

# PUBLIC WELFARE

## CHAPTER 329

### SENATE BILL NO. 2206

(Senators Dever, J. Lee, Murphy)  
(Representatives Holman, Owens, Weisz)

AN ACT to create and enact sections 50-06-05.8 and 50-06-20.1 of the North Dakota Century Code, relating to the department of human services assuming certain costs of certain social service programs and to the establishment of a human services grant program; to amend and reenact sections 11-23-01, 50-01.2-00.1, 50-03-08, 50-06-20, 50-09-27, and 50-24.1-14, subsection 3 of section 57-15-01.1, and subsection 34 of section 57-15-06.7 of the North Dakota Century Code, relating to county social service board budgets and programs funded at state expense and reduction of county property tax levy authority for social service board budgets to reflect county savings from programs funded at state expense; to repeal sections 50-03-09, 50-06.2-05.1, and 50-09-21.1 of the North Dakota Century Code, relating to the county's share of medical assistance for therapeutic foster care, service payments to the elderly and disabled, and the county share of foster care costs; to provide for a legislative management study; to provide an effective date; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **11-23-01. Officers required to furnish commissioners with departmental budget.**

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.
2. a. The departmental budget submitted by the county social service board in 2015 for the 2016 budget may not exceed an amount determined using the departmental budget submitted in 2014 by the county social service board as a starting point, subtracting the reduction in the county's social service funding responsibility for 2014 derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services, and applying to the resulting amount the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year 2015. For

purposes of this subdivision, the reduction in the county's social service funding responsibility derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services includes the following:

- (1) Foster care and subsidized adoption costs that would have been paid by the county after December 31, 2015;
  - (2) The county's share of grant costs for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services which would have been paid by the county after December 31, 2015;
  - (3) The county's share of the costs for service payments to the elderly and disabled which would have been paid by the county after December 15, 2015;
  - (4) The county's share of salary and benefits for family preservation services pursuant to section 50-06-05.8 which would have been paid by the county after December 31, 2015;
  - (5) The county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program which would have been paid by the county after December 31, 2015; and
  - (6) The computer processing costs which would have been paid by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.
- b. The departmental budget submitted by the county social service board in 2016 for the 2017 budget may not exceed an amount determined using the 2015 departmental budget as a starting point and applying to that amount the percentage salary and benefits increase provided by legislative appropriations for state employees for 2016.
- c. The budget must include a statement identifying the total savings to the county as shown by a reduction in the amounts that otherwise would have been paid by the county to the department of human services for the costs identified in subdivision a. The department of human services shall determine the appropriate amount of what each county's costs would have been to help identify each county's total savings.
- The county share of the human service budget must be funded entirely from the county's property tax levy for that purpose and the county may not use funds from any other source to supplement the human services budget, with the exception that the county may make use of the identifiable amount of other sources the county has used to supplement its human services budget for 2015 and the county may use grant funds that may be available to the county under section 50-06-20.1.
- d. The department of human services shall develop a process to review a request from a county social service board for any proposed increase in

staff needed as a result of significantly increased caseloads for state-funded human services programs, if the increase in staff would result in the county exceeding the budget limitation established under this subsection. As part of its review process, the department shall review countywide caseload information and consider the option of multicounty sharing of staff. If the department approves a request for a proposed increase in staff, the county budget limitation established under subdivision b may be increased by the amount determined necessary by the department to fund the approved additional staff.

**SECTION 2. AMENDMENT.** Section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-01.2-00.1. Definitions.**

In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, materials, travel, utilities, and related costs, and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the temporary assistance for needy families program, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs to the extent those costs exceed, in any calendar year, that county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996; or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.
3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
  - 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.

**SECTION 3. AMENDMENT.** Section 50-03-08 of the North Dakota Century Code is amended and reenacted as follows:

**50-03-08. Appropriation for county social service board administration and of locally administered economic assistance programs.**

The board of county commissioners of each county annually shall appropriate and make available to the human services fund an amount sufficient to pay:

1. The ~~the~~ local expenses of administration of locally administered economic assistance programs;
2. That county's share of fifteen percent of the amount expended in this state, in excess of the amount provided by the federal government, for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services; and
3. That county's share of the cost of other family preservation services, including intensive in-home services, provided under title VI-B, subpart 2, of the Social Security Act [Pub. L. 103-66, title XIII, 13711(a)(2); 107 Stat. 649 et seq.; 42 U.S.C. 629 et seq.], as amended, as may be agreed to by the department and the county social service board.

