

February 14, 2023

HOUSE HUMAN SERVICES COMMITTEE HB 1095

CHAIRMAN WEISZ AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing on behalf of America's Health Insurance Plans or, as it is commonly known, AHIP.

AHIP is opposed to HB 1095 in its current form, but has suggested amendments that have been submitted as testimony.

I urge you to consider these proposals. AHIP is fully prepared to work with the committee to see how these suggestions can be implemented.

Therefore, AHIP respectfully requests a DO NOT PASS on this bill as written but supports our proposed amendments. Thank you for your time and consideration. I'd be glad to answer any questions I can.

23.8073.01000

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1095

Introduced by

Representative Weisz

1 A BILL for an Act to create and enact chapter 26.1-36.11 of the North Dakota Century Code,
2 relating to the inclusion of comprehensive medication management services in health benefit
3 plans.

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

5 **SECTION 1.** Chapter 26.1-36.11 of the North Dakota Century Code is created and enacted
6 as follows:

7 **26.1 - 36.11 - 01. Definitions.**

8 **For the purposes of this chapter, unless the context otherwise requires:**

9 **1. a. "Comprehensive medication management" means the thorough evaluation of all**
medications prescribed to an eligible enrollee to optimize therapeutic outcomes medication
management

10 **pursuant to a standard of care that enables each eligible enrollee's**
medications, both

11 **prescription and nonprescription, are individually comprehensively assessed to**
determine each

12 **medication is appropriate for the enrollee, effective for the medical condition, and**

13 **safe, given the comorbidities and other medications being taken and able to be**

14 **taken by the enrollee as intended. Services provided in comprehensive**

15 **medication management are, as follows: Comprehensive medication programs**
established by plans to provide these services to eligible enrollees may include the following services:

16 **(1) Performing or obtaining necessary assessments of the enrollee's health**
17 **status;**

18 **(2) Formulating a medication treatment plan;**

19 **(3) Monitoring and evaluating the enrollee's response to therapy, including**
20 **safety and effectiveness;**

21 **(4) Performing a comprehensive medication review to identify, resolve, and**
22 **prevent medication-related problems, including adverse drug events;**

Commented [TK1]: This language mirror's Medicare's description on the MTM program.

AHIP recommends regulatory language in 42 CFR § 423.153, describing the Medicare Part D MTM program requirements to promote consistency with federal standards. The CMS webpage providing additional background around the program can be found [here](#)

Commented [TK2]: Health plans cannot "ensure" that a standard is met since it is always change and it is not set by any kind of central authority. Health plans determine what is covered but not what is prescribed.

Commented [TK3]: Health plans do not have insight into a patient's use of over the counter medications unless the patient provides that information during a consultation. Over the counter medications are not typically covered by either the pharmacy or medical benefits. It is an unworkable requirement for the health plans to be made responsible for managing medications that are not covered by the plan.

