

**House Bill 1396**  
**House Human Services Committee**  
**January 31, 2023 9:00am CST**  
**Testimony of Rep. Gretchen Dobervich**

Good Morning Mr. Chairman and Members of the House Human Services Committee. For the record my name is Representative Gretchen Dobervich, I work for the people of District 11 in south central Fargo.

House Bill 1396 seeks to provide Medicaid Presumptive Eligibility for North Dakotans seeking health care whose income and resources are not enough to cover the costs of necessary medical care and services. Presumptive Eligibility provides patients with immediate access to health care with guaranteed payment to providers.

Presumptive Eligibility was established by the federal government in the 1980's to guarantee early access to prenatal care for low-income women while they were in the process of obtaining Medicaid coverage. Since 2014 hospitals in the US have had the ability to make presumptive eligibility determinations for all people eligible for Medicaid based on modified adjusted gross income. Currently 31 states offer Medicaid Presumptive Eligibility to priority populations including children and pregnant women, eight of those states offer it to all eligible citizens. Those states are Idaho, Indiana, Iowa, Montana, New Hampshire, New Jersey, Ohio, and West Virginia.

To establish if a patient qualifies for Presumptive Eligibility when a patient presents at the health care provider they complete a Medicaid Presumptive Eligibility application with the assistance of a staff person of the provider who is trained in conducting Presumptive Eligibility determinations and the Medicaid application process. A sample application is provided in my online testimony. The medical provider is responsible for the cost of having a trained staff member, training costs, and any other costs associated with application and determination of Presumptive Eligibility.

If the patient meets the Presumptive Eligibility criteria they are provided a written notice of eligibility that must include the date the eligibility begins and ends and a summary of the Medicaid benefits they are eligible for. This is typically the same date as the Presumptive Eligibility application is made. The medical provider staff then connects the patient to a Medicaid eligibility employee at the Human Service Zone the patient lives in to complete a full application for Medicaid.

If Presumptive Eligibility is denied the medical provider must provide written reason for the denial and provide the patient with information regarding how and where to apply for full Medicaid the same day the Presumptive Eligibility application is made and denied.

If the patient qualifies for Presumptive Eligibility and submits a full application for Medicaid and is approved, Presumptive Eligibility ends the day the State determines Medicaid approval and Medicaid becomes the primary payor source for the patient's care. If the patient does not apply for Medicaid prior to the end of the Presumptive Eligibility period their coverage for care ends the day the Presumptive Eligibility period ends.

To qualify for Presumptive Eligibility the patient must be a resident of North Dakota and the United States and meet the requirements for ND Medicaid or Expanded Medicaid services.

These requirements include:

- Individuals with income within limits
  - \$3,000 in countable assets for individuals
  - \$6,000 for couples and \$25 for each additional person in the household
- Children in foster care or subsidized adoption
- Former foster care children up to age 26, under certain circumstances
- Children with disabilities (birth to 19)
- Pregnant women
- Individuals with breast or cervical cancer
- Workers with disabilities
  - An additional \$10,000 in countable assets is allowed
- Blind and disabled individuals
- Low-income Medicare beneficiaries (Medicare Savings Programs)
  - Asset limit of \$8,400 for an individual
  - Asset limit of \$12,600 for a two-person household

Eligibility under Medicaid Expansion is based on Modified Adjusted Gross Income. The following chart shows North Dakota's most recent eligibility income levels from April 2022.

<b>Family Size</b>	<b>Full Coverage for Entire Family</b>	<b>Medically Needy - Aged, blind, disabled and families who may be responsible for a portion of their medical bills</b>	<b>Children Ages 6-19 and Medicaid Expansion</b>	<b>Children Ages 0-6</b>	<b>Pregnant Women</b>
1	\$517	\$940	\$1,563	\$1,722	\$1,835
2	\$694	\$1,267	\$2,106	\$2,320	\$2,472
3	\$871	\$1,593	\$2,649	\$2,918	\$3,110
4	\$1,048	\$1,920	\$3,192	\$3,515	\$3,747
5	\$1,226	\$2,246	\$3,735	\$4,113	\$4,384

Once Presumptive Eligibility is determined, the medical provider must submit the Presumptive Eligibility Determination form to the patient's Human Services Zone where it will be logged and processed within the first five days of the next month. The patient receives a temporary Medicaid card and must provide proof of coverage with the medical provider by showing them the Medicaid card.

Presumptive Eligibility ends on the last day of the month following the month the Presumptive Eligibility application was signed, unless the patient has made an application for Medicaid. In this instance the Presumptive Eligibility is in effect until a determination has been made on the Medicaid application. In most states who offer Presumptive Eligibility it lasts for no more than two months without a Medicaid application being made.

