

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1216
(Representatives Karls, Hagert, Kiefert, Wagner)
(Senators Boschee, Dever, Sorvaag)

AN ACT to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to out-of-pocket expenses for prescription drugs; to amend and reenact section 26.1-36.6-03 of the North Dakota Century Code, relating to self-insurance health care plans; to provide for application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Out-of-pocket expenses - Prescription drugs.

1. As used in this section:
 - a. "Cost-sharing" means any coinsurance, copayment, or deductible under a health benefit plan.
 - b. "Enrollee" means an individual entitled to prescription drug coverage under a health benefit plan.
 - c. "Health benefit plan" has the same meaning as provided under section 26.1-36.3-01.
 - d. "Prescription drug" means a drug for which a prescription is required:
 - (1) Without a generic equivalent; or
 - (2) With a generic equivalent, if the enrollee has obtained access to the drug through prior authorization, a step therapy protocol, or the health care insurer's expectations and appeals process.
2. To the extent permitted by federal law and regulation, an insurer may not deliver, issue, execute, or renew a health benefit plan providing prescription drug coverage unless when calculating an enrollee's overall contribution to any out-of-pocket maximum or any cost-sharing requirement for a prescription drug under the health benefit plan, the health benefit plan provides for the inclusion of any amount paid by the enrollee or paid on behalf of the enrollee by another person. The health benefit plan may not vary the out-of-pocket maximum or cost-sharing requirement, or otherwise design benefits accounting for the availability of a cost-sharing assistance program for a prescription drug.
3. If application of this section would result in ineligibility of a health benefit plan that is a qualified high-deductible health plan to qualify as a health savings account under section 223 of the Internal Revenue Code [26 U.S.C. 223], the requirements of this section do not apply with respect to the deductible of the health benefit plan until after the enrollee has satisfied the minimum deductible under section 26 U.S.C. 223.

SECTION 2. AMENDMENT. Section 26.1-36.6-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.6-03. Self-insurance health plans - Requirements. (Effective through July 31, 2025)

1. The following policy provisions apply to a self-insurance health plan or to the administrative services only or third-party administrator, and are subject to the jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10, 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38, 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.
2. The following health benefit provisions applicable to a group accident and health insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1, 26.1-36-07, 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2, 26.1-36-09.3, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9, 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14, 26.1-36-09.15, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22, 26.1-36-23.1, and 26.1-36-43. Section 54-52.1-04.18 applies to a self-insurance health plan and is subject to the jurisdiction of the commissioner.

Self-insurance health plans - Requirements. (Effective after July 31, 2025)

1. The following policy provisions apply to a self-insurance health plan or to the administrative services only or third-party administrator, and are subject to the jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05, 26.1-36-10, 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14, 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38, 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.
2. The following health benefit provisions applicable to a group accident and health insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1, 26.1-36-07, 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2, 26.1-36-09.3, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9, 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14, 26.1-36-09.15, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22, 26.1-36-23.1, and 26.1-36-43. Section 1 of this Act applies to a self-insurance health plan and is subject to the jurisdiction of the commissioner.

SECTION 3. APPLICATION. This Act applies effective January 1, 2026, to the public employees retirement system uniform group insurance program health insurance benefits coverage, regardless of the health insurance benefits coverage contract issuance or renewal date. This Act applies effective January 1, 2026, or upon the next renewal after January 1, 2026, to health benefit plans.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on January 1, 2026.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1216.

House Vote: Yeas 56 Nays 37 Absent 1

Senate Vote: Yeas 29 Nays 18 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State