Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1475

Introduced by

Representatives Carlson, Belter, Kasper, Keiser, Onstad

Senators Klein, Schneider, Wardner

(Approved by the Delayed Bills Committee)

A BILL for an Act to create and enact sections 54-52.1-05.1 and 54-52.1-05.2 of the North Dakota Century Code, relating to the public employees retirement system uniform group insurance program health insurance benefits coverage policy and contract; to amend and reenact sections 54-52.1-04 and 54-52.1-05 of the North Dakota Century Code, relating to the uniform group insurance program health insurance benefits coverage policy and contract; to provide a statement of legislative intent; to provide for an exception; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-04 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-04. Board to contract for insurance.

1. The board shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for prescription drug coverage; and shall accept one or more bids of and contract with the carriers that in the judgment of the board best serves the interests of the state and its eligible employees. ~~Solicitations~~
2. Except as provided under section 54-52.1-04.2, a solicitation for health insurance benefits coverage must be made ~~not later than ninety days~~no less than six months before the expiration of ~~an~~the existing uniform group insurance health insurance benefits coverage contract and for all other contracts under this chapter must be made no less than ninety days before the expiration of the existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the board ~~that~~which will provide reasonable notice to prospective bidders. In preparing bid

proposals and evaluating bids, the board may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated.

3. In determining which bid, if any, will best serve the interests of eligible employees and the state, the board shall give adequate consideration to the following factors:

~~1.~~a. The economy to be effected.

~~2.~~b. The ease of administration.

~~3.~~c. The adequacy of the coverages.

~~4.~~d. The adequacy of the in-state and out-of-state network coverage.

e. The financial position of the carrier, with special emphasis as to its solvency.

~~5.~~f. The reputation of the carrier and any other information that is available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

4. The board may reject any or all bids and, in the event it does so, shall again solicit bids as provided in this section. ~~The~~If the board solicits bids under this subsection, it may be necessary for the board to expedite the bidding process. If the board expedites the bidding process under this subsection, the board shall notify the legislative management of the expedited process and shall keep the legislative management apprised of the status of the expedited process.

5. As provided under section 54-52.1-04.2, the board may establish a plan of self-insurance for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third-party administrator (TPA) contract.

SECTION 2. AMENDMENT. Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-05. Provisions of contract - Report to legislative management.

1. Each uniform group insurance contract entered ~~into~~ by the board must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the chairman of the board, and must include the following:

~~1.~~a. As many optional coverages as deemed feasible and advantageous by the board.

~~2.~~b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the board may deem necessary or desirable.

c. A provision that a determination by the board that the carrier ~~violated the terms~~breached a material term of the contract or violated a material provision of this chapter which has not been remedied within thirty-one days of the determination will result in either a termination of the contract ~~which is effective one hundred eighty days following that determination and that the termination is final and is not appealable~~or will result in a decrease of three percent of the monthly premium for each insured contract for each month the breach or violation continues; a provision that the board has discretion to determine which remedy under this provision will be pursued; and a provision that the board's determination under this provision is final and not appealable. The provisions under this subdivision are in addition to any other remedies that may be available in the case of breach of the contract or violation of the law.

2. a. A contract entered by the board under this section for health insurance benefits coverage must be entered no less than three months before the expiration of the existing contract. No less than sixty days before entering a contract under this subsection, the board shall make a written report to the legislative management notifying the legislative management of the status of the solicitation, bidding, and selection of a carrier, including receipt of any material the board may have received from a consultant to assist the board in evaluating the bids.

b. If any of the information provided by the board to the legislative management is a confidential record, the board shall inform the legislative management of the confidential nature of any such record.

c. If the legislative management discusses any of the confidential information received under this subsection, the discussion must be held in an executive session.

3. This section applies to all policies that become effective after June 30, 2015.

SECTION 3. Section 54-52.1-05.1 of the North Dakota Century Code is created and enacted as follows:

54-52.1-05.1. Provisions of health insurance benefits coverage.

