

**FIRST ENGROSSMENT
with Conference Committee Amendments**

ENGROSSED HOUSE BILL NO. 1090

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new chapter to title 50 of the North Dakota Century
2 Code, relating to child care assistance; and to provide a penalty.

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

4 **SECTION 1.** A new chapter to title 50 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.** For the purposes of this chapter:

- 7 1. "Allowable activities" means paid work, job search, attending job training or an
8 education program, any activity in the job opportunity and basic skills program,
9 transportation time related to the activities, temporary illness or incapacity of a
10 current recipient, and temporary illness of the child.
- 11 2. "Approved relative" means an individual provider related to a child in that provider's
12 care by marriage, blood, or court decree as a grandparent, step-grandparent, great
13 grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, sibling, or
14 step-sibling, who has been approved to care for specific children in the provider's
15 own home, but does not mean a sibling provider who resides in the home of a child
16 in that provider's care.
- 17 3. "Caretaker" means a child's biological or adoptive parent, the spouse of the child's
18 biological or adoptive parent, or an individual acting in the stead of a child's parent
19 at the request of the parent or another with authority to make the request, but does
20 not mean a provider.
- 21 4. "Child care assistance unit" means all members of the caretaker's immediate
22 household, including a child through the month of that child's nineteenth birthday,
23 and any parent or stepparent of a child, including an acknowledged or adjudicated
24 father of one or more children in the household, but does not mean any other

1 person who is not acting in the stead of a parent, a child who is nineteen years of
2 age or older, a child for whom the household receives foster care payments, or a
3 minor parent of a child in the household unless the minor parent also requires child
4 care or is incapable of caring for the child.

5 5. "Child care center" has the meaning provided in chapter 50-11.1.

6 6. "County agency" means any county social services office.

7 7. "Department" means the department of human services.

8 8. "Family child care" has the meaning provided in chapter 50-11.1.

9 9. "Group child care" has the meaning provided in chapter 50-11.1.

10 10. "Provider" means an individual who is eighteen years of age or older, licensed as a
11 provider in a family child care, group child care, or child care center, with a
12 self-declaration as a provider of early childhood services who requires no license,
13 registered as a child care provider by a tribal entity, or an approved relative, who
14 meets criteria established by the jurisdiction with authority to regulate child care
15 services.

16 11. "Recipient" means an individual who is receiving child care assistance.

17 12. "Tribal entity" means an organization authorized by the government of an Indian
18 tribe within North Dakota to license, register, or otherwise recognize a child care
19 provider operating within the jurisdiction of that Indian tribe.

20 13. "Work":

21 a. Means any paid employment and any self-employment providing
22 commensurate income; and

23 b. Does not mean any unpaid activity except:

24 (1) With respect to a caretaker who is involved in job opportunity and basic
25 skills or tribal native employment works required by temporary
26 assistance for needy families, any approved activity for the program;
27 and

28 (2) When a state has been determined to have a major disaster, activity by
29 an individual who is residing in the disaster area and involved in unpaid
30 work activities, including the cleaning, repair, restoration, and rebuilding
31 of homes, businesses, and schools.

1 **Child care assistance - Application for benefits - Applicant's duty to establish**
2 **eligibility - Decisions - Rules.**

- 3 1. An individual desiring child care assistance or an individual seeking assistance on
4 behalf of another individual may apply for child care assistance. An applicant shall
5 submit a request for child care assistance in writing to a county agency on a form
6 prescribed by the department. The applicant shall complete, sign, and date the
7 application. Eligibility begins on the first day of the month in which a signed and
8 dated application is received by the county agency. Eligibility may begin on the
9 first day of the month prior to the month in which a signed and dated application is
10 received by the county agency, if the applicant requests child care assistance for
11 that month and demonstrates eligibility in that month.
- 12 2. The applicant shall provide information sufficient to establish the eligibility of each
13 individual for whom assistance is requested, including the age, verification of
14 relative relationship, citizenship or resident alien status of the children, verification
15 of participation in an allowable activity, and financial eligibility.
- 16 3. An eligibility decision must be made within fifteen days on child care assistance
17 applications whenever possible. The county agency shall notify the applicant
18 following a determination of eligibility or ineligibility.
- 19 4. The department shall establish rules for the administration of the child care
20 assistance program, including rules on income requirements, appeals of eligibility
21 determinations for child care assistance, closure of a child care assistance case,
22 and a sliding scale fee schedule for child care assistance benefits and to establish
23 and enforce standards against program fraud and abuse.

24 **Available benefits.**

- 25 1. The department shall pay child care costs required as a result of participation in
26 allowable activities by the eligible caretaker in a temporary assistance for needy
27 families household or diversion assistance household. The department shall pay a
28 portion of child care costs required as a result of participation in allowable activities
29 by the caretaker based on family size and countable income by applying a sliding
30 fee schedule established under rules to be adopted by the department.

1 2. Subject to the availability of funding, the department may expand child care
2 assistance to include an eligible caretaker who is attending a postsecondary
3 education program in pursuit of a one-year, two-year, or four-year degree or
4 certificate. If a child care assistance unit includes two parents, child care
5 assistance may be paid with respect to any child only during times that both
6 parents are engaged in an allowable activity.

7 **Caretaker temporarily out of the home.** A caretaker, temporarily living apart from the
8 remaining members of the child care assistance unit due to employment, education, training,
9 medical care, incarceration, or uniformed service, is not considered absent from the home as
10 long as the caretaker continues to function as caretaker, even if the level of support or care is
11 reduced. The caretaker is counted as a child care assistance unit member and all gross
12 countable income of that caretaker is included as child care assistance unit income used to
13 determine the child care assistance payment.

14 **State of residence.** Only child care assistance units physically residing within the
15 boundaries of the state are eligible for child care assistance.

16 **Approved relative provider.**

17 1. The department may approve a relative provider to provide care for specific
18 children within a specified county. The department shall provide an approved
19 relative provider with a provider identification number. An approved relative
20 provider may provide care for no more than five children under the age of twelve or
21 three children under the age of two, including the provider's children.

22 2. Before approving an individual as an approved relative provider, the department
23 shall seek a criminal history record investigation as provided under section
24 50-11.1-06.2 and pursuant to section 12-60-24. The department shall consider
25 any criminal history record information available at the time approval decision is
26 made. A background check must be completed for each adult living in the
27 household of the prospective provider.

28 3. No payment may be made to a relative provider who is not an approved relative
29 provider.

30 **Sliding fee schedule.**

- 1 1. The sliding fee schedule established by the department for inclusion within the
2 child care and development fund state plan to determine eligibility, benefit levels,
3 and the portion of the allowable child care cost that may be paid as a benefit under
4 this chapter, must not:
- 5 a. Exceed available federal and non-federal funding; and
6 b. Provide benefits to a family whose income exceeds eighty-five percent of the
7 state median income for a family of the same size.
- 8 2. Child care costs that exceed maximums established under this section are the
9 responsibility of the family and may not be considered in determining the child care
10 assistance program payment amount.

11 **Limitations on in-home child care benefits.** No benefits under this chapter may be
12 provided for in-home child care unless:

- 13 1. A health professional provides written documentation demonstrating to the
14 department's satisfaction that the child's health would be at risk if taken to an
15 outside provider; or
- 16 2. A developmental disabilities case manager or a special education case manager
17 provides written documentation demonstrating to the department's satisfaction that
18 the child's disability is such that taking the child to an outside provider creates an
19 undue hardship.