

June 2007

## **TITLE 50**

### **Public Welfare**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 50. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public welfare may be classified in these subject areas: Department of Human Services programs; child support enforcement; child abuse and neglect; child care facilities; long-term care and related facilities; and miscellaneous.

#### **DEPARTMENT OF HUMAN SERVICES PROGRAMS**

**House Bill No. 1351** provides that the Department of Human Services has a preferred claim on the death of any recipient of medical assistance if the recipient was a resident of a nursing facility, intermediate care facility for the mentally retarded, or other medical institution and the department had determined that the resident reasonably was not expected to be discharged from the medical institution and return home.

**House Bill No. 1422** extends the expiration date to July 31, 2009, for the portion of the prior authorization program that provides that the Department of Human Services may not prior authorize or otherwise restrict single-source or brand name antipsychotic, antidepressant, or other medications used to treat mental illnesses and drugs prescribed for the treatment of AIDS, HIV, or cancer.

**House Bill No. 1463** expands the eligibility for medical assistance for children to individuals from birth through age 18 and expands the income level for eligibility for the children's health insurance program to 150 percent of the poverty line.

**Senate Bill No. 2012** removes a cross-reference to NDCC Chapter 50-10, a chapter relating to aid to crippled children, which is repealed by the bill. The bill also provides that, with respect to guardianship services, the guardianship services base unit funding level must be at the same level as developmental disability corporate guardianship rates.

**Senate Bill No. 2069** relates to the eligibility for the children's health insurance program. The bill provides that the adjusted gross income of self-employed applicants must be based upon the previous year's federal income tax return; however, if that return has not been filed, the return for the year prior to that year may be used.

**Senate Bill No. 2071** provides that, for the purpose of medical assistance eligibility, annuities purchased on or after February 8, 2006, or the selection or alteration on or after February 8, 2006, of a payment option for an annuity purchased at any time, is a disqualifying transfer of an asset unless certain conditions are met including that the state is named as the remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the annuitant or the state is named in the second position after the community spouse or minor or disabled child.

**Senate Bill No. 2124** gives certain Medicare Part D payments made on behalf of a medical assistance recipient priority over the medical assistance recovery claim. In addition, the bill provides that any assets disregarded because of a long-term care insurance partnership program policy are protected from medical assistance estate recovery. The bill, with respect to assets subject to medical assistance estate recovery, creates a presumption that all assets in the estate of the spouse are assets in which the medical assistance recipient had an interest at the time of the recipient's death. Under the bill, the estate of the spouse could rebut the presumption with proof that the recipient did not have an interest in those

assets. The bill also repeals NDCC Sections 50-24.1-02.9 and 50-24.1-21, which relate to long-term care insurance and medical assistance waiver provisions that are inconsistent with federal law.

**Senate Bill No. 2131** requires health insurers, as a condition of doing business in this state, to provide to the Department of Human Services information about individuals who are eligible for medical assistance to enable the department to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage provided by the health insurer.

**Senate Bill No. 2132** authorizes the Department of Human Services, for purposes of medical assistance, to seek recovery of reimbursement from a third party up to the full amount of the medical assistance paid. The bill defines a third party as an individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished by the state.

**Senate Bill No. 2326** directs the Department of Human Services to establish and implement a buyin program under the federal Family Opportunity Act to provide medical assistance and other health coverage options to families of children with disabilities and whose net income does not exceed 200 percent of the federal poverty line.

### **CHILD SUPPORT ENFORCEMENT**

**Senate Bill No. 2129** relates to child support enforcement issues. The bill provides that any record of a child support obligation that is currently being enforced in another jurisdiction and not by a child support agency, or which is owed by an obligor who is deceased, may be removed indefinitely from the statewide automated data processing system until a request is received from a party to the child support case to restore those records. The bill also requires an insurer to exchange health insurance information with the Department of Human Services for the purpose of establishing or enforcing a medical support obligation.

**Senate Bill No. 2205** provides that the state agency, which is defined as the Department of Human Services, is authorized to employ attorneys to carry out its duties in administering the child support enforcement and medical support enforcement programs. The bill provides that any attorney who represents the state agency must be a special assistant attorney general appointed by the Attorney General. The bill also authorizes the state agency, in administering the child support enforcement and medical support enforcement programs, to contract with any public or private agency or person to discharge the state agency's duties and must maintain an office in each of the eight planning regions of the state.

