

**SENATE BILL NO. 2153**

Introduced by

Senators J. Lee, Dever, Warner, Uglen

Representatives Weisz, Kilichowski

1 A BILL for an Act to create and enact a new section to chapter 25-17 of the North Dakota  
2 Century Code, relating to the state department of health's food program for individuals with  
3 metabolic diseases; and to amend and reenact sections 23-41-03, 25-17-03, and 26.1-36-09.7  
4 of the North Dakota Century Code, relating to the food program for individuals with metabolic  
5 diseases.

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

7 **SECTION 1. AMENDMENT.** Section 23-41-03 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **23-41-03. Duties of the department.**

10 The department, in administering this chapter, shall:

- 11 1. Cooperate with the federal government in the development of plans and policies for  
12 services for children with special health care needs.
- 13 2. Adopt rules and take any necessary action to entitle the state to receive aid from the  
14 federal government for services for children with special health care needs in  
15 conformity with title 5, part 2, of the federal Social Security Act and its amendments.
- 16 3. Take action, give directions, and adopt rules to carry out the provisions of this chapter,  
17 including the adoption and application of suitable standards and procedures to ensure  
18 uniform and equitable treatment of all applicants for services for children with special  
19 health care needs.
- 20 4. Cooperate with the federal government in matters of mutual concern pertaining to  
21 services to children with special health care needs, including the adoption of methods  
22 of administration found necessary by the federal government for the efficient operation  
23 of the plan for assistance.
- 24 5. Provide necessary qualified employees and representatives.

- 1       6.   Establish and enforce a merit system as may be required under the federal Social
- 2       Security Act, as amended through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620;
- 3       42 U.S.C. 701 et seq.].
- 4       7.   Make reports in the form and containing the information the federal government
- 5       requires and comply with the provisions, rules, and regulations the federal government
- 6       makes to assure the correctness and verification of a report.
- 7       8.   Publish a biennial report and any interim reports necessary.
- 8       9.   Provide medical food and low-protein modified food products ~~to individuals with~~
- 9       ~~phenylketonuria or maple syrup urine disease under chapter 25-17~~as provided under
- 10      section 3 of this Act.
- 11     10.   Establish eligibility criteria for services under this chapter at one hundred eighty-five
- 12      percent of the poverty line, except for criteria relating to Russell-Silver syndrome,
- 13      ~~phenylketonuria, or maple syrup urine disease~~ treatment services under section
- 14      23-41-07 and for metabolic disease treatment services under section 3 of this Act for
- 15      which income is not to be considered when determining eligibility. For purposes of this
- 16      chapter, "poverty line" has the same meaning as defined in section 50-29-01.

17       **SECTION 2. AMENDMENT.** Section 25-17-03 of the North Dakota Century Code is  
18   amended and reenacted as follows:

19       **25-17-03. ~~Treatment for positive diagnosis~~ -- Registry of cases.**

20   The state department of health shall:

- 21     1.   Follow up with attending physicians cases with positive tests for metabolic diseases in
- 22     order to determine the exact diagnosis.
- 23     2.   Refer every diagnosed case of a metabolic disease to a qualified health care provider
- 24     for necessary treatment of the metabolic disease.
- 25     3.   Maintain a registry of cases of metabolic diseases.
- 26     4.   ~~Provide medical food at no cost to males under age twenty-two and females under~~
- 27     ~~age forty-five who are diagnosed with phenylketonuria or maple syrup urine disease,~~
- 28     ~~regardless of income. If treatment services under this subsection are provided to an~~
- 29     ~~individual by the department, the department may seek reimbursement from any~~
- 30     ~~government program that provides coverage to that individual for the treatment~~
- 31     ~~services provided by the department.~~

5. ~~Offer for sale at cost medical food to females age forty-five and over and to males age twenty-two and over who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. These individuals are responsible for payment to the department for the cost of medical food.~~

6. ~~Provide low-protein modified food products, if medically necessary as determined by a qualified health care provider, to females under age forty-five and males under age twenty-two who are receiving medical assistance and are diagnosed with phenylketonuria or maple syrup urine disease.~~

**SECTION 3.** A new section to chapter 25-17 of the North Dakota Century Code is created and enacted as follows:

**Food product services for metabolic disease diagnosis.**

1. The state department of health shall administer a program to provide medical food and low-protein modified food products to an individual with a metabolic disease for which the department determines the provision of these food items will lead to a significant reduction in mortality, morbidity, and associated disabilities. The health council shall adopt rules specifying which metabolic diseases are covered under this subsection.

2. The program must:

- a. Provide medical food at no cost to a male under age twenty-two and a female under age forty-five who are diagnosed with a metabolic disease as provided under subsection 1, regardless of income. If treatment services under this subdivision are provided to an individual by the department, the department may seek reimbursement from any government program that provides coverage to that individual for the treatment services provided by the department.
- b. Offer for sale at cost medical food to a female aged forty-five and over and to a male aged twenty-two and over who are diagnosed with a metabolic disease as provided under subsection 1, regardless of income. These individuals are responsible for payment to the department for the cost of the medical food.
- c. Provide low-protein modified food products, if medically necessary as determined by a qualified health care provider, to a female under age forty-five and a male under age twenty-two who are receiving medical assistance and are diagnosed with a metabolic disease as provided under subsection 1.

1       **SECTION 4. AMENDMENT.** Section 26.1-36-09.7 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **26.1-36-09.7. Foods and food products for inherited metabolic diseases.**

4       1. As used in this section:

- 5           a. "Inherited metabolic disease" ~~means maple syrup urine disease or~~  
6           phenylketonuria has the same meaning as a metabolic disease covered under  
7           section 3 of this Act.
- 8           b. "Low-protein modified food product" means a food product that is specially  
9           formulated to have less than one gram of protein per serving and is intended to  
10          be used under the direction of a physician for the dietary treatment of an inherited  
11          metabolic disease. The term does not include a natural food that is naturally low  
12          in protein.
- 13          c. "Medical food" means a food that is intended for the dietary treatment of a  
14          disease or condition for which nutritional requirements are established by medical  
15          evaluation and is formulated to be consumed or administered under the direction  
16          of a physician.
- 17       2. An insurance company, nonprofit health service corporation, or health maintenance  
18       organization may not deliver, issue, execute, or renew any health insurance policy,  
19       health service contract, or evidence of coverage that provides prescription coverage  
20       on an individual, group, blanket, franchise, or association basis, unless the policy or  
21       contract provides, for any person covered under the policy or contract, coverage for  
22       medical foods and low-protein modified food products determined by a physician to be  
23       medically necessary for the therapeutic treatment of an inherited metabolic disease.
- 24       3. This section applies to any covered individual born after December 31, 1962. This  
25       section does not require coverage in excess of three thousand dollars per year total  
26       for low-protein modified food products or medical food for an individual with an  
27       inherited metabolic disease of amino acid or organic acid.
- 28       4. This section does not require medical benefits coverage for low-protein modified food  
29       products or medical food for an individual to the extent those benefits are available to  
30       that individual under a state department of health or department of human services  
31       program.