Table-Of-Contents

1. Introduction 1

2. Objectives 2

3. Methodology 3

4. Results and Discussion 4

5. Conclusion 5

6. References 6

7. Appendix 7

8. Bibliography 8

9. Glossary 9

10. Index 10

11. Acknowledgements 11

12. Declaration 12

13. Certificate 13

14. Appendix 14

15. Bibliography 15

16. Glossary 16

17. Index 17

18. Acknowledgements 18

19. Declaration 19

20. Certificate 20

21. Appendix 21

22. Bibliography 22

23. Glossary 23

24. Index 24

25. Acknowledgements 25

26. Declaration 26

27. Certificate 27

28. Appendix 28

29. Bibliography 29

30. Glossary 30

31. Index 31

32. Acknowledgements 32

33. Declaration 33

34. Certificate 34

35. Appendix 35

36. Bibliography 36

37. Glossary 37

38. Index 38

39. Acknowledgements 39

40. Declaration 40

41. Certificate 41

42. Appendix 42

43. Bibliography 43

44. Glossary 44

45. Index 45

46. Acknowledgements 46

47. Declaration 47

48. Certificate 48

49. Appendix 49

50. Bibliography 50

51. Glossary 51

52. Index 52

53. Acknowledgements 53

54. Declaration 54

55. Certificate 55

56. Appendix 56

57. Bibliography 57

58. Glossary 58

59. Index 59

60. Acknowledgements 60

61. Declaration 61

62. Certificate 62

63. Appendix 63

64. Bibliography 64

65. Glossary 65

66. Index 66

67. Acknowledgements 67

68. Declaration 68

69. Certificate 69

70. Appendix 70

71. Bibliography 71

72. Glossary 72

73. Index 73

74. Acknowledgements 74

75. Declaration 75

76. Certificate 76

77. Appendix 77

78. Bibliography 78

79. Glossary 79

80. Index 80

81. Acknowledgements 81

82. Declaration 82

83. Certificate 83

84. Appendix 84

85. Bibliography 85

86. Glossary 86

87. Index 87

88. Acknowledgements 88

89. Declaration 89

90. Certificate 90

91. Appendix 91

92. Bibliography 92

93. Glossary 93

94. Index 94

95. Acknowledgements 95

96. Declaration 96

97. Certificate 97

98. Appendix 98

99. Bibliography 99

100. Glossary 100

101. Index 101

102. Acknowledgements 102

103. Declaration 103

104. Certificate 104

105. Appendix 105

106. Bibliography 106

107. Glossary 107

108. Index 108

109. Acknowledgements 109

110. Declaration 110

111. Certificate 111

112. Appendix 112

113. Bibliography 113

114. Glossary 114

115. Index 115

116. Acknowledgements 116

117. Declaration 117

118. Certificate 118

119. Appendix 119

120. Bibliography 120

121. Glossary 121

122. Index 122

123. Acknowledgements 123

124. Declaration 124

125. Certificate 125

126. Appendix 126

127. Bibliography 127

128. Glossary 128

129. Index 129

130. Acknowledgements 130

131. Declaration 131

132. Certificate 132

133. Appendix 133

134. Bibliography 134

135. Glossary 135

136. Index 136

137. Acknowledgements 137

138. Declaration 138

139. Certificate 139

140. Appendix 140

141. Bibliography 141

142. Glossary 142

143. Index 143

144. Acknowledgements 144

145. Declaration 145

146. Certificate 146

147. Appendix 147

148. Bibliography 148

149. Glossary 149

150. Index 150

- 1 (5) Providing verbal or written, or both, counseling, education, and training
2 designed to enhance enrollee understanding and appropriate use of the
3 enrollee's medications;
4 (6) Providing information, support services, and resources designed to enhance
5 enrollee adherence with the enrollee's therapeutic regimens;
6 (7) Coordinating and integrating medication therapy management services
7 within the broader health care management services being provided to the
8 enrollee;
9 (8) Initiating or modifying drug therapy under a collaborative agreement with a
10 practitioner in accordance with section 43 - 15 - 31.4 ;
11 (9) Prescribing medications pursuant to protocols approved by the state board
12 of pharmacy in accordance with subsection 24 of section 43 - 15 - 10 ;
13 (10) Administering medications in accordance with requirements in section
14 43 - 15 - 31.5; and
15 (11) Ordering, performing, and interpreting laboratory tests authorized by section
16 43 - 15 - 25.3 and North Dakota administrative code section 61 - 04 - 10 - 06 .
17 b. This subsection may not be construed to expand or modify pharmacist scope of
18 practice.
19 2. "Enrollee" means an individual covered under a health benefit plan.
20 3. "Health benefit plan" has the same meaning as provided in section 26.1 - 36.3 - 01,
21 whether offered on a group or individual basis.
22 4. "Health carrier" or "carrier" has the same meaning as provided in section 26.1 - 36.3 - 01 .
23 5. "Rural service area" means a five-digit zip code in which the population density is less
24 than four hundred individuals per square mile [2.59 square kilometers].
25 6. "Suburban service area" means a five-digit zip code in which the population density is
26 between four hundred and one thousand individuals per square mile [2.59 square
27 kilometers].
28 7. "Urban service area" means a five-digit zip code in which the population density is
29 greater than one thousand individuals per square mile [2.59 square kilometers].

