

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2306

Introduced by

Senators Nething, Fiebiger, Olafson

Representatives DeKrey, Delmore, Klemin

1 A BILL for an Act to create and enact sections 26.1-30-22 and 26.1-30-23 of the North Dakota
2 Century Code, relating to premium rate requirements and rate filing procedures for accident
3 and health insurance; and to amend and reenact sections 26.1-18.1-15, 26.1-30-19, and
4 26.1-30-21 of the North Dakota Century Code, relating to health maintenance organization rate
5 filings and insurance rate filing procedures.

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

7 **SECTION 1. AMENDMENT.** Section 26.1-18.1-15 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **26.1-18.1-15. Filing requirements for rating information.**

- 10 1. ~~No~~ A premium rate may not be used until ~~either~~ a schedule of premium rates or
11 methodology for determining premium rates has been filed with and approved by
12 the commissioner.
- 13 2. ~~Either a~~ A specific schedule of premium rates; or a methodology for determining
14 premium rates; must be established in accordance with actuarial principles for
15 various categories of enrollees, provided that the premium applicable to an
16 enrollee may not be individually determined based on the status of the enrollee's
17 health. ~~However, the premium rates may not be excessive, inadequate, or unfairly~~
18 ~~discriminatory.~~ A certification by a qualified actuary or other qualified person
19 acceptable to the commissioner as to the appropriateness of the use of the
20 methodology, based on reasonable assumptions, ~~shall~~ must accompany the filing
21 along with adequate supporting information.
- 22 3. The commissioner shall approve the schedule of premium rates or methodology
23 for determining premium rates if the requirements of subsection 2 and the
24 requirements of sections 26.1-30-22 and 26.1-30-23 are met. The procedures set

1 forth in sections ~~26.1-30-20~~ 26.1-30-22 and ~~26.1-30-24~~ 26.1-30-23 govern the
2 approval and disapproval of rating information required to be filed under this
3 section.

4 **SECTION 2. AMENDMENT.** Section 26.1-30-19 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **26.1-30-19. Policy forms to be filed with and approved by commissioner.**

- 7 1. ~~No~~ An insurance policy, contract, agreement, or rate schedule may not be issued
8 or delivered in this state until the form of that policy, contract, agreement, or rate
9 schedule has been filed with and approved by the commissioner.
- 10 2. ~~No~~ A life insurance policy, certificate, contract, or agreement or annuity contract
11 may not be issued for delivery or delivered to any person in this state nor may any
12 application, rider, or endorsement be used in connection therewith until the form
13 thereof has been filed with and approved by the commissioner and is in
14 compliance with chapters 26.1-33, 26.1-34, 26.1-35, and 26.1-37.
- 15 3. ~~No~~ An insurance policy, certificate, contract, or agreement or notice of proposed
16 insurance against loss or expense from the sickness, bodily injury, or death by
17 accident of the insured may not be issued for delivery or delivered to any person in
18 this state nor may any application, rider, or endorsement be used in connection
19 therewith until the form thereof and the classification of risks and the premium
20 rates, or in the case of cooperatives or assessment companies the estimated costs
21 pertaining thereto, have been filed with and approved by the commissioner. A
22 form must be disapproved if the benefits ~~provided are unreasonable in relation to~~
23 ~~the premium charge or if the benefits~~ do not comply with chapters 26.1-36 and
24 26.1-37. Sections 26.1-30-22 and 26.1-30-23 apply to rate filings required under
25 this subsection.
- 26 4. ~~No~~ A casualty or fire and property insurance policy, certificate, contract, or
27 agreement may not be issued for delivery or delivered to any person in this state
28 nor may any application, rider, or endorsement be used in connection therewith
29 until the form thereof has been filed and approved by the commissioner to the
30 extent rates are filed and approved pursuant to chapter 26.1-25.

1 **SECTION 3. AMENDMENT.** Section 26.1-30-21 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **26.1-30-21. Disapproval of form by commissioner - Notice and hearing.**

- 4 1. If Except as otherwise provided, if the commissioner disapproves any form, the
5 commissioner shall notify the company or organization ~~which~~ that filed the form
6 within sixty days after filing or within the additional period provided for in section
7 26.1-30-20 and provide written notice of disapproval of the form, specifying the
8 reasons for disapproval and stating that a hearing may be requested in writing
9 within forty-five days. ~~No~~ A company or organization may not issue any insurance
10 policy in the form ~~which~~ that has been disapproved. If a hearing is requested, the
11 commissioner may suspend or postpone the effective date of disapproval.
- 12 2. ~~The commissioner may~~ Except as otherwise provided, at any time after a hearing
13 of which not less than twenty days' written notice has been given to the insurer, the
14 commissioner may withdraw approval of any form if ~~it~~ the form contains a provision
15 ~~which~~ that is unjust, unfair, inequitable, misleading, or deceptive, or on any of the
16 grounds stated in this title. It is unlawful for the insurer to issue the form or use ~~it~~
17 the form in connection with any policy after the effective date of withdrawal of
18 approval. The notice of any hearing called under this subsection must specify the
19 matters to be considered at the hearing and any decision affirming disapproval or
20 directing withdrawal of approval under this section must be in writing and must
21 specify the reasons for the decision.

