

PROPOSED AMENDMENT TO SENATE BILL NO. 2305

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

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

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

1. The department shall ~~establish~~ continue to manage and operate the family paid caregiver service pilot project to ~~assist in making payments~~ submit an amendment to all current Medicaid 1915(c) waivers and those to be developed to provide payment for family caregiver services. The payment must be made make payments to a legally responsible individual who provides extraordinary care to an eligible individual who is a participant in the Medicaid 1915(c) waivers, excluding the home and community-based services aged and disabled waiver.
2. The family paid caregiver service pilot project ~~may~~ program must include funding for extraordinary care, which means care:
 - a. Exceeding the range of activities a legally responsible individual would ordinarily perform in the household on behalf of an individual without extraordinary medical or behavioral needs; and
 - b. Is necessary to assure the health and welfare and avoid institutionalization of the individual in need of care.
3. The department may adopt rules addressing management of the family paid caregiver service pilot project and establish the eligibility requirements and exclusions for the family caregiver service pilot project. The department shall manage and operate the family paid caregiver pilot project pursuant to the adopted rules and within the limits of legislative appropriation for the family paid caregiver pilot project. The department shall utilize an assessment of an eligible individual to determine ~~the level~~

~~of care authorized and to determine the best interests of the individual in need of care. The pilot project may not provide a payment for~~need for extraordinary care which must consider the unique needs and circumstances of applicants including age, activities of daily living, medical needs, and social emotional needs. Payments made by the department to a legally responsible individual may not duplicate any care that is otherwise compensated through a service or assistance provided, administered, or supervised by the department, including Medicaid 1915(c) waiver or the Medicaid state plan. A legally responsible individual shall attest on an annual basis that they agree not to seek reimbursement for extraordinary care through the family paid caregiver pilot project on days where other 1915(c) waiver services are paid by the department.

4. A decision on an application which is issued by the department under this section may be appealed as provided under chapter 28-32. An individual may not appeal a denial, a revocation, a reduction in payment, or the termination of the family caregiver service pilot project administered by the department due to the unavailability of funding received for the purpose of issuing payments as part of the family caregiver service pilot project for the biennium.
5. ~~The department shall provide the legislative management with periodic reports on the impact, usage, and costs associated with the family caregiver service pilot project~~A payment under this section to a legally responsible individual must be commensurate with the ~~current self-directed support professional hourly wage~~rate for family caregiving in the home and community-based services aged and disabled waiver.
- ~~4. When a family paid caregiver service program is available through a Medicaid-approved home and community-based services waiver, the department shall use an assessment to determine the level of care authorized which must consider the unique needs and circumstances of all applicants including age, activities of daily living, medical needs, and social emotional needs. The assessment must be evidence-based. The~~

family paid caregiver service program may not provide a payment for any care that is otherwise compensated through a Medicaid 1915(c) waiver or the Medicaid state plan.

5. A decision on an application which is issued by the department under this section may be appealed as provided under chapter 28–32. An individual may not appeal a denial, a revocation, a reduction in payment, or the termination of the family paid caregiver service program administered by the department due to the unavailability of funding received for the purpose of issuing payments as part of the family paid caregiver service program.
6. The cross-disability advisory council under section 50-06-46 shall participate with and provide feedback to the department on the planning, design, and ongoing implementation of the family paid caregiver service program pilot project and future centers for Medicare and Medicaid services children’s cross-disability 1915(c) waiver. The council shall provide input into the development of the assessment method used to determine the level of care authorized for an individual need for extraordinary care.

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

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective until the date the commissioner of the department of health and human services certifies to the legislative council that a family paid caregiver services program is available through a centers for Medicare and Medicaid services approved children’s cross-disability 1915(c) waiver.