

Sixtieth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2132

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota
2 Century Code, relating to responsibilities of third parties liable for payments on behalf of
3 medical assistance recipients.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 50-24.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Third-party liability recovery.**

8 1. For purposes of this section:

9 a. "Department" means the department of human services.

10 b. "Third party" means an individual, entity, or program that is or may be liable to
11 pay all or part of the expenditures for medical assistance furnished under this
12 chapter.

13 2. The department shall seek recovery of reimbursement from a third party up to the
14 full amount of medical assistance paid.

15 3. A medical assistance recipient shall inform the department of any rights the
16 recipient has to third-party benefits and shall inform the department of the name
17 and address of any individual, entity, or program that is or may be liable to provide
18 third-party benefits.

19 4. A release or satisfaction of a cause of action, suit, claim, counterclaim, demand,
20 judgment, settlement, or settlement agreement is not valid or effectual as against a
21 claim created under this chapter unless the department joins in the release or
22 satisfaction or executes a release of its claim.

23 5. The department shall recover the full amount of all medical assistance provided on
24 behalf of a recipient to the full extent of third-party benefits received by the

1 recipient or the department for medical expenses. The department shall recover
2 the third-party benefits directly from any third party or from the recipient or legal
3 representative, if the recipient or legal representative has received third-party
4 benefits, up to the amount of medical assistance provided to the recipient.

5 6. An applicant for or recipient of medical assistance shall cooperate in the recovery
6 of third-party benefits.

7 7. To enforce its rights to third party benefits, the department may institute, intervene
8 in, or join any legal or administrative proceeding in its own name.

9 a. If either the recipient or the department brings an action against a third party,
10 the recipient or the department must provide to the other within thirty days
11 after commencing the action written notice by personal delivery or registered
12 mail of the action, the name of the court in which the case is brought, the
13 case number of such action, and a copy of the pleadings. If either the
14 department or the recipient brings an action, the other may become a party to
15 or may consolidate an action brought independently with the other.

16 b. A judgment, award, or settlement of a claim in an action by a recipient to
17 recover damages for injuries or other third-party benefits in which the
18 department has an interest may not be satisfied or released without first
19 giving the department notice and a reasonable opportunity to file and satisfy
20 its claim or proceed with any action as otherwise permitted by law.

21 8. Any transfer or encumbrance of any right, title, or interest to which the department
22 has a right with the intent, likelihood, or practical effect of defeating, hindering, or
23 reducing recovery by the department for reimbursement of medical assistance
24 provided to a recipient is void and of no effect against the claim of the department.

25 9. A recipient who has notice or who has actual knowledge of the department's rights
26 to third-party benefits who receives any third-party benefit or proceeds for a
27 covered illness or injury is either required to pay the department within sixty days
28 after receipt of settlement proceeds the full amount of the third-party benefits up to
29 the total medical assistance provided or to place a sum equal to the full amount of
30 the total medical assistance provided in a trust account pending judicial or
31 administrative determination of the department's right to the third-party benefits.

- 1 10. Notwithstanding any provision in this section to the contrary, the department is not
2 required to seek reimbursement from, or may reduce or compromise a claim
3 against, a liable third party on claims for which the amount it reasonably expects to
4 recover will be less than the cost of recovery or for which recovery efforts will not
5 be cost-effective. Cost-effectiveness is determined based on the following:
6 a. Actual and legal issues of liability as may exist between the recipient and the
7 liable party;
8 b. Total funds available for settlement; and
9 c. An estimate of the cost to the department of pursuing its claim.