**SECTION 4.** Section 50-06-05.8 of the North Dakota Century Code is created and enacted as follows:

**50-06-05.8. Department to assume certain costs of certain social service programs.**

Notwithstanding section 50-06.2-05, or any other provision in title 50 to the contrary, and in addition to the programs identified in section 50-06-20, the department of human services shall pay the local expenses of administration incurred by a county after December 31, 2015, for family preservation programs; a county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program incurred after December 31, 2015; and the computer processing costs incurred by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.

**SECTION 5. AMENDMENT.** Section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-20. Programs funded at state expense - Interpretation.**

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
  - a. ~~Except as~~ provided in section 50-24.1-14, medical assistance services provided under chapter 50-24.1;
  - b. ~~Benefits~~Energy assistance program benefits provided under subsection 19 of section 50-06-05.1;
  - c. Supplements provided under chapter 50-24.5 as basic care services;
  - d. ~~Services provided under chapter 50-09 as child care assistance;~~

- e. ~~Services provided under chapter 50-09 as employment and training programs~~Services, programs, and costs listed in section 50-09-27;
  - f.e. Welfare fraud detection programs;
  - g. ~~Temporary assistance for needy families;~~ and
  - h.f. Special projects approved by the department and agreed to by any affected county social service board.
2. The state shall bear the costs of amounts expended for service payments to the elderly and disabled.
  3. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

**SECTION 6.** Section 50-06-20.1 of the North Dakota Century Code is created and enacted as follows:

**50-06-20.1. Human services grant program - Eligible counties - Reports.**

1. If the authority for counties to use emergency expenditures to address an emergency created by unusual and unanticipated demands on the counties' human services fund under chapter 50-03 is eliminated, the department shall establish a grant program to assist certain counties. An eligible county is one that historically has utilized the emergency expenditures process set forth in chapter 50-03 and which is adjacent to or part of an Indian reservation in this state, which contains Indian trust lands within the service area of a federally recognized Indian tribe which are occupied by enrolled members of that tribe, or which includes the state hospital created pursuant to subsection 8 of section 12 of article IX of the Constitution of North Dakota.
2. The grant program established in this section must be implemented through rulemaking under chapter 28-32. The department may adopt emergency rules, without application of the grounds for emergency rulemaking otherwise required under section 28-32-03, to set out the policies and procedures for the disbursement of grants and may not award more than one million nine hundred thousand dollars during the first year of a biennium, and no more than two million dollars during the second year of a biennium. The department shall notify a county of its approved funding no later than September first of each year of the biennium. The department shall issue an annual payment to counties receiving funds under this chapter in January of each year of the biennium.
3. The department shall report to the budget section annually and to the appropriations committees of the sixty-fifth legislative assembly and each succeeding legislative assembly on the funding approved under this section.

**SECTION 7. AMENDMENT.** Section 50-09-27 of the North Dakota Century Code is amended and reenacted as follows:

**50-09-27. Programs funded at state expense - Interpretation.**

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:

- a. Services provided under ~~section 50-06-06.8~~ and this chapter as child care assistance;
  - b. Services provided under this chapter as employment and training programs; ~~and~~
  - c. Temporary assistance for needy families benefits provided under this chapter; and
  - d. Foster care and subsidized adoption costs under this chapter.
2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

**SECTION 8. AMENDMENT.** Section 50-24.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-14. Responsibility for expenditures –Exceptions.**

1. ~~Except as otherwise specifically provided in subsection 2 and section 50-03-08, expenditures~~Expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.
2. ~~Each county shall reimburse the department of human services the amount required to be appropriated under subsection 3 of section 50-03-08.~~

<sup>179</sup> **SECTION 9. AMENDMENT.** Subsection 3 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
  - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
  - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
  - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not

<sup>179</sup> Section 57-15-01.1 was also amended by section 20 of Senate Bill No. 2031, chapter 137, and section 67 of Senate Bill No. 2144, chapter 439.

received approval of electors for an extension under subsection 2 of section 57-64-03.