Under Presumptive Eligibility any provider who accepts Medicaid can bill for care to a patient with approved Presumptive Eligibility. This includes, but is not limited to, clinics, nursing homes, basic care, home care, etc.

There are no special codes or modifiers needed when billing for services during a period of Presumptive Eligibility. Providers bill as they do for all Medicaid eligible patients and Medicaid pays as they do for all Medicaid eligible claims.

Benefits of Medicaid Presumptive Eligibility are:

1. Patients receive care sooner
2. Eligible patients are more likely to apply for Medicaid
3. Providers are paid for services

Issues to address related to Medicaid Presumptive eligibility in administrative rules:

1. Accuracy of patient's income information, if a patient intentionally provides inaccurate information regarding income they can be forced to pay back the costs of care, can be charged with fraud which is a class A felony that can result in up to a \$20,000 fine and 20 years in prison, and be disqualified from ever receiving Medicaid again
2. Eligibility can be denied and patients can be charged for care or providers left with unpaid claims, payment plans through medical providers can address this issue
3. Patient doesn't complete Medicaid application and care then must be privately paid for or ended, onsite assistance with completion of online Medicaid applications can address this issue

Presumptive Eligibility does not add people to North Dakota Medicaid who are not already eligible. Medicaid Presumptive Eligibility is a tool North Dakota can use to reduce barriers to receiving health care, reduce costs of care by patients being seen before there is a catastrophic health event associated with untreated chronic disease, and improve the overall health of North Dakotans.

Included in my testimony I have uploaded amendments to HB 1396 which direct the ND Department of Health and Human Services to adopt administrative rules and to provide Medicaid Presumptive Eligibility to all eligible North Dakotans.

That concludes my testimony and I stand for any questions.



**You can use this form to apply if you are a patient of the hospital, a patient's family member, or a community member.**

## Application for Presumptive Eligibility for Medicaid

Use this form to find out quickly if you qualify for presumptive eligibility for Medicaid [State information: State Medicaid program name]. Presumptive eligibility offers you and your family immediate access to health care while you apply for regular Medicaid or other health coverage.

To find out if you qualify for regular Medicaid or other health coverage, you must complete [State information: State single streamlined application]. While you wait to learn if you qualify for regular Medicaid or other health coverage, you can get your health services through presumptive eligibility for Medicaid.

[State information: State instructions for how to apply for regular Medicaid and other health coverage, e.g., online or via telephone or paper application.]

### **Who can qualify for presumptive eligibility for Medicaid?**

You can qualify for presumptive eligibility for Medicaid if you meet all of these rules:

- Your income is below the monthly limit
- You are a U.S. citizen, U.S. national, or eligible immigrant
- You do not already have Medicaid
- You have not had presumptive eligibility for Medicaid in the [State policy: Applicable timeframe]. Or, if you are pregnant, you have not had presumptive eligibility for Medicaid during this pregnancy.
- You are in one of the groups that qualifies for presumptive eligibility for Medicaid:
  - Children under [State policy: Applicable age]
  - Parents and caretaker relatives
  - Pregnant women
  - [State policy: Other adults age 19-64]
  - People under age 26 who were in foster care at age 18 (no income limit)
  - [State policy: Women in treatment for breast and cervical cancer]
  - [State policy: Women who need family planning services]
  - [State policy: Any other populations]

### **Need help with your application?**

[State information: For example: "Ask your hospital representative or call us at 1-800-XXX-XXXX. Para obtener una copia de este formulario en Español, llame 1-800-XXX-XXXX. If you need help in a language other than English, call 1-800-XXX-XXXX and tell the customer service representative the language you need. We'll get you help at no cost to you. TTY users should call 1-800-XXX-XXXX." .]

# 1

## Tell us about yourself

We ask for this information so that we can contact you about this application.

Name *(first, middle, last)*

Home address *(leave blank if you don't have one)*

City

State

ZIP code

Mailing address *(if different from home address)*

Phone number *(if you have one)*

Email address *(if you have one)*

# 2

## Tell us about your family

List yourself and the members of your immediate family who live with you. Include your spouse and your children under [State policy: Applicable age] if they live with you. Do not list other relatives or friends even if they live with you.

