

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 988

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DATE	D-PG	OFFICIAL STATUS
02/19/2015	366	Introduction and first reading
		Referred to Health, Human Services and Housing
04/07/2015		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
 1.2 relating to human services; exempting providers of durable medical equipment,
 1.3 prosthetics, orthotics, or medical supplies from the Medicare payment limit;
 1.4 amending Minnesota Statutes 2014, sections 256B.0625, subdivision 31;
 1.5 256B.766; 256B.767.

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

1.7 Section 1. Minnesota Statutes 2014, section 256B.0625, subdivision 31, is amended to
 1.8 read:

1.9 Subd. 31. **Medical supplies and equipment.** (a) Medical assistance covers medical
 1.10 supplies and equipment. Separate payment outside of the facility's payment rate shall
 1.11 be made for wheelchairs and wheelchair accessories for recipients who are residents
 1.12 of intermediate care facilities for the developmentally disabled. Reimbursement for
 1.13 wheelchairs and wheelchair accessories for ICF/DD recipients shall be subject to the same
 1.14 conditions and limitations as coverage for recipients who do not reside in institutions. A
 1.15 wheelchair purchased outside of the facility's payment rate is the property of the recipient.
 1.16 ~~The commissioner may set reimbursement rates for specified categories of medical~~
 1.17 ~~supplies at levels below the Medicare payment rate.~~

1.18 (b) Vendors of durable medical equipment, prosthetics, orthotics, or medical supplies
 1.19 must enroll as a Medicare provider.

1.20 (c) When necessary to ensure access to durable medical equipment, prosthetics,
 1.21 orthotics, or medical supplies, the commissioner may exempt a vendor from the Medicare
 1.22 enrollment requirement if:

1.23 (1) the vendor supplies only one type of durable medical equipment, prosthetic,
 1.24 orthotic, or medical supply;

1.25 (2) the vendor serves ten or fewer medical assistance recipients per year;

2.1 (3) the commissioner finds that other vendors are not available to provide same or
2.2 similar durable medical equipment, prosthetics, orthotics, or medical supplies; and

2.3 (4) the vendor complies with all screening requirements in this chapter and Code of
2.4 Federal Regulations, title 42, part 455. The commissioner may also exempt a vendor from
2.5 the Medicare enrollment requirement if the vendor is accredited by a Centers for Medicare
2.6 and Medicaid Services approved national accreditation organization as complying with
2.7 the Medicare program's supplier and quality standards and the vendor serves primarily
2.8 pediatric patients.

2.9 (d) Durable medical equipment means a device or equipment that:

2.10 (1) can withstand repeated use;

2.11 (2) is generally not useful in the absence of an illness, injury, or disability; and

2.12 (3) is provided to correct or accommodate a physiological disorder or physical
2.13 condition or is generally used primarily for a medical purpose.

2.14 (e) Electronic tablets may be considered durable medical equipment if the electronic
2.15 tablet will be used as an augmentative and alternative communication system as defined
2.16 under subdivision 31a, paragraph (a). To be covered by medical assistance, the device
2.17 must be locked in order to prevent use not related to communication.

2.18 Sec. 2. Minnesota Statutes 2014, section 256B.766, is amended to read:

2.19 **256B.766 REIMBURSEMENT FOR BASIC CARE SERVICES.**

2.20 (a) Effective for services provided on or after July 1, 2009, total payments for basic
2.21 care services, shall be reduced by three percent, except that for the period July 1, 2009,
2.22 through June 30, 2011, total payments shall be reduced by 4.5 percent for the medical
2.23 assistance and general assistance medical care programs, prior to third-party liability and
2.24 spenddown calculation. Effective July 1, 2010, the commissioner shall classify physical
2.25 therapy services, occupational therapy services, and speech-language pathology and
2.26 related services as basic care services. The reduction in this paragraph shall apply to
2.27 physical therapy services, occupational therapy services, and speech-language pathology
2.28 and related services provided on or after July 1, 2010.

2.29 (b) Payments made to managed care plans and county-based purchasing plans shall
2.30 be reduced for services provided on or after October 1, 2009, to reflect the reduction
2.31 effective July 1, 2009, and payments made to the plans shall be reduced effective October
2.32 1, 2010, to reflect the reduction effective July 1, 2010.

2.33 (c) Effective for services provided on or after September 1, 2011, through June 30,
2.34 2013, total payments for outpatient hospital facility fees shall be reduced by five percent
2.35 from the rates in effect on August 31, 2011.

