

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

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

- 6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

Sixty-ninth
Legislative Assembly

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
- 12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
- 26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
- 28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
- 30 e. Is determined to be eligible pursuant to rules adopted by the department.

- 1 ~~7.8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9.10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10.11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11.12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13.14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. The department shall require an adult residential facility to submit cost reports and
24 supplemental information by October 31, 2025, which the department shall use to pay
25 the facility its current costs beginning January 1, 2026.
- 26 2. The department shall require adult residential facilities to submit cost reports and
27 supplemental information by December 31, 2026, which the department shall use to
28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

30 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
31 and human services shall submit a report to the legislative management by January 31, 2026,

1 and August 31, 2026, regarding progress on the basic care study recommendations addressing
2 the adult residential facility and basic care payment systems, and review the asset limit for
3 home and community-based services aged and disabled waiver.

4 **SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - STUDY - BASIC**
5 **CARE PAYMENT SYSTEM - LEGISLATIVE MANAGEMENT REPORT.** During the biennium
6 beginning July 1, 2025, and ending June 30, 2027, the department of health and human
7 services shall study the basic care payment system in collaboration with basic care providers
8 and any association representing the providers. The study must review:

- 9 1. Appropriate methods for reimbursing property costs;
- 10 2. Options to calculate operating margin;
- 11 3. The methodology for applying annual inflationary adjustments, including whether an
12 independent inflation index should be utilized; and
- 13 4. Rate determination for specialized basic care services provided to individuals with a
14 dementia-related diagnosis or head injury.

15 The department must provide periodic updates as well as a final report to the legislative
16 management. The final report must include recommendations identified in the study including
17 the estimated costs to implement the recommendations.

18 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
19 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
20 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
21 \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from
22 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
23 to the department of health and human services for the purpose of administering adult
24 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.