Name <i>(first, middle, last)</i>	Date of birth <i>(XX/XX/XXXX)</i>	Relationship to you	Applying for presumptive eligibility for Medicaid? <i>(Yes or No)</i>	Already has Medicaid? <i>(Yes or No)</i>	[State policy: U.S. Citizen, U.S. National, or eligible immigrant?] <i>(Yes or No)</i>	[State policy: Resident of State?] <i>(Yes or No)</i>
Answer for family members who are applying. If a person is not applying, you do not have to answer these questions for that person.						
(Same as above)		(Self)				



**Questions?** Ask your hospital representative or call us at **1-800-XXX-XXXX**. The call is free. (TTY: 1-888-XXX-XXXX). You can call [days and hours of operation]. Or visit [web address].

### 3

## Other questions

Answer these questions for yourself and your family members listed in Section 2. Your answers will make it easier to find out if you and any family members qualify.

Is anyone pregnant, [State policy: even if she is **not applying for presumptive eligibility for Medicaid**]?  Yes  No

If yes, who? ..... How many babies does she expect?.....

[State policy: Is anyone who is **applying for presumptive eligibility for Medicaid** receiving Medicare?]  Yes  No

If yes, who? .....

Is anyone who is **applying for presumptive eligibility for Medicaid** a parent or caretaker relative?  Yes  No

*For example, a grandparent who is the main person taking care of a child.*

If yes, who? .....

Was anyone who is **applying for presumptive eligibility for Medicaid** in foster care at age 18 [State policy: Or applicable older age]?  Yes  No

If yes, who? .....

[State policy: Is anyone who is applying for **presumptive eligibility for Medicaid** being treated for breast or cervical cancer?]  Yes  No

If yes, who? .....

### 4

## Tell us about your family's income

Write the total income before taxes are taken out for all family members listed in Section 2.

▼ Job income *For example, wages, salaries, and self-employment income.*

Amount \$..... How often? (check one)  Weekly  Biweekly  Monthly  Yearly

▼ Other income *For example, unemployment checks, alimony, or disability payments from the Social Security Administration ("SSDI"). Do **not** include Supplemental Security Income ("SSI payments") or any child support you receive.*

Amount \$..... How often? (check one)  Weekly  Biweekly  Monthly  Yearly

### 5

## Sign this form here

By signing, you are swearing that everything you wrote on this form is true as far as you know. We will keep your information secure and private.

Your signature:

Date:



**Questions?** Ask your hospital representative or call us at **1-800-XXX-XXXX**. The call is free. (TTY: 1-888-XXX-XXXX). You can call [days and hours of operation]. Or visit **[web address]**.

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## 6

### If you qualify for presumptive eligibility for Medicaid, what happens next?

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- You will get a notice from the hospital saying you were approved.
- **You can start using your presumptive eligibility for Medicaid coverage right away** for Medicaid covered services such as doctor visits, hospital care, and some prescription drugs. You can go to any health care provider who accepts Medicaid, starting the day you are approved.
  - To start using your presumptive eligibility for Medicaid, [State information: State-specific directions. For example, “The hospital will give you a notice saying you are approved. Use the notice to get services until you get a card in the mail. The card should arrive within X days.”] If you lose the notice, you can call [State information: Relevant instructions].
  - If the notice says you qualify for presumptive eligibility for Medicaid because you are pregnant, you can get care at outpatient clinics or other places in the community. Presumptive eligibility for Medicaid will not cover the cost if you are admitted to a hospital.
  - If the notice says you qualify for presumptive eligibility for Medicaid for family planning services, you are only covered for those services.
- If you do not fill out and send the [State information: State single streamlined application] to see if you qualify for regular Medicaid or other health coverage, your presumptive eligibility for Medicaid coverage will end on the last day of the month after the month you are approved.
  - ➔ For example, if you qualified for presumptive eligibility for Medicaid in January, it will end on the last day of February.
- **To see if you qualify for regular Medicaid or other health coverage**, [State information: State instructions for how to apply for regular Medicaid and other health coverage, e.g., online or via telephone or paper application.]. The hospital will provide you with an application.

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## 7

### If you do not qualify for presumptive eligibility for Medicaid, what happens next?

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You will get a notice from the hospital saying you were not approved. You cannot appeal the hospital's decision. BUT, you can still apply for regular Medicaid or other health coverage using the [State information: State single streamlined application].

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**HOUSE BILL NO. 1396**

Introduced by

Representatives Dobervich, Dakane, Davis, Finley-DeVille, Ista

Senator Hogan

1 A BILL for an Act to amend and reenact sections 50-24.1-02, and 50-24.1-17, and subsection 3  
2 of section 50-24.1-37, and sections 50-24.1-41 and 50-29-04 of the North Dakota Century  
3 Code, relating to presumptive eligibility for medical assistance and children's health insurance  
4 program applicants.

