

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1052
(Legislative Management)
(Workers' Compensation Review Committee)

AN ACT to amend and reenact section 65-05-28.2 of the North Dakota Century Code, relating to the workers' compensation preferred provider program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-28.2 of the North Dakota Century Code is amended and reenacted as follows:

65-05-28.2. Preferred provider - Use required - Exceptions - Notice.

1. During the first thirty days after a work injury, an employee of an employer ~~who~~that has selected a preferred provider under this section may seek medical treatment only from the preferred provider for the injury. Treatment by a provider other than the preferred provider is not compensable and the organization may not pay for treatment by a provider who is not a preferred provider, unless a referral was made by the preferred provider. A provider who is not a preferred provider may not certify disability or render an opinion about any matter pertaining to the injury, including causation, compensability, impairment, or disability. This section does not apply to emergency care nor to any care the employee reasonably did not know was related to a work injury.
2. An employee of an employer ~~who~~that has selected a preferred provider may elect to be treated by a different provider provided the employee makes the election and notifies the employer in writing ~~prior to~~before the occurrence of an injury.
3. After thirty days have passed following the injury, the employee may make a written request to the organization to change providers. The employee shall make the request and serve it on the employer and the organization at least thirty days ~~prior to~~before treatment by the provider. The employee shall state the reasons for the request and the employee's choice of provider.
4. If the employer objects to the provider selected by the employee under subsection 2 or 3, the employer may file an objection to the change of provider. The employer shall detail in the objection the grounds for the objection and shall serve the objection on the employee and the organization within five days of service of the request. The employee may serve, within five days of service of the employer's objection, a written response on the employer and the organization in support of the request for change of provider. Within fifteen days after receipt of the response or of the expiration of the time for filing the response, the organization shall rule on the request. Failure of the organization to rule constitutes approval of the request. Treatment by the employee's chosen provider is not compensable until the organization approves the request. The preferred provider remains the treating provider until the organization approves the employee's request to change providers.
5. An employer that selects a preferred provider shall give notice and post notice as required under this subsection.
 - a. An employer shall give written notice of the identity and the terms of the preferred provider program:
 - (1) To the employer's employees when the employer makes an initial selection of a preferred provider ~~of~~.

- (2) To the employer's employees when the employer changes the selection of the preferred provider. An employer shall give written notice identifying the selected preferred provider to every
 - (3) To an employee hired after the selection was made at the time of hire.
 - (4) To the employer's employees at least annually after the initial notice.
- b. An employer ~~wh~~that has selected a preferred provider shall display notice of the identity of the preferred provider and the terms of the preferred provider program in a conspicuous manner at fixed worksites, and wherever feasible at mobile worksites, and in a sufficient number of places to reasonably inform employees of the identity of the preferred provider and of the requirements of this section terms of the preferred provider program.
- c. Failure to give written notice ~~or~~, to properly post notice, or to reasonably inform employees of the terms of the preferred provider program as required under this subsection invalidates the selection, allowing the employee to make the initial selection of a medical provider for the employee's claim.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1052.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State