3.1 (d) Effective for services provided on or after September 1, 2011, through June
3.2 30, 2013, total payments for ambulatory surgery centers facility fees, medical supplies
3.3 and durable medical equipment not subject to a volume purchase contract, prosthetics
3.4 and orthotics, renal dialysis services, laboratory services, public health nursing services,
3.5 physical therapy services, occupational therapy services, speech therapy services,
3.6 eyeglasses not subject to a volume purchase contract, hearing aids not subject to a volume
3.7 purchase contract, and anesthesia services shall be reduced by three percent from the
3.8 rates in effect on August 31, 2011.

3.9 (e) Effective for services provided on or after September 1, 2014, payments
3.10 for ambulatory surgery centers facility fees, hospice services, renal dialysis services,
3.11 laboratory services, public health nursing services, eyeglasses not subject to a volume
3.12 purchase contract, and hearing aids not subject to a volume purchase contract shall be
3.13 increased by three percent and payments for outpatient hospital facility fees shall be
3.14 increased by three percent. Payments made to managed care plans and county-based
3.15 purchasing plans shall not be adjusted to reflect payments under this paragraph.

3.16 (f) Payments for medical supplies and durable medical equipment not subject to a
3.17 volume purchase contract, and prosthetics and orthotics, provided on or after July 1, 2014,
3.18 through June 30, 2015, shall be decreased by .33 percent. Payments for medical supplies
3.19 and durable medical equipment not subject to a volume purchase contract, and prosthetics
3.20 and orthotics, provided on or after July 1, 2015, shall be increased by three percent from
3.21 the rates ~~in effect on June 30, 2014~~ as determined under paragraph (h).

3.22 (g) This section does not apply to physician and professional services, inpatient
3.23 hospital services, family planning services, mental health services, dental services,
3.24 prescription drugs, medical transportation, federally qualified health centers, rural health
3.25 centers, Indian health services, and Medicare cost-sharing.

3.26 (h) Effective July 1, 2015, the medical assistance payment rate for durable medical
3.27 equipment, prosthetics, orthotics, and medical supplies shall be restored to the January
3.28 1, 2008, medical assistance fee schedule, updated to include subsequent rate increases
3.29 in the Medicare and medical assistance fee schedules, and including individually priced
3.30 items for the following categories: enteral nutrition and supplies, customized and other
3.31 specialized tracheostomy tubes and supplies, electric patient lifts, and durable medical
3.32 equipment repair and service. This paragraph does not apply to medical supplies and
3.33 durable medical equipment subject to a volume purchase contract, products subject to the
3.34 preferred diabetic testing supply program, or items provided to dually eligible recipients
3.35 when Medicare is the primary payer for the item.

4.1 Sec. 3. Minnesota Statutes 2014, section 256B.767, is amended to read:

4.2 **256B.767 MEDICARE PAYMENT LIMIT.**

4.3 (a) Effective for services rendered on or after July 1, 2010, fee-for-service payment
4.4 rates for physician and professional services under section 256B.76, subdivision 1, and
4.5 basic care services subject to the rate reduction specified in section 256B.766, shall not
4.6 exceed the Medicare payment rate for the applicable service, as adjusted for any changes
4.7 in Medicare payment rates after July 1, 2010. The commissioner shall implement this
4.8 section after any other rate adjustment that is effective July 1, 2010, and shall reduce rates
4.9 under this section by first reducing or eliminating provider rate add-ons.

4.10 (b) This section does not apply to services provided by advanced practice certified
4.11 nurse midwives licensed under chapter 148 or traditional midwives licensed under chapter
4.12 147D. Notwithstanding this exemption, medical assistance fee-for-service payment rates
4.13 for advanced practice certified nurse midwives and licensed traditional midwives shall
4.14 equal and shall not exceed the medical assistance payment rate to physicians for the
4.15 applicable service.

4.16 (c) This section does not apply to mental health services or physician services billed
4.17 by a psychiatrist or an advanced practice registered nurse with a specialty in mental health.

4.18 ~~(d) Effective for durable medical equipment, prosthetics, orthotics, or supplies
4.19 provided on or after July 1, 2013, through June 30, 2015, the payment rate for items
4.20 that are subject to the rates established under Medicare's National Competitive Bidding
4.21 Program shall be equal to the rate that applies to the same item when not subject to the
4.22 rate established under Medicare's National Competitive Bidding Program. This paragraph
4.23 does not apply to mail-order diabetic supplies and does not apply to items provided to
4.24 dually eligible recipients when Medicare is the primary payer of the item.~~

4.25 (d) Effective July 1, 2015, this section shall not apply to durable medical equipment,
4.26 prosthetics, orthotics, or medical supplies.