1 **26.1 - 36.11 - 02. Required coverage for comprehensive medication management**

2 **services.**

3 **1. A health carrier shall provide coverage for licensed pharmacists to provide**

4 **comprehensive medication management to eligible enrollees who elect to participate in**
5 **such programs.**

6 **2. At least annually, and upon the request of the enrollee, the health carrier shall provide,**
7 **in print, or electronically under the**

8 **provisions of section 26.1 — 02 — 32, notice of an enrollee's eligibility to receive**
9 **comprehensive medication management services from a pharmacist, delivered to the**
10 **eligible enrollee and the enrollee's designated primary care provider if applicable, if at**
11 **least one of**

12 **the following criteria are met:**

13 **a. The enrollee is taking five or more chronic medications;**

14 **b. The enrollee had three or more hospital admissions in the preceding year;**

15 **c. The enrollee was admitted to a hospital with one of the following diagnoses:**

16 **(1) Congestive heart failure;**

17 **(2) Pneumonia;**

18 **(3) Myocardial infarction;**

19 **(4) Mood disorder; or**

20 **(5) Chronic obstructive pulmonary disorder;**

21 **d. The enrollee has active diagnosis of comorbid diabetes and:**

22 **(1) Hypertension; or**

23 **(2) Hyperlipemia; and**

24 **e. Additional criteria identified by the commissioner and adopted by rule.**

25 **3. Comprehensive medication management services may be provided via telehealth as**

26 **defined in section 26.1 — 36 — 09.15 and may be delivered into an enrollee's residence .**

27 **4. The health carrier shall include an adequate number of may contract with eligible**
28 **pharmacists, pharmacies, or qualified clinicians pharmacists in the carrier's**

29 **network of participating medical pharmacy or medical providers.**

30 **a. The participation of pharmacists and pharmacies in the health carrier network's drug**
31 **benefit does**

32 **not satisfy the requirement that health benefit plans include pharmacists in the**

33 **health benefit plan's networks of participating medical pharmacy providers;**

34 **b. For health benefit plans issued or renewed after on or after January 1,**

35 **2025 December 31, 2023 2024, health**

Commented [TK4]: Eligible enrollees should affirmatively agree to this, it should not be forced on them. Nationally, plans have encountered significant enrollee abrasion to auto-enrollment in such programs. Participation is strictly voluntary in Medicare.

Commented [TK5]: Request aligning this with the Plan Year

30

carriers that delegate credentialing agreements to contracted health care facilities

31

shall accept credentialing for pharmacies pharmacists-employed or contracted by

those

Page No. 3

23.8073.01000

	1
	2
	3
	4
	5
	6
	7
	8
	9
	10
	11
	12
	13
	14
	15
	16
	17
	18
	19
	20
	21
	22
	23
	24
	25
	26
	27
	28
	29
	30
	31
	32
	33
	34
	35
	36
	37
	38
	39
	40
	41
	42
	43
	44
	45
	46
	47
	48
	49
	50
	51
	52
	53
	54
	55
	56
	57
	58
	59
	60
	61
	62
	63
	64
	65
	66
	67
	68
	69
	70
	71
	72
	73
	74
	75
	76
	77
	78
	79
	80
	81
	82
	83
	84
	85
	86
	87
	88
	89
	90
	91
	92
	93
	94
	95
	96
	97
	98
	99
	100

Sixty-eighth
Legislative Assembly

1 facilities. Health carriers shall reimburse facilities for covered services provided
2 by eligible network pharmacists pharmacies within the pharmacists' scope of
3 practice per

4 negotiations with the facility;

5 e. The health carrier shall comply with the following comprehensive medication
6 management network access standards:

7 (1) At least ninety percent of enrollee's residing in each urban service area live
8 within ten miles [16.09 kilometers] of a pharmacy or clinic affiliated with a
9 pharmacist that is a participating provider in the health benefit plan's
10 medical provider network;

11 (2) At least ninety percent of enrollee's residing in each suburban service area
12 live within twenty miles [32.19 kilometers] of a pharmacy or clinic affiliated
13 with a pharmacist that is a participating provider in the health benefit plan's
14 medical provider network; and

15 (3) At least seventy percent of enrollee's residing in each rural service area live
16 within thirty miles [48.28 kilometers] of a pharmacy or clinic affiliated with a
17 pharmacist that is a participating provider in the health benefit plan's
18 medical provider network;

19 5. The health carrier shall post electronically a current and accurate directory of
20 pharmacists who are participating medical providers and eligible to provide
21 comprehensive medication management;

