. Providers may opt to
4.28 only receive the recuperative care services rate.

4.29 (b) Before a recipient is discharged from a recuperative care setting, the provider must
4.30 ensure that the recipient's medical condition is stabilized or that the recipient is being
4.31 discharged to a setting that is able to meet that recipient's needs.

5.1 Sec. 6. Minnesota Statutes 2023 Supplement, section 256B.764, is amended to read:

5.2 **256B.764 REIMBURSEMENT FOR FAMILY PLANNING SERVICES.**

5.3 (a) Effective for services rendered on or after July 1, 2007, payment rates for family
5.4 planning services shall be increased by 25 percent over the rates in effect June 30, 2007,
5.5 when these services are provided by a community clinic as defined in section 145.9268,
5.6 subdivision 1.

5.7 (b) Effective for services rendered on or after July 1, 2013, payment rates for family
5.8 planning services shall be increased by 20 percent over the rates in effect June 30, 2013,
5.9 when these services are provided by a community clinic as defined in section 145.9268,
5.10 subdivision 1. The commissioner shall adjust capitation rates to managed care and
5.11 county-based purchasing plans to reflect this increase, and shall require plans to pass on the
5.12 full amount of the rate increase to eligible community clinics, in the form of higher payment
5.13 rates for family planning services.

5.14 (c) Effective for services provided on or after January 1, 2024, payment rates for family
5.15 planning, when such services are provided by an eligible community clinic as defined in
5.16 section 145.9268, subdivision 1, and abortion services shall be increased by 20 percent.
5.17 This increase does not apply to federally qualified health centers, rural health centers, or
5.18 Indian health services.

5.19 Sec. 7. Minnesota Statutes 2023 Supplement, section 256L.03, subdivision 1, is amended
5.20 to read:

5.21 Subdivision 1. **Covered health services.** (a) "Covered health services" means the health
5.22 services reimbursed under chapter 256B, with the exception of special education services,
5.23 home care nursing services, ~~adult dental care services other than services covered under~~
5.24 ~~section 256B.0625, subdivision 9, orthodontic services,~~ nonemergency medical transportation
5.25 services, personal care assistance and case management services, community first services
5.26 and supports under section 256B.85, behavioral health home services under section
5.27 256B.0757, housing stabilization services under section 256B.051, and nursing home or
5.28 intermediate care facilities services.

5.29 (b) Covered health services shall be expanded as provided in this section.

5.30 (c) For the purposes of covered health services under this section, "child" means an
5.31 individual younger than 19 years of age.

6.1 Sec. 8. Minnesota Statutes 2022, section 524.3-801, is amended to read:

6.2 **524.3-801 NOTICE TO CREDITORS.**

6.3 (a) Unless notice has already been given under this section, upon appointment of a
6.4 general personal representative in informal proceedings or upon the filing of a petition for
6.5 formal appointment of a general personal representative, notice thereof, in the form prescribed
6.6 by court rule, shall be given under the direction of the court administrator by publication
6.7 once a week for two successive weeks in a legal newspaper in the county wherein the
6.8 proceedings are pending giving the name and address of the general personal representative
6.9 and notifying creditors of the estate to present their claims within four months after the date
6.10 of the court administrator's notice which is subsequently published or be forever barred,
6.11 unless they are entitled to further service of notice under paragraph (b) or (c).

6.12 (b) The personal representative shall, within three months after the date of the first
6.13 publication of the notice, serve a copy of the notice upon each then known and identified
6.14 creditor in the manner provided in paragraph (c). If the decedent or a predeceased spouse
6.15 of the decedent received assistance for which a claim could be filed under section 246.53,
6.16 256B.15, 256D.16, or 261.04, notice to the commissioner of human services must be given
6.17 under paragraph (d) instead of under this paragraph or paragraph (c). A creditor is "known"
6.18 if: (i) the personal representative knows that the creditor has asserted a claim that arose
6.19 during the decedent's life against either the decedent or the decedent's estate; (ii) the creditor
6.20 has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in
6.21 accessible financial records known and available to the personal representative; or (iii) the
6.22 claim of the creditor would be revealed by a reasonably diligent search for creditors of the
6.23 decedent in accessible financial records known and available to the personal representative.
6.24 Under this section, a creditor is "identified" if the personal representative's knowledge of
6.25 the name and address of the creditor will permit service of notice to be made under paragraph
6.26 (c).

6.27 (c) Unless the claim has already been presented to the personal representative or paid,
6.28 the personal representative shall serve a copy of the notice required by paragraph (b) upon
6.29 each creditor of the decedent who is then known to the personal representative and identified
6.30 either by delivery of a copy of the required notice to the creditor, or by mailing a copy of
6.31 the notice to the creditor by certified, registered, or ordinary first class mail addressed to
6.32 the creditor at the creditor's office or place of residence.

