

Sixty-fourth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1039**

Introduced by

Legislative Management

(Health Care Reform Review Committee)

1 A BILL for an Act to amend and reenact sections 26.1-36-08 and 26.1-36-09 of the North  
2 Dakota Century Code, relating to health insurance coverage of substance abuse treatment; to  
3 repeal section 26.1-36-08.1 of the North Dakota Century Code, relating to alternative health  
4 insurance coverage of substance abuse treatment; and to provide for application.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-36-08 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **26.1-36-08. ~~Group health policy and health service contract substance~~Substance**  
9 **~~abuse coverage.~~**

- 10 1. An insurance company, nonprofit health service corporation, or health maintenance  
11 organization may not deliver, issue, execute, or renew any health insurance policy or  
12 health service contract on ~~an individual,~~ an individual, except for an individual guaranteed  
13 renewable policies issued before July 1, 1997, group, blanket, franchise, or  
14 association basis unless the policy or contract provides benefits, of the same type  
15 offered under the policy or contract for other illnesses, for health services to any  
16 individual covered under the policy or contract, for the diagnosis, evaluation, and  
17 treatment of alcoholism, drug addiction, or other related illness, which benefits meet or  
18 exceed the benefits provided in subsection 2.
- 19 2. The benefits must be provided for inpatient treatment, treatment by partial  
20 hospitalization, residential treatment, and outpatient treatment:
- 21 a. In the case of benefits provided for inpatient treatment, the ~~benefits must be~~  
22 ~~provided for a minimum of sixty days of services covered under this section and~~  
23 ~~section 26.1-36-09 in any calendar year. Services provided under this subdivision~~

1            services must be provided by an addiction treatment program licensed under  
2            chapter 50-31.

- 3            b. In the case of benefits provided for partial hospitalization, the benefits must be  
4            provided ~~for a minimum of one hundred twenty days of services covered under~~  
5            ~~this section and section 26.1-36-09 in any calendar year. Services provided~~  
6            ~~under this subdivision must be provided~~ by an addiction treatment program  
7            licensed under chapter 50-31. For services provided in regional human service  
8            centers, charges must be reasonably similar to the charges for care provided by  
9            hospitals as defined in this subsection.
- 10           c. ~~Benefits may also be provided for a combination of inpatient and partial~~  
11           ~~hospitalization treatment. For the purpose of computing the period for which~~  
12           ~~benefits are payable, each day of inpatient treatment is equivalent to two days of~~  
13           ~~treatment by partial hospitalization, provided that no more than forty-six days of~~  
14           ~~the inpatient treatment benefits required by this section may be traded for~~  
15           ~~treatment by partial hospitalization.~~ In the case of coverage for residential  
16           treatment, the benefits must be provided by an addiction treatment program  
17           licensed under chapter 50-31.
- 18           d. In the case of benefits provided for outpatient treatment, the ~~benefits must be~~  
19           ~~provided for a minimum of twenty visits for services covered under this section in~~  
20           ~~any calendar year, provided the diagnosis, evaluation, and treatment services~~  
21           ~~are~~ must be provided within the scope of licensure by a licensed physician; or a  
22           licensed psychologist ~~who is eligible for listing on the national register of health~~  
23           ~~service providers in psychology~~, or the treatment services are must be provided  
24           within the scope of licensure by a licensed addiction counselor. The insurance  
25           company, nonprofit health service corporation, or health maintenance  
26           organization may not establish a deductible or a copayment for the first five visits  
27           in any calendar year, and may not establish a copayment greater than twenty  
28           percent for the remaining visits. The deductible limitation of this subdivision does  
29           not apply to a high-deductible health plan used to establish a health savings  
30           account pursuant to and as defined in section 223 of the Internal Revenue Code  
31           [26 U.S.C. 223].

e. If the services are provided by a provider outside a preferred provider network without a referral from within the network, the insurance company, nonprofit health service corporation, or health maintenance organization may establish a copayment greater than twenty percent for only those visits after the first five visits in any calendar year.

f. As used in this section and ~~section 26.1-36-08.1~~, partial hospitalization means continuous treatment for at least three hours, but not more than twelve hours, in any twenty-four-hour period and includes the medically necessary treatment services provided by licensed professionals under the supervision of a licensed physician.

3. This section does not prevent any insurance company, nonprofit health service corporation, or health maintenance organization from issuing, delivering, or renewing, at its option, any policy or contract containing provisions similar to those required by this section, when the policy or contract is not subject to such provisions.

**SECTION 2. AMENDMENT.** Section 26.1-36-09 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-36-09. Group health policy and health service contract mental disorder coverage.**

1. An insurance company, nonprofit health service corporation, or health maintenance organization may not deliver, issue, execute, or renew any health insurance policy or health service contract on a group or blanket or franchise or association basis unless the policy or contract provides benefits, of the same type offered under the policy or contract for other illnesses, for health services to any person covered under the policy or contract, for the diagnosis, evaluation, and treatment of mental disorder and other related illness, which benefits meet or exceed the benefits provided in subsection 2.

