

Senate Human Services Committee
HB 1465
March 9, 2021

Good afternoon, I am Megan Houn, Director of Government Relations for Blue Cross Blue Shield of North Dakota (BCBSND). On behalf of Blue Cross Blue Shield of North Dakota and our over 350,000 members we respectfully oppose HB 1465.

As an initial concern identified in the amended version of HB 1465, before addressing the provider contracting and network aspects of this proposed legislation, BCBSND points out that the new amendment language introduces terms related to Medicaid into the bill. This amendment, which creates a new section in chapter 26.1-36, N.D.C.C., governing health insurance, states that a health insurer, “including the North Dakota Medicaid program” is governed by this new mandate. Currently, most, if not all, of the Medicaid statutes are set forth in chapter 50-24.1, N.D.C.C., as well as in chapter 75-02-02 of the North Dakota Administrative Code. The amendment includes terms such as “panel of providers”, “the geographic coverage area” and other terms of art under Medicaid that have no reciprocal meaning under the health insurance chapter. None of these terms are defined in HB 1465 but all of them appear to be terms of art under the laws that apply to Medicaid. BCBSND respectfully asks, doesn’t it make more sense to amend the Medicaid statutes than include this language under the health insurance statutes?

BCBSND is proud to offer broad access networks to our membership, allowing them ample choice in picking a provider that is right for them and their families. As the insurer with the longest standing Preferred Provider Organization (PPO) network in the state, we believe the key to successful partnerships is transparency. Making network changes can create abrasion for members and providers and our goal is to ensure providers understand our network offerings and requirements for consideration AND to provide members/employers with information about their network options.

As we strive to provide affordable health insurance to our consumers, it is important to have flexibility in network design to offer our members access to the most efficient and high-quality providers in the state. We believe it’s imperative to ensure we have the ability to partner with providers on specific narrow networks that provide beneficial discounts for our members. An example would be if Provider A approaches BCBSND with a proposal to build a narrow network that includes a substantial discount for members who choose a product design based on Provider A’s network of providers, we will build a network around that provider. These provider-based networks are mutually beneficial to all parties, allowing providers to market the value of their specialty network, enabling insurers the flexibility in network design to develop efficient and high-performance networks, and most importantly, providing services at a discounted rate for North Dakota consumers.

BCBSND has engaged in relationships with health care providers in North Dakota for over 50 years without the need for intervention by the legislature, and BCBSND currently enjoys an over 90-percent participation of in-state health care providers in its networks. These health care providers are sophisticated, multimillion-dollar professionals with trade associations, national business associations and large businesses that have been engaged in negotiating contracts with BCBSND for decades and this history affirms there is not any need for this legislation at this time. Similarly, the law in North Dakota already contains numerous provider protections under its current statutes that govern numerous

aspects of provider network arrangements in chapter 26.1-47, N.D.C.C., “Preferred Provider Networks”. And these arrangements and agreements are subject to review and approval by the North Dakota Department of Insurance. Section 26.1-47-02(4), N.D.C.C.

Similarly, there are already laws established in North Dakota guaranteeing participation of certain health care providers that are also included in HB 1465. Section 26.1-36-12.2, N.D.C.C., creates an any willing provider law for pharmacists (chapter 43-15, N.D.C.C.). There are also statutes in place guaranteeing reimbursement for certain health care providers, protecting BCBSND’s members in making their own choice of health care provider. See, Section 26.1-36-11, N.D.C.C., hospitals and medical doctors/doctors of osteopathy (chapter 43-17, N.D.C.C.); Section 26.1-36-12.1, N.D.C.C., medical doctors/doctors of osteopathy (chapter 43-17, N.D.C.C.) and chiropractors (chapter 43-06, N.D.C.C.), and Section 43-13-31, N.D.C.C. optometrists (chapter 43-13, N.D.C.C.). All of these statutes protect BCBSND member freedom of choice in selecting a health care provider and guaranteeing reimbursement for services covered by BCBSND. Leaving these health care providers in the listing of providers in the proposed amendment to HB 1465 is redundant and could lead to confusion in interpreting the current law. Adding an additional list of health care providers outside of those already identified will lead to confusion and limit the ability of all parties to freely contract with one another.

Our network- based products benefit consumers. Through a transparent arrangement, a member agrees to keep their care with a specific provider in exchange for a premium reduction. These products can help with coordination of care - making sure members can access out-of-network care when that care is medically necessary and not available within their chosen network. If members are seeking broad access without allegiance to a specific provider, they can choose one of our broad networks at a higher price.

At the very time where we need to be working together on solutions that lower health care costs, this bill will increase costs and premiums for North Dakotans. An actuarial study conducted by Deloitte on behalf of NDPERS indicated that the average network discounts agreed to by health systems is generally 30-40% for hospital care. Under the provisions of HB 1465, those discounts would be lost almost immediately, causing a significant increase in health insurance premiums for covered people in North Dakota. Due to the concerns raised above, BCBSND opposes 1465.

Respectfully submitted,
Megan Houn