6.33 (d)(1) Effective for decedents dying on or after July 1, 1997, if the decedent or a
6.34 predeceased spouse of the decedent received assistance for which a claim could be filed

7.1 under section 246.53, 256B.15, 256D.16, or 261.04, the personal representative or the
7.2 attorney for the personal representative shall serve the commissioner of human services
7.3 with notice in the manner prescribed in paragraph (c), or electronically in a manner prescribed
7.4 by the commissioner, as soon as practicable after the appointment of the personal
7.5 representative. The notice must state the decedent's full name, date of birth, and Social
7.6 Security number and, to the extent then known after making a reasonably diligent inquiry,
7.7 the full name, date of birth, and Social Security number for each of the decedent's predeceased
7.8 spouses. The notice may also contain a statement that, after making a reasonably diligent
7.9 inquiry, the personal representative has determined that the decedent did not have any
7.10 predeceased spouses or that the personal representative has been unable to determine one
7.11 or more of the previous items of information for a predeceased spouse of the decedent. A
7.12 copy of the notice to creditors must be attached to and be a part of the notice to the
7.13 commissioner.

7.14 (2) Notwithstanding a will or other instrument or law to the contrary, except as allowed
7.15 in this paragraph, no property subject to administration by the estate may be distributed by
7.16 the estate or the personal representative until 70 days after the date the notice is served on
7.17 the commissioner as provided in paragraph (c), unless the local agency consents as provided
7.18 for in clause (6). This restriction on distribution does not apply to the personal representative's
7.19 sale of real or personal property, but does apply to the net proceeds the estate receives from
7.20 these sales. The personal representative, or any person with personal knowledge of the facts,
7.21 may provide an affidavit containing the description of any real or personal property affected
7.22 by this paragraph and stating facts showing compliance with this paragraph. If the affidavit
7.23 describes real property, it may be filed or recorded in the office of the county recorder or
7.24 registrar of titles for the county where the real property is located. This paragraph does not
7.25 apply to proceedings under sections 524.3-1203 and 525.31, or when a duly authorized
7.26 agent of a county is acting as the personal representative of the estate.

7.27 (3) At any time before an order or decree is entered under section 524.3-1001 or
7.28 524.3-1002, or a closing statement is filed under section 524.3-1003, the personal
7.29 representative or the attorney for the personal representative may serve an amended notice
7.30 on the commissioner to add variations or other names of the decedent or a predeceased
7.31 spouse named in the notice, the name of a predeceased spouse omitted from the notice, to
7.32 add or correct the date of birth or Social Security number of a decedent or predeceased
7.33 spouse named in the notice, or to correct any other deficiency in a prior notice. The amended
7.34 notice must state the decedent's name, date of birth, and Social Security number, the case
7.35 name, case number, and district court in which the estate is pending, and the date the notice

8.1 being amended was served on the commissioner. If the amendment adds the name of a
8.2 predeceased spouse omitted from the notice, it must also state that spouse's full name, date
8.3 of birth, and Social Security number. The amended notice must be served on the
8.4 commissioner in the same manner as the original notice. Upon service, the amended notice
8.5 relates back to and is effective from the date the notice it amends was served, and the time
8.6 for filing claims arising under section 246.53, 256B.15, 256D.16 or 261.04 is extended by
8.7 60 days from the date of service of the amended notice. Claims filed during the 60-day
8.8 period are undischarged and unbarred claims, may be prosecuted by the entities entitled to
8.9 file those claims in accordance with section 524.3-1004, and the limitations in section
8.10 524.3-1006 do not apply. The personal representative or any person with personal knowledge
8.11 of the facts may provide and file or record an affidavit in the same manner as provided for
8.12 in clause (1).