22 **SECTION 4.** Section 26.1-30-22 of the North Dakota Century Code is created and
23 enacted as follows:

24 **26.1-30-22. Accident and health insurance - Premium rate requirements.**

- 25 1. Premium rates associated with any insurance policy, certificate, contract, or
26 agreement or notice of proposed insurance against loss or expense from the
27 sickness, bodily injury, or death by accident of the insured may not be issued for
28 delivery or delivered to any person in this state nor may any application, rider, or
29 endorsement be used in connection with such a policy, certificate, contract,
30 agreement, or notice until the classification of risks and premium rates, or in the
31 case of cooperatives or assessment companies the estimated costs pertaining

thereto, have been filed with and approved by the commissioner as provided under section 26.1-30-23.

2. For purposes of this section, premium rates:

- a. Must cover reasonably anticipated claims;
- b. Must cover reasonable costs of operation and overhead expenses;
- c. Must be reasonable in relation to benefits provided;
- d. For an insurer subject to section 26.1-17-33.1, notwithstanding the prohibition of use of risk-based capital information for ratemaking as defined in section 26.1-03.1-08, must maintain a risk-based capital margin between six hundred percent and seven hundred fifty percent based on the risk-based capital instructions defined in chapter 26.1-03.1;
- e. May not be excessive;
- f. May not be inadequate, unless mutually agreed by the insurer and the commissioner; and
- g. May not be unfairly discriminatory.

3. Reliance on the risk-based capital instructions under chapter 26.1-03.1 for establishing reasonable premium rates does not waive the confidentiality protection and other restrictions.

4. Except as otherwise provided, as used in this section:

- a. "Excessive rates" means rates that are projected to not meet the minimum loss ratios specified in section 26.1-36-37.2.
- b. "Inadequate rate" means a rate that is projected to return benefits to group policyholders in the aggregate of more than ninety percent of premium received and to return benefits to individual policyholders in the aggregate of more than eighty-five percent of premium received.
- c. "Unfairly discriminatory rate" means a rate established in violation of subsection 7 of section 26.1-04-03.

SECTION 5. Section 26.1-30-23 of the North Dakota Century Code is created and enacted as follows:

26.1-30-23. Accident and health insurance - Procedure for use of premium rates filed with commissioner - Appeals.

- 1 1. Except as otherwise provided or except upon receipt of written approval by the
2 commissioner, a premium rate or a rate schedule required to be filed under this
3 section may not be issued, nor may any application, rider, or endorsement be used
4 in connection with such a rate or rate schedule, until the expiration of forty-five
5 days following the filing of the rate or rate schedule with the commissioner. The
6 commissioner may extend the forty-five-day period for an additional period, not to
7 exceed fifteen days, if the commissioner provides written notice to the insurer
8 within the initial forty-five-day period. The written notice must advise the insurer
9 that the additional time is necessary for the commissioner to consider the filing. If
10 the applicable time period for consideration of a premium rate filing by the
11 commissioner expires without a written response as required under subsection 2,
12 the filing is deemed approved until the next time the same rate filing for the
13 associated insurance policy, certificate, contract, agreement, or rate schedule, or
14 any associated application, rider, or endorsement, is submitted to the
15 commissioner for review.
- 16 2. The commissioner shall review the premium rate filing, including additional
17 information requested related to the rate filing, and shall provide a written response
18 that:
 - 19 a. Approves the premium rate schedule as filed;
 - 20 b. Disapproves the premium rate schedule as filed, and which includes the
21 specific actuarial basis and reasons for the denial, and which is accompanied
22 by the actuarial analysis used in making the determination by the
23 commissioner; or
 - 24 c. Disapproves the submitted premium rate schedule as filed and approves an
25 alternative rate schedule, and which includes the specific actuarial basis and
26 reasons for the alternate rate schedule, and which is accompanied by the
27 actuarial analysis used in making the determination by the commissioner.
- 28 3. If the commissioner disapproves the rate schedule or approves an alternative rate
29 schedule, as part of the written response the commissioner shall notify the insurer
30 that the insurer may request an administrative hearing by filing a written request
31 within fifteen days of the written response.

- 1 4. If the insurer requests a hearing under subsection 3, the commissioner shall
2 coordinate with the office of administrative hearings, in consultation with the
3 insurer, to schedule an administrative hearing that must be conducted by an
4 independent hearing officer within forty-five days of the hearing request. Upon a
5 determination of just cause, the hearing officer may extend the forty-five-day
6 deadline for no more than fifteen days.
- 7 5. The hearing officer shall issue a final decision within thirty days following
8 completion of the administrative hearing and any posthearing briefs. The insurer
9 and the commissioner have thirty days from the issuance of the final decision to
10 file an appeal with the district court.