

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1041

Introduced by

Legislative Management

(Health Care Reform Review Committee)

1 A BILL for an Act to amend and reenact section 50-24.1-37 of the North Dakota Century Code,
2 relating to pharmacy benefit management services for the medicaid expansion program; ~~and to~~
3 ~~provide for application.~~

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

5 **SECTION 1. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-24.1-37. (Effective January 1, 2014, through July 31, 2017) Medicaid expansion.**

8 1. The department of human services shall expand medical assistance coverage as
9 authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148],
10 as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L.
11 111-152] to individuals under sixty-five years of age with income below one hundred
12 thirty-eight percent of the federal poverty level, based on modified adjusted gross
13 income.

14 2. The department of human services shall inform new enrollees in the medical
15 assistance program that benefits may be reduced or eliminated if federal participation
16 decreases or is eliminated.

17 3. The department shall implement the expansion by bidding through private carriers or
18 utilizing the health insurance exchange.

19 ~~a. If the expansion is implemented through a private carrier:~~

20 ~~(1) The department shall issue one request for proposal for the health~~
21 ~~insurance component; and~~

22 ~~(2) The department shall issue one request for proposal for the pharmacy~~
23 ~~benefit management component or shall provide the pharmacy benefit~~
24 ~~management services through the department of human services.~~

- ~~b. If the pharmacy benefit management component is not provided through the department, the~~ The contract between the department and the ~~pharmacy benefit manager~~ private carrier must provide for:
- ~~(1) Pass-through pricing for the dispensing fee and the ingredient cost of each drug dispensed;~~
- ~~(2) Pass-through of each mandated rebate;~~
- ~~(3) Full transparency of all costs and all rebates; and~~
- ~~(4) An annual audit performed by an audit firm selected by the department, a confidentiality agreement under which the audit firm operates, and an agreement the department will receive all audit related information obtained by the audit firm.~~
- a. Provide a reimbursement methodology for all medications and dispensing fees which identifies minimum and maximum amounts paid to pharmacy methodology, at a minimum, must:
- (1) Be available on the department's website; and
- (2) Encompass all types of pharmacy providers regardless of whether the pharmacy benefits are being paid through the private carrier or contractor or subcontractor of the private carrier under this section.
- b. Provide full transparency of all costs and all rebates in aggregate.
- c. Allow an individual to obtain medication from a pharmacy that provides mail order service; however, the contract may not require only mail order.
- d. Ensure that pharmacy services obtained in jurisdictions other than this state and its three contiguous states are subject to prior authorization and reporting to the department for eligibility verification.
- e. Ensure the payments to pharmacy providers do not include a required payback amount to the private carrier or one of its contractors or subcontractors that is not representative of the amounts allowed under the reimbursement methodology provided in subdivision a.
- f. Any information provided to the department of human services or any audit firm by a pharmacy benefit manager under this section is confidential under section 44-04-17.1.

1 ~~— **SECTION 2. APPLICATION.** Under Section 1 of this Act, the department of human services~~
2 ~~shall revise the medicaid expansion contract for the contract effective January 1, 2016, or as~~
3 ~~soon as the medicaid expansion contract changes under Section 1 of this Act are approved by~~
4 ~~the federal government, whichever occurs later.~~