8.13 (4) Within one year after the date an order or decree is entered under section 524.3-1001
8.14 or 524.3-1002 or a closing statement is filed under section 524.3-1003, any person who has
8.15 an interest in property that was subject to administration by the estate may serve an amended
8.16 notice on the commissioner to add variations or other names of the decedent or a predeceased
8.17 spouse named in the notice, the name of a predeceased spouse omitted from the notice, to
8.18 add or correct the date of birth or Social Security number of a decedent or predeceased
8.19 spouse named in the notice, or to correct any other deficiency in a prior notice. The amended
8.20 notice must be served on the commissioner in the same manner as the original notice and
8.21 must contain the information required for amendments under clause (3). If the amendment
8.22 adds the name of a predeceased spouse omitted from the notice, it must also state that
8.23 spouse's full name, date of birth, and Social Security number. Upon service, the amended
8.24 notice relates back to and is effective from the date the notice it amends was served. If the
8.25 amended notice adds the name of an omitted predeceased spouse or adds or corrects the
8.26 Social Security number or date of birth of the decedent or a predeceased spouse already
8.27 named in the notice, then, notwithstanding any other laws to the contrary, claims against
8.28 the decedent's estate on account of those persons resulting from the amendment and arising
8.29 under section 246.53, 256B.15, 256D.16, or 261.04 are undischarged and unbarred claims,
8.30 may be prosecuted by the entities entitled to file those claims in accordance with section
8.31 524.3-1004, and the limitations in section 524.3-1006 do not apply. The person filing the
8.32 amendment or any other person with personal knowledge of the facts may provide and file
8.33 or record an affidavit describing affected real or personal property in the same manner as
8.34 clause (1).

9.1 (5) After one year from the date an order or decree is entered under section 524.3-1001
9.2 or 524.3-1002, or a closing statement is filed under section 524.3-1003, no error, omission,
9.3 or defect of any kind in the notice to the commissioner required under this paragraph or in
9.4 the process of service of the notice on the commissioner, or the failure to serve the
9.5 commissioner with notice as required by this paragraph, makes any distribution of property
9.6 by a personal representative void or voidable. The distributee's title to the distributed property
9.7 shall be free of any claims based upon a failure to comply with this paragraph.

9.8 (6) The local agency may consent to a personal representative's request to distribute
9.9 property subject to administration by the estate to distributees during the 70-day period after
9.10 service of notice on the commissioner. The local agency may grant or deny the request in
9.11 whole or in part and may attach conditions to its consent as it deems appropriate. When the
9.12 local agency consents to a distribution, it shall give the estate a written certificate evidencing
9.13 its consent to the early distribution of assets at no cost. The certificate must include the
9.14 name, case number, and district court in which the estate is pending, the name of the local
9.15 agency, describe the specific real or personal property to which the consent applies, state
9.16 that the local agency consents to the distribution of the specific property described in the
9.17 consent during the 70-day period following service of the notice on the commissioner, state
9.18 that the consent is unconditional or list all of the terms and conditions of the consent, be
9.19 dated, and may include other contents as may be appropriate. The certificate must be signed
9.20 by the director of the local agency or the director's designees and is effective as of the date
9.21 it is dated unless it provides otherwise. The signature of the director or the director's designee
9.22 does not require any acknowledgment. The certificate shall be prima facie evidence of the
9.23 facts it states, may be attached to or combined with a deed or any other instrument of
9.24 conveyance and, when so attached or combined, shall constitute a single instrument. If the
9.25 certificate describes real property, it shall be accepted for recording or filing by the county
9.26 recorder or registrar of titles in the county in which the property is located. If the certificate
9.27 describes real property and is not attached to or combined with a deed or other instrument
9.28 of conveyance, it shall be accepted for recording or filing by the county recorder or registrar
9.29 of titles in the county in which the property is located. The certificate constitutes a waiver
9.30 of the 70-day period provided for in clause (2) with respect to the property it describes and
9.31 is prima facie evidence of service of notice on the commissioner. The certificate is not a
9.32 waiver or relinquishment of any claims arising under section 246.53, 256B.15, 256D.16,
9.33 or 261.04, and does not otherwise constitute a waiver of any of the personal representative's
9.34 duties under this paragraph. Distributees who receive property pursuant to a consent to an
9.35 early distribution shall remain liable to creditors of the estate as provided for by law.

10.1 (7) All affidavits provided for under this paragraph:

10.2 (i) shall be provided by persons who have personal knowledge of the facts stated in the
10.3 affidavit;

10.4 (ii) may be filed or recorded in the office of the county recorder or registrar of titles in
10.5 the county in which the real property they describe is located for the purpose of establishing
10.6 compliance with the requirements of this paragraph; and

10.7 (iii) are prima facie evidence of the facts stated in the affidavit.

10.8 (8) This paragraph applies to the estates of decedents dying on or after July 1, 1997.

10.9 Clause (5) also applies with respect to all notices served on the commissioner of human
10.10 services before July 1, 1997, under Laws 1996, chapter 451, article 2, section 55. All notices
10.11 served on the commissioner before July 1, 1997, pursuant to Laws 1996, chapter 451, article
10.12 2, section 55, shall be deemed to be legally sufficient for the purposes for which they were
10.13 intended, notwithstanding any errors, omissions or other defects.