

Sixty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1119**

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 50-06.2-10 and 50-24.7-02 of the North  
2 Dakota Century Code, relating to collection of overpayments for service payments for elderly  
3 and disabled program and expanded service payments for elderly and disabled program.

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

5 **SECTION 1. AMENDMENT.** Section 50-06.2-10 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **50-06.2-10. Service payments for elderly and disabled program eligibility.**

8 1. The state agency may not require an individual to apply for services under chapter  
9 50-24.1 as a condition of being eligible to apply for services under the service  
10 payments for elderly and disabled program:

11 a. If the individual's estimated monthly home and community-based services  
12 benefits, excluding the cost of case management, are between the income level  
13 established in section 50-24.1-02.6 and the lowest level of the fee schedule for  
14 services under this chapter; or

15 b. If the individual is receiving a service that is not available under chapter 50-24.1.  
16 2. The home and community-based services case manager shall notify the state agency  
17 upon use of an exception authorized under subsection 1.

18 3. An overpayment, whether resulting from an eligible individual's or ~~guardian of the~~  
19 eligible individual's legal representative's concealment, misrepresentation, or fraud, or  
20 from assistance granted pending a decision on an appeal adverse to the appellant,  
21 and whenever made, is subject to recovery by the state agency. An overpayment may  
22 be collected from any person that benefited from, or that was responsible for, the  
23 overpayment. A statute of limitations or similar statute or the doctrine of laches does  
24 not bar a claim under this chapter.

1       **SECTION 2. AMENDMENT.** Section 50-24.7-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **50-24.7-02. Powers and duties of the department.**

4       ~~The department shall:~~

5       1. ~~Administer~~The department shall administer expanded service payments for elderly  
6 and disabled and supervise and direct county agencies in the administration of  
7 expanded service payments for elderly and disabled.

8       2. ~~Pay~~The department shall pay qualified service providers at rates determined by the  
9 department, within limits of legislative appropriation, for the provision of the following  
10 services provided to eligible individuals:

- 11       a. Adult day care;  
12       b. Adult family foster care;  
13       c. Case management;  
14       d. Chore services;  
15       e. Family home care;  
16       f. Homemaker services;  
17       g. Nonmedical transportation;  
18       h. Respite care; and  
19       i. Other services the department determines to be essential and appropriate to  
20 sustain an individual in the individual's home and community and to delay or  
21 prevent institutional care.

22       3. ~~Take~~The department shall take actions, give directions, and adopt rules as necessary  
23 to carry out the provisions of this chapter.

24       4. An overpayment, whether resulting from an eligible beneficiary's or ~~guardian of the~~  
25 eligible beneficiary's ~~legal representative's~~ concealment, misrepresentation, or fraud,  
26 or from assistance granted pending a decision on an appeal adverse to the appellant,  
27 and whenever made, is subject to recovery by the department. An overpayment may  
28 be collected from any person that benefited from, or that was responsible for, the  
29 overpayment. A statute of limitations or similar statute or the doctrine of laches does  
30 not bar a claim under this chapter.