

Introduced by

Representative Karls

1 A BILL for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota
2 Century Code, relating to out-of-pocket expenses for prescription drugs; and to amend and
3 reenact section 26.1-36.6-03 of the North Dakota Century Code, relating to self-insurance
4 health care plans.

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

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

8 **Out-of-pocket expenses - Prescription drugs.**

9 1. As used in this section:

- 10 a. "Cost-sharing" means any coinsurance, copayment, or deductible under a health
11 benefit plan.
- 12 b. "Enrollee" means an individual entitled to prescription drug coverage under a
13 health benefit plan.
- 14 c. "Health benefit plan" has the same meaning as provided under section
15 26.1-36.3-01.
- 16 d. "Prescription drug" means a drug for which a prescription is required:
17 (1) Without a generic equivalent; or
18 (2) With a generic equivalent and the enrollee has obtained access to the drug
19 through prior authorization, a step therapy protocol, or the health care
20 insurer's expectations and appeals process.
- 21 2. To the extent permitted by federal law and regulation, an insurer may not deliver,
22 issue, execute, or renew a health benefit plan providing prescription drug coverage
23 unless when calculating an enrollee's overall contribution to any out-of-pocket
24 maximum or any cost-sharing requirement for a prescription drug under the health

1 benefit plan, the health benefit plan provides for the inclusion of any amount paid by
2 the enrollee or paid on behalf of the enrollee by another person. The health benefit
3 plan may not vary the out-of-pocket maximum or cost-sharing requirement, or
4 otherwise design benefits in a manner that takes into account the availability of a
5 cost-sharing assistance program for a prescription drug.

6 3. If application of this section would result in ineligibility of a health benefit plan that is a
7 qualified high-deductible health plan to qualify as a health savings account under
8 section 223 of the Internal Revenue Code [26 U.S.C. 223], the requirements of this
9 section do not apply with respect to the deductible of the health benefit plan until after
10 the enrollee has satisfied the minimum deductible under section 26 U.S.C. 223.

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

13 **26.1-36.6-03. Self-insurance health plans - Requirements. (Effective through July 31,**
14 **2025)**

- 15 1. The following policy provisions apply to a self-insurance health plan or to the
16 administrative services only or third-party administrator, and are subject to the
17 jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05,
18 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,
19 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,
20 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.
- 21 2. The following health benefit provisions applicable to a group accident and health
22 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
23 subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1,
24 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,
25 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 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,
27 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,
28 26.1-36-23.1, and 26.1-36-43. Section 54-52.1-04.18 applies to a self-insurance health
29 plan and is subject to the jurisdiction of the commissioner.

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

- 2 1. The following policy provisions apply to a self-insurance health plan or to the
3 administrative services only or third-party administrator, and are subject to the
4 jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05,
5 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,
6 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,
7 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.
- 8 2. The following health benefit provisions applicable to a group accident and health
9 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
10 subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1,
11 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,
12 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,
13 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,
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,
15 26.1-36-23.1, and 26.1-36-43. Section 1 of this Act applies to a self-insurance health
16 plan and is subject to the jurisdiction of the commissioner.