

HB 1139

67th Session North Dakota Legislature (2021)

Proposed Amendment submitted by the North Dakota Medical Association

Page 1, line 1, after “A BILL” replace the remainder of the bill with “for an Act to amend and reenact section 65-02-20 of the North Dakota Century Code, relating to the organization’s managed care program as follows:

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-02-20 of the North Dakota Century Code is amended and reenacted as follows:

65-02-20. Organization to establish managed care program.

The organization shall establish a managed care program, including utilization review and bill review, to effect the best medical solution for an injured employee in a cost-effective manner upon a finding by the organization that the employee suffered a compensable injury. The organization shall establish a comprehensive Formulary of any and all pharmaceutical agents used in the treatment of WSI claimants. The Formulary shall indicate which agents will be covered by WSI and which will not. Where appropriate, the Formulary may establish maximum daily dosage limits and durations of therapy for any agent. The Formulary may also establish a prior authorization procedure for any given agent before it is approved for coverage for a WSI claimant. A Formulary Committee consisting of pharmacists, physicians and other individuals shall be established to supervise the management of the formulary. The Committee shall design the Formulary to achieve economy in the organization’s pharmaceutical expenditures. It shall also be empowered to put in place protocols to minimize the potential misuse, abuse or diversion of agents being dispensed to WSI claimants. This shall include opioids, benzodiazepines and other agents with recognized potential for abuse. Day to day management of the Formulary will be through the organization’s chief pharmacist with appeals and prior authorizations subject to review and decision by the organization’s medical director. The organization shall be specifically empowered to deny approval of a pharmaceutical agent in favor of other pharmacologically similar agents or scientifically approved therapies. The program shall operate according to guidelines adopted by the organization and shall provide for medical management of claims within the bounds of workforce safety and insurance law. Information compiled and analysis performed pursuant to a managed care program which relate to patterns of treatment, cost, or outcomes by health care providers and allied health care professionals are confidential and are not open to public inspection to the extent the information and analysis identify a specific health care provider or allied health care professional, except to the specific health care provider, allied health care professional, organization employees, or persons rendering assistance to the organization in the administration of this title. If an employee, employer, or allied health care professional disputes a managed care decision, the employee, employer, or allied health care professional shall request binding dispute resolution on the decision. The organization shall make rules providing for the procedures for dispute resolution. Dispute resolution under this

section is not subject to chapter 28-32 or section 65-01-16. A dispute resolution decision under this section requested by an allied health care professional concerning payment for medical treatment already provided or a request for diagnostic tests or treatment is not reviewable by any court. A dispute resolution decision under this section requested by an employee is reviewable by a court only if medical treatment has been denied to the employee. A dispute resolution decision under this section requested by an employer is reviewable by a court only if medical treatment is awarded to the employee. The dispute resolution decision may be reversed only if the court finds an abuse of discretion in the dispute resolution process. Any person providing binding dispute resolution services under this section is exempt from civil liability relating to the binding dispute resolution process and decision.