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

6 **SECTION 1. AMENDMENT.** Section 50-24.1-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **50-24.1-02. Eligibility.**

- 9 1. Within the limits of legislative appropriations, medical assistance may be paid for ~~any~~  
10 ~~person~~ an individual who either has income and resources insufficient to meet the  
11 costs of necessary medical care and services or is eligible for or receiving financial  
12 assistance under chapter 50-09 or title XVI of the Social Security Act, as amended,  
13 and:
  - 14 ~~1.~~ a. Has not at any time before or after making application for medical assistance  
15 made an assignment or transfer of property for the purpose of rendering that  
16 ~~person~~ individual eligible for assistance under this chapter. For the purposes of  
17 making any determination or redetermination of eligibility, the phrase "assignment  
18 or transfer" includes actions or failures to act which effect a renunciation or  
19 disclaimer of any interest which the applicant or recipient might otherwise assert  
20 or have asserted, or which serve to reduce the amounts which an applicant or  
21 recipient might otherwise claim from a decedent's estate, a trust or similar device,  
22 or a person obligated by law to furnish support to the applicant or recipient.
  - 23 ~~2.~~ b. Has applied or agrees to apply all proceeds received or receivable by that  
24 ~~person~~ individual or that ~~person's~~ individual's eligible spouse from third-party

1 medical coverage, including health care coverage, accident insurance, and  
2 automobile insurance, to the costs of medical care for that ~~person~~individual and  
3 that ~~person's~~individual's eligible spouse and children. The department may  
4 require from any applicant or recipient of medical assistance the assignment of  
5 any rights accruing under third-party medical coverage. Any rights or amounts so  
6 assigned must be applied against the cost of medical care paid on behalf of the  
7 recipient under this chapter. The assignment is not effective as to any carrier  
8 before the receipt of notice of assignment by such carrier.

9 ~~3. c.~~ Is eligible under rules and regulations established by the department.

10 2. The department shall adopt rules establishing a presumptive eligibility process for an  
11 individual applying for benefits as a child, parent or caretaker relative of a child, or  
12 former foster youth.

13 **SECTION 2. AMENDMENT.** Section 50-24.1-17 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **50-24.1-17. Medical assistance for breast or cervical cancer.**

16 The department may provide medical assistance for individuals screened and found to have  
17 breast or cervical cancer in accordance with the federal Breast and Cervical Cancer Prevention  
18 and Treatment Act of 2000 [Pub. L. 106-354; 114 Stat. 1381; 42 U.S.C. 1396a et seq.]. The  
19 department shall establish an income eligibility limit that may not exceed two hundred percent of  
20 the most recently revised poverty line published by the federal office of management and  
21 budget applicable to the household size. The department shall adopt rules establishing a  
22 presumptive eligibility process for an applicant under this section.

23 **SECTION 3. AMENDMENT.** Subsection 3 of section 50-24.1-37 of the North Dakota  
24 Century Code is amended and reenacted as follows:

25 3. Except for pharmacy services and coverages for individuals ages nineteen and twenty,  
26 the department shall implement the expansion by bidding through private carriers or  
27 ~~utilizing~~using the health insurance exchange. The department shall adopt rules  
28 establishing a presumptive eligibility process for an applicant under this section.

29 **SECTION 4. AMENDMENT.** Section 50-24.1-41 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **50-24.1-41. Medical assistance benefits - Pregnant women.**

2       The department shall seek the necessary approval from the centers for Medicare and  
3       Medicaid services to expand medical assistance coverage for pregnant women with income  
4       below one hundred sixty-two percent of the federal poverty level. The department shall adopt  
5       rules establishing a presumptive eligibility process for an applicant under this section.

6       **SECTION 5. AMENDMENT.** Section 50-29-04 of the North Dakota Century Code is  
7       amended and reenacted as follows:

8       **50-29-04. Plan requirements.**

9       The plan:

- 10       1. Must be consistent with coverage provided to children eligible for medical assistance  
11       in the state; and
- 12       2. Must provide:
- 13           a. A modified adjusted gross income eligibility limit of one hundred seventy-five  
14           percent of the poverty line; and
- 15           b. Current eligibility may be established from the first day of the month in which the  
16           application was received. The department shall adopt a presumptive eligibility  
17           process for an applicant. Retroactive eligibility may be established for the three  
18           calendar months that immediately preceded the month in which the application  
19           was received even if there is no eligibility in the month of application. Eligibility  
20           can be established if all factors of eligibility are met during each month.