### **CHILD ABUSE AND NEGLECT**

**Senate Bill No. 2100** adds juvenile court personnel, probation officers, and Division of Juvenile Services employees to the list of individuals who are required to report actual or suspected child abuse or neglect. The bill also adds school counselors and Division of Juvenile Services employees to the individuals required to disclose records of that entity upon the request of a coroner or the presiding officer of a child fatality review panel. The bill requires regional human service centers, when requested, to disclose to the Department of Human Services the records of a patient or client which are relevant to an assessment of reported child abuse or neglect.

### **CHILD CARE FACILITIES**

**Senate Bill No. 2186** directs the Department of Human Services to establish a program of transition assistance to pay a portion of the cost of child care for families that lose eligibility, and remain ineligible, for benefits due to earnings from employment. The bill also authorizes the department to establish a statewide system to build systematic early childhood workforce voluntary training that may include distance-learning formats, a professional registry, certificates, and specializations.

## **LONG-TERM CARE AND RELATED FACILITIES**

**Senate Bill No. 2066** removes the expiration date on the moratorium on the expansion of residential child care facility or group home bed capacity.

**Senate Bill No. 2068** limits the establishment of a geropsychiatric unit within a nursing home. The bill provides that only two nursing homes within the state may have a unit that exclusively provides geropsychiatric services and no more than one geropsychiatric unit may be located in any one nursing home. The bill also contains conditions that must be met before a patient may be admitted to a geropsychiatric unit.

**Senate Bill No. 2070** directs the Department of Human Services to seek federal funds for the planning and implementation of an aging and disability resource center for the state.

**Senate Bill No. 2133** directs the Department of Human Services to provide an attendant care program to permit health maintenance services to be provided by nonlicensed care providers. The bill provides that health maintenance services means care that enables an individual to live at home and which is based upon the determination of a physician who concludes that the individual is medically stable and is competent to direct the care provided by a nonlicensed care provider.

**Senate Bill No. 2167** relates to the licensure requirements of assisted living facilities. The bill provides that if there is a change in ownership of an assisted living facility that possessed a valid license issued before August 1, 2005, the Department of Human Services is directed to allow a continuance of the exception to the licensure requirements for the new owner. The bill provides that the continuance applies only to the first change in ownership after July 31, 2005, and does not apply to any subsequent change in ownership.

## **MISCELLANEOUS**

**House Bill No. 1390** requires the Department of Human Services to provide liability coverage for acts or omissions of foster children placed in the care of foster families.

**Senate Bill No. 2134** repeals NDCC Section 50-06-27, which provided for a prescription drug monitoring program. The program is being replaced by a prescription drug monitoring program, the summary for which is contained in the summary for Title 19.

**Senate Bill No. 2136** directs the executive director of the Department of Human Services and the director of the Department of Corrections and Rehabilitation to enter an interagency agreement that must provide that the Department of Corrections and Rehabilitation is required to train, consult, and assist the Department of Human Services with the provision and enforcement of safety and security procedures at state-owned facilities for all individuals placed at those facilities for evaluation or civil commitment and treatment. The interagency agreement must provide that the executive director of the Department of Human Services is to continue to be responsible for the custody and care of the individuals placed at those facilities for evaluation or civil commitment.

**Senate Bill No. 2260** relates to criminal history background checks. The bill requires criminal history background checks for individuals providing foster care for children. The bill also requires criminal history background checks for individuals who are appointed as legal guardians under NDCC Chapter 27-20 and for any adult who is living in a prospective adoptive parent's home.

**Senate Bill No. 2312** removes the expiration date on the alternatives-to-abortion services program. The bill also directs the Department of Human Services to disburse funds available through Title IV-A of the Social Security Act to nongovernmental entities that provide alternatives-to-abortion services and expend funds to inform the public about this program.

**Senate Bill No. 2359** changes the name of the "maternity home for unmarried mothers" to the "maternity home." The bill also provides that any person that operates a maternity home is required to secure a license from the Department of Human Services at least once every two years rather than annually.