

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1216**

Introduced by

Representatives Karls, Hagert, Kiefert, Wagner

Senators Boschee, Dever, Sorvaag

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. "Grandfathered health plan" has the meaning stated in the Patient Protection and  
15 Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and  
16 Education Reconciliation Act of 2010 [Pub. L. 111-152]. The term includes the  
17 public employees retirement system uniform group insurance program's  
18 grandfathered preferred provider organization plan.

19 d. "Health benefit plan" has the same meaning as provided under section  
20 26.1-36.3-01.

- 1 | d.e. "Prescription drug" means a drug for which a prescription is required:
- 2 | (1) Without a generic equivalent; or
- 3 | (2) With a generic equivalent and the enrollee has obtained access to the drug
- 4 | through prior authorization, a step therapy protocol, or the health care
- 5 | insurer's expectations and appeals process.
- 6 | 2. ~~To~~ Except as provided under subsection 4, to the extent permitted by federal law and
- 7 | regulation, an insurer may not deliver, issue, execute, or renew a health benefit plan
- 8 | providing prescription drug coverage unless when calculating an enrollee's overall
- 9 | contribution to any out-of-pocket maximum or any cost-sharing requirement for a
- 10 | prescription drug under the health benefit plan, the health benefit plan provides for the
- 11 | inclusion of any amount paid by the enrollee or paid on behalf of the enrollee by
- 12 | another person. The health benefit plan may not vary the out-of-pocket maximum or
- 13 | cost-sharing requirement, or otherwise design benefits in a manner that takes into
- 14 | account the availability of a cost-sharing assistance program for a prescription drug.
- 15 | 3. If application of this section would result in ineligibility of a health benefit plan that is a
- 16 | qualified high-deductible health plan to qualify as a health savings account under
- 17 | section 223 of the Internal Revenue Code [26 U.S.C. 223], the requirements of this
- 18 | section do not apply with respect to the deductible of the health benefit plan until after
- 19 | the enrollee has satisfied the minimum deductible under section 26 U.S.C. 223.
- 20 | 4. This section does not apply to a grandfathered health plan.

21 | **SECTION 2. AMENDMENT.** Section 26.1-36.6-03 of the North Dakota Century Code is

22 | amended and reenacted as follows:

23 | **26.1-36.6-03. Self-insurance health plans - Requirements. (Effective through July 31,**

24 | **2025)**

- 25 | 1. The following policy provisions apply to a self-insurance health plan or to the
- 26 | administrative services only or third-party administrator, and are subject to the
- 27 | jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05,
- 28 | 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,
- 29 | 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,
- 30 | 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.