

CHAPTER 50-35

STATE-FUNDED HUMAN SERVICES

50-35-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Department" means the department of health and human services.
2. "Director" means the commissioner of the department or the commissioner's designee.
3. "Direct costs" means costs that are charged directly to the human service zone human services fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are approved by the department and not identified by the department as an indirect cost.
4. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.
5. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
6. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
7. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; remodeling, construction, and improvement costs; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services. Indirect costs may not include non-space and non-facility costs and expenses that are exclusively attributable to the human service zones.

50-35-02. State-paid human services - Application - Study - Report to legislative management.

1. The department shall administer a statewide program for state funding of staffing and administrative costs related to the administration of human services.

2. Payments must be distributed to human service zones and the department pursuant to section 50-35-04, with the first payment distributions commencing in January 2020.
3. Human service zones shall cooperate with the department to adopt administrative and operational cost-savings methodologies and determine options for consolidations. Human service zones shall implement the administrative and operational cost-savings methodologies and consolidations.
4. During the 2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall develop a process for allowing a human service zone to opt in to state employment. The process must identify under what conditions and factors a transition to state employment may or may not be desirable for a human service zone and the department; outline the governance process for choosing to opt in to state employment, including a description of the role of the human service zone board, county commissions, and the department; and include a template and potential timeline for any zone choosing to make the transition to state employment. Before August 1, 2022, the department shall report to the legislative management the process developed for allowing a human service zone to opt in to state employment. The transition to state employment is contingent on the approval from the legislative assembly.
5. During the 2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall study indirect costs. The study must identify a plan defining the process to calculate payment for indirect costs. The department shall provide regular updates to the legislative management on the progress of the study. Before August 1, 2022, the department shall report to the legislative management the process developed to calculate payment for indirect costs.

50-35-03. Payments - Distributions by the director.

1. The director shall calculate the total payment for each human service zone pursuant to section 50-35-04 for each calendar year. The director shall notify each human service zone of the estimated amount of that zone's payment for calendar year 2021 and the following years thereafter, before July first of the previous year. The director may amend and modify each human service zone's payment. If the director amends and modifies a human service zone's payment, the human service zone director must be notified within thirty days of amendment or modification.
2. The director shall distribute fifty percent of the amount of each human service zone's payment determined under subsection 1, within the limits of legislative appropriation, before January eleventh.
3. By June first of each year, the director shall recalculate the total payment for each human service zone pursuant to section 50-35-04 for the current calendar year.
4. The director shall subtract from a human service zone's June fifteenth disbursement any amount exceeding the limitation under section 50-35-05.
5. The director shall calculate the total payment for the department pursuant to section 50-35-04.

50-35-04. Calculation of payment - Expenditures.

1. The director shall calculate, in collaboration with the human service zone director or designee, the total payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:
 - a. Other factors outlined in subsection 3;
 - b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];

- c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members to the salary increase provided by the legislative assembly for state employees; and
 - d. Current and future duties of and services offered by the human service zone and department.
- 2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.
- 3. The director may recalculate and adjust each human service zone's payment based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's payment, the human service zone director must be notified within thirty days of amendment or modification. The spending authority of the human service zone must be increased or decreased based on the approved, adjusted, or modified payment.
- 4. The director shall calculate payment for indirect costs. Indirect costs of the human service zone may not become direct costs without written approval of the department. The total payment by the department for reimbursement of indirect costs incurred to support human services must be within legislative appropriation and be based on the annual indirect cost plan starting August 1, 2023, for the counties to budget for the 2024 fiscal year. The 2023 cost allocation plan must be based on the requested information received from the counties.
- 5. Direct costs must be applied consistently within all human service zones and may not be included in indirect costs.
- 6. Indirect costs must be applied consistently within all counties as it relates to human service zones and may not be included in direct costs.
- 7. Counties shall provide the requested information for the cost allocation plan by September fifteenth of each year. The department shall provide notice to the county commissioners and auditors sixty days before the deadline if the county does not participate in providing information for the cost allocation plan. If counties fail to provide the requested information by September fifteenth of each year, the counties may not participate in the cost allocation plan and must be responsible for one hundred percent of all indirect costs.
- 8. The director may authorize expenditures from the human service finance fund to reimburse all indirect costs associated with a statewide pilot project, service, or program performed by a human service zone.

50-35-05. Human service zone human services fund - Establishment - Fund balance limitations.

- 1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures, excluding indirect costs payments, by the human service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's distribution payment and balance of moneys carried over pursuant to subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.
- 2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or two hundred fifty thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar

year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director and may not be used for the county's cost allocation of indirect costs. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

50-35-06. Human service zone human services fund - Transfer.

1. The county treasurer shall transfer the full amount of the service area human services fund to the human service zone human services fund on January 1, 2020. If on January 1, 2021, and each year thereafter, the balance of a human service zone human services fund exceeds the limitations in section 50-35-05, the director shall reduce the human service zone's formula payment as directed in subsection 4 of section 50-35-03.
2. The county may not transfer any funds from the service area human services fund until January 1, 2020, unless approved by the department.

50-35-07. Human service finance fund.

The human service finance fund is a special fund in the state treasury. Moneys in the fund may be used, subject to legislative appropriation, for the provision of payments to human service zones and payments to the department pursuant to this chapter.