

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2132
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to responsibilities of third parties liable for payments on behalf of medical assistance recipients.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Third-party liability recovery.

1. For purposes of this section:
 - a. "Department" means the department of human services.
 - b. "Third party" means an individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under this chapter.
2. The department shall seek recovery of reimbursement from a third party up to the full amount of medical assistance paid.
3. A medical assistance recipient shall inform the department of any rights the recipient has to third-party benefits and shall inform the department of the name and address of any individual, entity, or program that is or may be liable to provide third-party benefits.
4. A release or satisfaction of a cause of action, suit, claim, counterclaim, demand, judgment, settlement, or settlement agreement is not valid or effectual as against a claim created under this chapter unless the department joins in the release or satisfaction or executes a release of its claim.
5. The department shall recover the full amount of all medical assistance provided on behalf of a recipient to the full extent of third-party benefits received by the recipient or the department for medical expenses. The department shall recover the third-party benefits directly from any third party or from the recipient or legal representative, if the recipient or legal representative has received third-party benefits, up to the amount of medical assistance provided to the recipient.
6. An applicant for or recipient of medical assistance shall cooperate in the recovery of third-party benefits.
7. To enforce its rights to third party benefits, the department may institute, intervene in, or join any legal or administrative proceeding in its own name.
 - a. If either the recipient or the department brings an action against a third party, the recipient or the department must provide to the other within thirty days after commencing the action written notice by personal delivery or registered mail of the action, the name of the court in which the case is brought, the case number of such action, and a copy of the pleadings. If either the department or the recipient brings an action, the other may become a party to or may consolidate an action brought independently with the other.

- b. A judgment, award, or settlement of a claim in an action by a recipient to recover damages for injuries or other third-party benefits in which the department has an interest may not be satisfied or released without first giving the department notice and a reasonable opportunity to file and satisfy its claim or proceed with any action as otherwise permitted by law.
- 8. Any transfer or encumbrance of any right, title, or interest to which the department has a right with the intent, likelihood, or practical effect of defeating, hindering, or reducing recovery by the department for reimbursement of medical assistance provided to a recipient is void and of no effect against the claim of the department.
- 9. A recipient who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the department within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total medical assistance provided or to place a sum equal to the full amount of the total medical assistance provided in a trust account pending judicial or administrative determination of the department's right to the third-party benefits.
- 10. Notwithstanding any provision in this section to the contrary, the department is not required to seek reimbursement from, or may reduce or compromise a claim against, a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:
 - a. Actual and legal issues of liability as may exist between the recipient and the liable party;
 - b. Total funds available for settlement; and
 - c. An estimate of the cost to the department of pursuing its claim.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2132.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 83 Nays 1 Absent 10

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State