

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1216

Introduced by

Representatives Karls, Hagert, Kiefert, Wagner

Senators Boschee, Dever, Sorvaag

In place of amendment (25.0068.01007) proposed in the journal by the Senate, House Bill No. 1216 is amended by amendment (25.0068.01009) as follows:

1 A BILL for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota
2 Century Code, relating to out-of-pocket expenses for prescription drugs prescribed to treat rare
3 and life-threatening diseases; ~~and~~ to amend and reenact section 26.1-36.6-03 of the North
4 Dakota Century Code, relating to self-insurance health care plans; to provide a statement of
5 legislative intent; to provide for application; and to provide an effective date.

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

7 **SECTION 1.** A new section to chapter 26.1-36 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Out-of-pocket expenses - Prescription drugs prescribed to treat rare and life-**
10 **threatening diseases.**

11 1. As used in this section:

12 a. "Cost-sharing" means any coinsurance, copayment, or deductible under a health
13 benefit plan.

14 b. "Enrollee" means an individual entitled to prescription drug coverage under a
15 health benefit plan.

16 c. "Health benefit plan" has the same meaning as provided under section
17 26.1-36.3-01.

18 d. "Prescription drug" means a drug for which a prescription is required:

19 (1) Without a generic equivalent; or

1 (2) With a generic equivalent and the enrollee has obtained access to the drug
2 through prior authorization, a step therapy protocol, or the health care
3 insurer's expectations and appeals process.

4 2. To the extent permitted by federal law and regulation, an insurer may not deliver,
5 issue, execute, or renew a health benefit plan providing prescription drug coverage
6 unless when calculating an enrollee's overall contribution to any out-of-pocket
7 maximum or any cost-sharing requirement for a prescription drug prescribed to treat a
8 rare and life-threatening disease under the health benefit plan, the health benefit plan
9 provides for the inclusion of any amount paid by the enrollee or paid on behalf of the
10 enrollee by another person. The health benefit plan may not vary the out-of-pocket
11 maximum or cost-sharing requirement, or otherwise design benefits in a manner that
12 takes into account the availability of a cost-sharing assistance program for a
13 prescription drug prescribed to treat a rare and life-threatening disease.

14 3. The enrollee's physician shall:

15 a. Determine whether a prescription drug is prescribed to treat a rare and life-
16 threatening disease.

17 b. Provide the enrollee with a medical certification verifying the determination.

18 4. If application of this section would result in ineligibility of a health benefit plan that is a
19 qualified high-deductible health plan to qualify as a health savings account under
20 section 223 of the Internal Revenue Code [26 U.S.C. 223], the requirements of this
21 section do not apply with respect to the deductible of the health benefit plan until after
22 the enrollee has satisfied the minimum deductible under section 26 U.S.C. 223.

23 **SECTION 2. AMENDMENT.** Section 26.1-36.6-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-36.6-03. Self-insurance health plans - Requirements. (Effective through July 31,**
26 **2025)**

27 1. The following policy provisions apply to a self-insurance health plan or to the
28 administrative services only or third-party administrator, and are subject to the
29 jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05,
30 26.1-36-10, 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14,

1 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38,
2 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.

3 2. The following health benefit provisions applicable to a group accident and health
4 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
5 subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1,
6 26.1-36-07, 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2,
7 26.1-36-09.3, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9,
8 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14,
9 26.1-36-09.15, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22,
10 26.1-36-23.1, and 26.1-36-43. Section 54-52.1-04.18 applies to a self-insurance health
11 plan and is subject to the jurisdiction of the commissioner.

12 **Self-insurance health plans - Requirements. (Effective after July 31, 2025)**

13 1. The following policy provisions apply to a self-insurance health plan or to the
14 administrative services only or third-party administrator, and are subject to the
15 jurisdiction of the commissioner: sections 26.1-36-03, 26.1-36-03.1, 26.1-36-05,
16 26.1-36-10, 26.1-36-12, 26.1-36-12.4, 26.1-36-12.6, 26.1-36-13, 26.1-36-14,
17 26.1-36-17, 26.1-36-18, 26.1-36-19, 26.1-36-23, 26.1-36-29, 26.1-36-37.1, 26.1-36-38,
18 26.1-36-39, 26.1-36-41, 26.1-36-44, and 26.1-36-46.

19 2. The following health benefit provisions applicable to a group accident and health
20 insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are
21 subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1,
22 26.1-36-07, 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2,
23 26.1-36-09.3, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9,
24 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14,
25 26.1-36-09.15, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22,
26 26.1-36-23.1, and 26.1-36-43. Section 1 of this Act applies to a self-insurance health
27 plan and is subject to the jurisdiction of the commissioner.

28 **SECTION 3. LEGISLATIVE INTENT.** It is the intent of the sixty-ninth legislative assembly
29 that the public employees retirement system use an amount necessary from the health
30 insurance reserve fund established in section 54-52.1-06 for the payment of any expenditures
31 related to this Act for the period beginning January 1, 2026, and ending June 30, 2027.

1 **SECTION 4. APPLICATION.** This Act applies effective January 1, 2026, to the public
2 employees retirement system uniform group insurance program health insurance benefits
3 coverage, regardless of the health insurance benefits coverage contract issuance or renewal
4 date. This Act applies effective January 1, 2026, or upon the next renewal after January 1,
5 2026, to health benefit plans.

6 **SECTION 5. EFFECTIVE DATE.** This Act becomes effective on January 1, 2026.