

Introduced by

Judiciary Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota
2 Century Code, relating to sanctions against a provider who provides services under a provider
3 agreement with medical assistance.

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

5 **SECTION 1.** A new section to chapter 50-24.1 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Civil sanction - Costs recoverable - Interest - Appeals.**

8 1. For purposes of this section:

9 a. "Affiliate" means a person having an overt or covert relationship each with
10 another person in a manner that one person directly or indirectly controls or has
11 the power to control another.

12 b. "Department" means the department of human services.

13 c. "Provider" means any individual or entity furnishing medicaid services under a
14 provider agreement with the department of human services.

15 2. A provider, an affiliate of a provider, or any combination of provider and affiliates, is
16 liable to the department for up to ten thousand dollars for each act of fraud or abuse.
17 This sanction is in addition to the applicable rules established by the department.

18 3. A provider, an affiliate of a provider, or any combination of provider and affiliates, that
19 is assessed a civil sanction by the department also shall reimburse the department
20 investigation fees, costs, and expenses for any investigation and action brought under
21 this section.

22 4. Unless otherwise provided in a judgment entered against a provider or against an
23 affiliate of the provider, overpayments and sanctions accrue interest at the legal rate

1 beginning thirty days after the department provides written notice to the provider or the
2 affiliate of the provider.

- 3 5. a. A provider or an affiliate of a provider who is assessed a sanction may request a
4 review of the sanction by filing within thirty days of the date of the department's
5 notice of sanction a written notice with the department which includes a
6 statement of each disputed item and the reason or basis for the dispute.
- 7 b. A provider or an affiliate of a provider may not request review under this section if
8 the sanction imposed is termination or suspension and the notice of sanction
9 states that the basis for the sanction is either:
- 10 (1) The provider's or affiliate's failure to meet standards of licensure,
11 certification, or registration where those standards are imposed by state or
12 federal law as a condition to participation in the medicaid program; or
- 13 (2) The provider or affiliate has been similarly sanctioned by the medicare
14 program or by another state's medicaid program.
- 15 c. Within thirty days after requesting a review, a provider or affiliate shall provide to
16 the department all documents, written statements, exhibits, and other written
17 information that supports the request for review.
- 18 d. The department shall assign a provider's or affiliate's request for review to
19 someone other than an individual who was involved in imposing the sanction. A
20 provider or affiliate who has requested review may contact the department for an
21 informal conference regarding the review any time before the department has
22 issued its final decision.
- 23 e. The department shall make and issue its final decision within seventy-five days of
24 receipt of the notice of request for review. The department's final decision must
25 conform to the requirements of section 28-32-39. A provider or affiliate may
26 appeal the final decision of the department to the district court in the manner
27 provided in section 28-32-42, and the district court shall review the department's
28 final decision in the manner provided in section 28-32-46. The judgment of the
29 district court in an appeal from a request for review may be reviewed in the
30 supreme court on appeal by any party in the same manner as provided in section
31 28-32-49.

- 1 f. Upon receipt of notice that the provider or affiliate has appealed its final decision
2 to the district court, the department shall make a record of all documents, written
3 statements, exhibits, and other written information submitted by the provider,
4 affiliate, or the department in connection with the request for review and the
5 department's final decision on review, which constitutes the entire record. Within
6 thirty days after an appeal has been taken to district court as provided in this
7 section, the department shall prepare and file in the office of the clerk of the
8 district court in which the appeal is pending the original and a certified copy of the
9 entire record, and that record must be treated as the record on appeal for
10 purposes of section 28-32-44.
- 11 6. The remedies, duties, prohibitions, and sanctions of this section are not exclusive and
12 are in addition to all other causes of action, remedies, penalties, and sanctions
13 otherwise provided by law or by provider agreement.
- 14 7. The state's share of all civil sanctions, investigation fees, costs, expenses, and interest
15 received by the department under this section must be deposited into the general
16 fund.