

Sixty-third  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2066**

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 50-24.6-04 of the North Dakota Century Code,  
2 relating to prior authorization of antineoplastic agents.

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

4 **SECTION 1. AMENDMENT.** Section 50-24.6-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **50-24.6-04. Prior authorization program.**

7 1. The department shall develop and implement a prior authorization program that meets  
8 the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products  
9 when a medical assistance recipient's health care provider prescribes a drug that is  
10 identified as requiring prior authorization. Authorization must be granted for provision  
11 of the drug if:

- 12 a. The drug not requiring prior authorization has not been effective, or with  
13 reasonable certainty is not expected to be effective, in treating the recipient's  
14 condition;
- 15 b. The drug not requiring prior authorization causes or is reasonably expected to  
16 cause adverse or harmful reactions to the health of the recipient; or
- 17 c. The drug is prescribed for a medically accepted use supported by a compendium  
18 or by approved product labeling unless there is a therapeutically equivalent drug  
19 that is available without prior authorization.

20 2. For any drug placed on the prior authorization program, the department shall provide  
21 medical and clinical criteria, cost information, and utilization data to the drug use  
22 review board for review and consideration. The board may consider department data  
23 and information from other sources to make a decision about placement of the drug on  
24 prior authorization.

- 1           3. Except for quantity limits that may be no less than the pharmaceutical manufacturer's  
2           package insert, or brand name drugs with a generic equivalent drug for which the cost  
3           to the state postrebate is less than the brand name drugs, in the aggregate, the  
4           department may not prior authorize the following medication classes:
- 5           a. Antipsychotics;
  - 6           b. Antidepressants;
  - 7           c. Anticonvulsants;
  - 8           d. Antiretrovirals, for the treatment of human immunodeficiency virus; and
  - 9           e. ~~Antineoplastic agents, for the treatment of cancer; and~~
  - 10          f. Stimulant medication used for the treatment of attention deficit disorder and  
11           attention deficit hyperactivity disorder.
- 12          4. The department may prior authorize antineoplastic agents for the treatment of cancer  
13          to review the use of the agent to ensure it is being used as determined appropriate by  
14          the United States food and drug administration or a national standard and in  
15          accordance with section 1927 of the Social Security Act [42 U.S.C. 1396r-8] and  
16          title 42 of the Code of Federal Regulations. The department may not prefer one  
17          antineoplastic agent over another. If an antineoplastic agent prior authorization shows  
18          that the agent meets the definition of medically accepted indication under section 1927  
19          of the Social Security Act [42 U.S.C. 1396r-8] and title 42 of the Code of Federal  
20          Regulations, the department shall approve the agent.
- 21          5. The department may use contractors to collect and analyze the documentation  
22          required under this section and to facilitate the prior authorization program.
- 23          5.6. The department shall consult with the board in the course of adopting rules to  
24          implement the prior authorization program. The rules must:
- 25          a. Establish policies and procedures necessary to implement the prior authorization  
26             program.
  - 27          b. Develop a process that allows prescribers to furnish documentation required to  
28             obtain approval for a drug without interfering with patient care activities.
  - 29          c. Allow the board to establish panels of physicians and pharmacists which provide  
30             expert guidance and recommendations to the board in considering specific drugs  
31             or therapeutic classes of drugs to be included in the prior authorization program.