2. a. The benefits must be provided for each of the following services: inpatient treatment, treatment by partial hospitalization, residential treatment, and outpatient treatment.

b. In the case of benefits provided for inpatient treatment, the benefits must be provided for a minimum of forty-five days of services covered under this section and ~~section 26.1-36-08~~ in any calendar year if provided by a hospital as defined

1 under section 52-01-01 and rules of the state department of health pursuant  
2 thereto offering treatment for the prevention or cure of mental disorder or other  
3 related illness. An insurance provider may require an individualized treatment  
4 plan from the inpatient treatment service provider which indicates that the course  
5 of treatment is the most appropriate and least restrictive form of treatment  
6 available in the community.

7 c. In the case of benefits provided for partial hospitalization, the benefits must be  
8 provided for a minimum of one hundred twenty days of services covered under  
9 this section ~~and section 26-1-36-08~~ in any calendar year. Partial hospitalization  
10 must be provided by a hospital as defined under section 52-01-01 and rules of  
11 the state department of health pursuant thereto or by a regional human service  
12 center licensed under section 50-06-05.2, offering treatment for the prevention or  
13 cure of mental disorder or other related illness. For services provided in regional  
14 human service centers, charges must be reasonably similar to the charges for  
15 care provided by hospitals as defined in this subsection.

16 d. In the case of benefits provided for residential treatment, the benefits must be  
17 provided for a minimum of one hundred twenty days of services covered under  
18 this section in any calendar year. Residential treatment services must be  
19 provided by a hospital as defined under section 52-01-01 and rules of the state  
20 department of health; by a regional human service center licensed under section  
21 50-06-05.2 offering treatment for the prevention or cure of mental disorder or  
22 other related illness; or by a residential treatment program. For services provided  
23 in a regional human service center, charges must be reasonably similar to the  
24 charges for care provided by a hospital as defined in this subsection.

25 e. Any individual receiving residential treatment services who requires residential  
26 treatment service beyond the minimum of one hundred twenty days may trade  
27 unused inpatient treatment benefits provided for under subdivision b. For the  
28 purpose of computing the period for which benefits are payable, each day of  
29 inpatient treatment is equivalent to two days of treatment by a residential  
30 treatment program; provided, however, that no more than twenty-three days of

the inpatient treatment benefits required by this section may be traded for residential treatment services.

- f. (1) In the case of benefits provided for outpatient treatment, the benefits must be provided for a minimum of thirty hours for services covered under this section in any calendar year if the treatment services are provided within the scope of licensure by a nurse who holds advanced licensure with a scope of practice within mental health or if the diagnosis, evaluation, and treatment services are provided within the scope of licensure by a licensed physician, a licensed psychologist who is eligible for listing on the national register of health service providers in psychology, a licensed professional clinical counselor who is qualified in the clinical mental health counseling specialty in this state, or a licensed independent clinical social worker.
- (2) A person who is qualified for third-party payment by the board of social work examiners on August 1, 1997, is exempt from paragraph 1.
- (3) Upon the request of an insurance company, a nonprofit health service corporation, or a health maintenance organization, the North Dakota board of social work examiners shall provide to the requesting entity information to certify that a licensed certified social worker meets the qualifications required under this section.
- (4) The insurance company, nonprofit health service corporation, or health maintenance organization may not establish a deductible or a copayment for the first five hours in any calendar year, and may not establish a copayment greater than twenty percent for the remaining hours. The deductible limitation of this paragraph does not apply to a high-deductible health plan used to establish a health savings account pursuant to and as defined in section 223 of the Internal Revenue Code [26 U.S.C. 223].
- (5) If the services are provided by a provider outside a preferred provider network without a referral from within the network, the insurance company, nonprofit health service corporation, or health maintenance organization may establish a copayment greater than twenty percent for only those hours after the first five hours in any calendar year.

1           g. "Partial hospitalization" means continuous treatment for at least three hours, but  
2           not more than twelve hours, in any twenty-four-hour period and includes the  
3           medically necessary treatment services provided by licensed professionals under  
4           the supervision of a licensed physician.

5           h. "Residential treatment" has the same meaning as provided in section 25-03.2-01,  
6           but only applies to individuals under twenty-one years of age.

7        3. This section does not prevent any insurance company, nonprofit health service  
8        corporation, or health maintenance organization from issuing, delivering, or renewing,  
9        at its option, any policy or contract containing provisions similar to those required by  
10       this section, when the policy or contract is not subject to such provisions.

11       **SECTION 3. REPEAL.** Section 26.1-36-08.1 of the North Dakota Century Code is repealed.

12       **SECTION 4. APPLICATION.** Section 1 of this Act applies to insurance policies issued or  
13       renewed after December 31, 2015.