22 a. In making the directory available electronically, the health carrier shall ensure the
23 general public is able to view all of the current providers for a plan through a
24 clearly identifiable link or tab and without creating or accessing an account or
25 entering a policy or contract;

26 b. The health carrier shall update the provider directory at least monthly;

27 cb. The health carrier shall audit quarterly at least twenty five percent of provider
28 directory entries for accuracy and retain documentation of the audit to be made
29 available to the commissioner upon request;

30 dc. The health carrier shall ensure the one hundred percent of provider directory
31 entries are audited annually for accuracy and retain documentation of the audit to
32 be made available to the commissioner upon request;

Sixty eighth

Legislative Assembly

- 1 ~~ed. The health carrier shall provide a print copy of current electronic directory~~
2 ~~information upon request of an enrollee or a prospective enrollee;~~
3 ~~fe. The electronically posted directory must include search functionality that enables~~
4 ~~electronic searches by each of the following:~~
5 ~~(1) Name;~~
6 ~~(2) Gender;~~
7 ~~(3) Participating location;~~
8 ~~(4) Participating facility affiliations, if applicable;~~
9 ~~(5) Languages spoken other than English, if applicable; and~~
10 ~~(6) Whether accepting new enrollees.~~
11 ~~6. The requirements of this section apply to all health benefit plans issued or renewed~~
12 ~~after December 31, 20232024.~~

1 **NEW SECTION: Pharmacy Participation and Certification**

- 1 ~~A pharmacy participating in delivering comprehensive medication management services shall~~
2 ~~have a valid and up to date pharmacy license in this state and shall be certified in~~
3 ~~medication therapy management by a nationally-recognized credentialling~~
4 ~~organizations.~~
- 13 **26.1 — 36.11 — 03. Comprehensive medication management advisory committee .**
- 14 **1. The commissioner shall establish and facilitate an advisory committee to implement**
15 **the provisions of this chapter. The advisory committee shall develop best practice**
16 **recommendations on standards to ensure pharmacies or appropriate clinicians**
17 **pharmacists are adequately included and**
18 **appropriately utilized in participating provider networks of health benefit plans without**
19 **raising costs to consumers. In**
20 **developing these standards, the committee also shall discuss topics as they relate to**
21 **implementation, including program quality measures, pharmacist training and**
22 **credentialing, provider directories, care**
23 **coordination, and health benefit plan data reporting requirements, and potential cost**
24 **savings and cost increases to consumers.**
- 21 **2. The commissioner or the commissioner's designee shall create an advisory committee**
22 **including representatives of the following stakeholders:**
23 **a. The commissioner or designee;**
24 **b. The state health officer or designee;**
25 **c. An organization representing pharmacists;**
26 **d. An organization representing physicians;**

Commented [TK6]: AHIP supports identifying clinicians/pharmacies that provide medication optimization in a carrier's provider directory so members can access this information. We suggest this requirement be accomplished through rulemaking or recommendations from the advisory council rather than in statute. Rulemaking would provide flexibility for carriers to implement new federal requirements on directories, as well as provide the DOI with flexibility to update requirements in the future.

Health plans would appreciate having the flexibility to tailor their directories to their enrollees.

- 27 e. An organization representing hospitals;
- 28 ~~f. A community pharmacy with pharmacists providing medical services;~~
- 29 g. The two largest health carriers in the state based upon enrollment;
- 30 h. The North Dakota state university school of pharmacy;
- 31 i. An employer as a health benefit plan sponsor;

j. An enrollee; and

k. Other representatives appointed by the insurance commissioner.

3 3. No later than ~~December 1, 2023~~ June 30, 2024, the advisory committee shall present
 initial best

4 practice recommendations to the Legislature, insurance commissioner and the
~~department of~~
 5 health and human services. The commissioner or department of health and human
 6 services may adopt rules to implement the standards developed by the advisory
 7 committee. The advisory committee shall remain intact to assist the insurance
 8 commissioner or department of health and human services in rulemaking.

Commented [TK7]: Recommendation should be subjective to legislative review. If recommendations are to remain subject to rulemaking, we recommend additional guardrails to ensure recommendations do not exceed the scope of the legislation or increase costs.

9 26.1 - 36.11 - 04. Rulemaking authority .

10 The commissioner may adopt reasonable rules for the implementation and administration of