1. The board contract for health insurance benefits coverage under this chapter must provide that for the duration of the term of that contract:
   a. The contract must require the carrier process in-house its claims under the contract for in-state medical and hospital benefits.
   b. The contract must provide:
      (1) ~~The~~That except as necessary for treatment, payment, and operations, the carrier may not share identifiable or unidentifiable insured or provider data or information with a related or unrelated health care delivery entity.
      (2) The carrier may not directly market to the insured ~~a~~an identified health care delivery entity or an identified health care provider. This paragraph limits a carrier's ability to market providers but does not limit a carrier's ability to market services.
   c. The contract and related policy must provide adequate in-state and out-of-state network coverage.
2. If the board enters a contract for health insurance benefits coverage under this chapter with a carrier that has common ownership with a health care delivery entity, ~~annually the insurance commissioner shall review~~for purposes of the carrier's negotiated provider discount rates ~~to ensure the rates~~with in-state providers:
   a. For a provider that is a critical access hospital that does not have common ownership with the carrier, the negotiated provider discount rates may not be less than the negotiated provider discount rates the carrier has with the related health care delivery entity ~~are no more favorable than negotiated rates the carrier has with other similarly situated providers~~that is a critical access hospital.
   b. For a provider that is not a critical access hospital and that does not have common ownership with the carrier, the negotiated provider discount rates may not be less than the negotiated provider discount rates the carrier has with the related health care delivery entity that is not a critical access hospital.
3. This section applies to all policies that become effective after June 30, 2015.

SECTION 4. Section 54-52.1-05.2 of the North Dakota Century Code is created and enacted as follows:

54-52.1-05.2. Health insurance benefits coverage - New carrier - Report to legislative management.

1. This section applies if the board enters a contract for health insurance benefits coverage under this chapter which results in a new carrier. For the duration of the term of that contract, the contract and related policy:

   a. Must provide for a seamless transition from the existing coverage to the new coverage.

   b. ~~May not disrupt existing nor impede future provider relationships with insureds.~~

   ~~c.~~ Must provide adequate in-state and out-of-state network coverage.

      (1) If the carrier's in-state network coverage has fewer providers than the previous carrier's in-state network, the difference in covered providers may not exceed five percent of the ~~state's~~previous carrier's in-state providers.

      (2) If the carrier's out-of-state network coverage has fewer providers than the previous carrier's out-of-state network, the difference in covered providers may not exceed ten percent of the previous carrier's out-of-state providers. If the carrier does not meet this threshold level of required providers, until the carrier meets that threshold, the insured's liability for out-of-network services may not exceed what the insured's liability would have been if the services had been provided in-network.

      (3) Adequate network coverage must include:

         (a) A billing process that allows an in-network and an out-of-network provider to submit claims directly to the carrier; and

         (b) An insured's ~~unobstructed access to and choice of~~right to select any in-network ~~providers~~provider of the insured's choice.

      (4) For purposes of this subdivision, the date of measurement of the previous carrier's network coverage is the date the board signs the contract with the new carrier.

   ~~d.~~c. May not result in the insured being financially liable due to balance billing if ~~in that instance~~ the insured ~~would not have been financially liable due to balance billing under the previous carrier~~received preauthorization.

~~e.~~d. May not ~~require~~limit an ~~insured~~insured's right to choose an ~~in-state~~in-network provider ~~or~~, regardless of whether the provider is in-state or out-of-state and may not require an insured receive a referral to see a specialist.

~~f.~~e. May not have a process for prior approval or preauthorization before benefits are available for services which is more restrictive than the previous policy or which covers more services than the previous policy.

~~g. May not have a process for preauthorization before services are provided which is more restrictive than the previous policy or which covers more services than the previous policy.~~

f. As part of a prior approval or preauthorization process, may not direct or redirect an insured to a specified provider or health care delivery entity.

2. Under this section, if a contract with a new carrier is renewed without soliciting bids, the contract and policy requirements under this section continue. If the contract is rebid, the contract and policy requirements under this section apply to the existing carrier and any new carrier unless before the solicitation, the board provides the legislative management a report on the proposed changes to the contract and related policy.

3. This section applies to all policies that become effective after June 30, 2015.

SECTION 5. UNIFORM GROUP INSURANCE PROGRAM HEALTH INSURANCE POLICY ELEMENTS - DELAY - LEGISLATIVE INTENT. ~~If~~For the uniform group insurance program health insurance policy beginning July 1, 2015, if the board determines compliance with this Act would result in an increase of more than ~~five percent~~$5,000,000 in the price of the accepted bid for the uniform group insurance program health insurance policy ~~as bid~~for the 2015-17 biennium, the pubic employee retirement system board shall initiate an expedited rebidding process for the contract and the carrier providing coverage at the time of that determination may continue under the existing contract until a new contract is finalized, but not to exceed nine months beyond the date the board made the determination.

SECTION 6. EMPLOYEE BENEFITS PROGRAMS COMMITTEE - EXCEPTION. This Act and any amendments to this Act are not subject to the requirements of section 54-35-02.4.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.