

February 4, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2305

Introduced by

Senators Hogan, Cleary, Lee, Weston

Representative Dobervich

1 A BILL for an Act to amend and reenact section 50-24.1-47 of the North Dakota Century Code,
2 relating to the family paid caregiver service ~~program~~ pilot project and the cross-disability
3 advisory council; and to provide an appropriation.

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

5 **SECTION 1. AMENDMENT.** Section 50-24.1-47 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-24.1-47. Family paid caregiver service pilot project** ~~services program -- Report.~~
8 **(Contingent expiration date - See note)**

- 9 1. The department shall ~~establish~~ manage and operate the family caregiver service pilot
10 project to assist in making payments ~~submit an amendment to all current Medicaid~~
11 ~~1915(c) waivers and those to be developed to provide payment for family caregiver~~
12 ~~services. The payment must be made~~ make payments to a legally responsible
13 individual who provides extraordinary care to an eligible individual who is a participant
14 in the Medicaid 1915(c) waivers, excluding the home and community-based services
15 aged and disabled waiver.
- 16 2. The family paid caregiver service pilot project ~~may~~ ~~program~~ must include funding for
17 extraordinary care, which means care:
- 18 a. Exceeding the range of activities a legally responsible individual would ordinarily
19 perform in the household on behalf of an individual without extraordinary medical
20 or behavioral needs; and

- 1 b. Is necessary to assure the health and welfare and avoid institutionalization of the
2 individual in need of care.
- 3 3. The department may adopt rules addressing management of the family paid caregiver
4 service pilot project and establish the eligibility requirements and exclusions for the
5 family caregiver service pilot project. The department shall manage and operate the
6 family paid caregiver pilot project in accordance with the adopted rules and within the
7 limits of legislative appropriation for the family paid caregiver pilot project. The
8 department shall utilize an assessment of an eligible individual to determine the need
9 for extraordinary care which must consider the unique needs and circumstances of
10 applicants including age, activities of daily living, medical needs, and social emotional
11 needs. The department may not make payments to a legally responsible individual
12 which duplicate level of care authorized and to determine the best interests of the
13 individual in need of care. The pilot project may not provide a payment for any care
14 that is otherwise compensated through a service or assistance provided, administered,
15 or supervised by the department, including Medicaid 1915(c) waiver or the Medicaid
16 state plan. A legally responsible individual shall attest on an annual basis that the
17 legally responsible individual agrees not to seek reimbursement for extraordinary care
18 through the family paid caregiver service pilot project on days when other 1915(c)
19 waiver services are paid by the department.
- 20 4. A decision on an application which is issued by the department under this section may
21 be appealed as provided under chapter 28-32. An individual may not appeal a denial,
22 a revocation, a reduction in payment, or the termination of the family caregiver service
23 pilot project administered by the department due to the unavailability of funding
24 received for the purpose of issuing payments as part of the family caregiver service
25 pilot project for the biennium.
- 26 5. ~~The department shall provide the legislative management with periodic reports on the~~
27 ~~impact, usage, and costs associated with the family caregiver service pilot project~~A
28 payment under this section to a legally responsible individual must be commensurate
29 with the ~~current self-directed support professional hourly wage~~ rate for family
30 caregiving in the home and community-based services aged and disabled waiver.

1 ~~4. When a family paid caregiver service program is available through a Medicaid-~~
2 ~~approved home and community-based services waiver, the department shall use an-~~
3 ~~assessment to determine the level of care authorized which must consider the unique-~~
4 ~~needs and circumstances of all applicants including age, activities of daily living,-~~
5 ~~medical needs, and social emotional needs. The assessment must be evidence-~~
6 ~~based. The family paid caregiver service program may not provide a payment for any-~~
7 ~~care that is otherwise compensated through a Medicaid 1915(c) waiver or the-~~
8 ~~Medicaid state plan.~~

9 ~~5. A decision on an application which is issued by the department under this section may-~~
10 ~~be appealed as provided under chapter 28-32. An individual may not appeal a denial,-~~
11 ~~a revocation, a reduction in payment, or the termination of the family paid caregiver-~~
12 ~~service program administered by the department due to the unavailability of funding-~~
13 ~~received for the purpose of issuing payments as part of the family paid caregiver-~~
14 ~~service program.~~

15 6. The cross-disability advisory council under section 50-06-46 shall participate with and
16 provide feedback to the department on the planning, design, and ongoing
17 implementation of the family paid caregiver service ~~program~~ pilot project and future
18 centers for Medicare and Medicaid services children's cross-disability 1915(c) waiver.
19 The council shall provide input into the development of the assessment method used
20 to determine the ~~level of care authorized for an individual~~ need for extraordinary care.

21 **SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
22 **ONE-TIME FUNDING - FAMILY CAREGIVER SERVICE PILOT PROJECT.** There is
23 appropriated out of any moneys in the general fund in the state treasury, not otherwise
24 appropriated, the sum of \$9,000,000, or so much of the sum as may be necessary, to the
25 department of health and human services for the purpose of establishing and issuing payments
26 as part of the family paid caregiver service pilot project, for the biennium beginning July 1, 2025,
27 and ending June 30, 2027.