- d. If the base year is a taxable year before 2013, reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:

- (1) The base year mill rate of the school district minus sixty mills; or
- (2) Fifty mills.

- e. If the base year is a taxable year before 2016, the base year human services county levy in dollars must be reduced to the amount of the county social service board budget levy for the budget year as determined under section 11-23-01.

<sup>180</sup> **SECTION 10. AMENDMENT.** Subsection 34 of section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

34. Counties levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the number of mills determined by dividing the county budget limitation in dollars as determined under section 11-23-01 by the taxable valuation of the county.

**SECTION 11. REPEAL.** Sections 50-03-09, 50-06.2-05.1, and 50-09-21.1 of the North Dakota Century Code are repealed.

**SECTION 12. LEGISLATIVE MANAGEMENT STUDY - SOCIAL SERVICES FINANCE PROGRAM TRANSITION.**

1. During the 2015-16 interim, the legislative management shall conduct a study to develop a proposed transition plan for transferring the costs of operating social services programs from county property tax levies to state general fund appropriations.
2. If a county social services finance working group is established, upon request of the legislative management the working group shall report its progress and findings. The membership of the working group may include:
  - a. The director of the department of human services or the director's designee;
  - b. The chief financial officer of the department of humans services;
  - c. Two members representing elected county officials identified in section 11-10-02 as selected by the North Dakota association of counties;
  - d. The tax commissioner or the commissioner's designee;
  - e. The director of the office of management and budget or the director's designee;

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<sup>180</sup> Section 57-15-06.7 was also amended by section 71 of Senate Bill No. 2144, chapter 439.

- f. Two county social services directors selected by the North Dakota county social services directors association; and
  - g. One member representing the North Dakota association of counties.
3. Under this section, a proposed transition plan must include a timeline for the major milestones of the transition plan, considerations for the transition, estimated costs, a plan to require a property tax reduction for the amount of the budgeted savings brought about by the transfer of county social services costs to the state, a plan resulting in the elimination of the county social services levy under section 50-06.2-05, and potential legislation to implement recommended changes. The study must include consideration of the feasibility of implementing the proposed transition plan.
  4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 13. EFFECTIVE DATE.** Sections 1, 9, and 10 of this Act become effective on August 1, 2015. Sections 2, 3, 4, 5, 7, 8, and 11 of this Act are effective for taxable years beginning after December 31, 2015.

**SECTION 14. EMERGENCY.** Section 6 of this Act is declared to be an emergency measure.

Approved May 12, 2015  
Filed May 13, 2015

## CHAPTER 330

### SENATE BILL NO. 2073

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-06-30 of the North Dakota Century Code, relating to security training, consultation, and assistance provided by the department of corrections and rehabilitation to the department of human services.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-06-30 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-30. Interagency agreement between the department of human services and the department of corrections and rehabilitation.**

The executive director of the department of human services and the director of the department of corrections and rehabilitation ~~shall enter an~~ may amend the interagency agreement entered under this section which became effective August 1, 2007. The amended agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of human services with the provision and enforcement of safety and security procedures at ~~state-owned facilities~~ the state hospital for all ~~individuals placed~~ patients at ~~those facilities~~ the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at ~~those facilities~~ the state hospital. The amended interagency agreement must provide that the executive director of the department of human services shall continue to be responsible for the custody and care of ~~the individuals placed~~ patients at ~~those facilities~~ the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

Approved March 25, 2015

Filed March 25, 2015

## CHAPTER 331

### SENATE BILL NO. 2320

(Senators J. Lee, Heckaman, Wanzek)  
(Representatives Karls, Kempenich, Weisz)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to the creation of a medication therapy management program for medicaid-eligible individuals; to provide for a department of human services report to the appropriations committees; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

##### Medication therapy management program.

1. The department shall establish a medication therapy management program available to medicaid-eligible individuals in the medical and hospital benefits coverage group. The purpose of the medication therapy management program is to coordinate health care and improve the health of individuals in the identified health populations and to manage health care expenditures.
2. The department may involve physicians, pharmacists, and other health professionals in the program. Any physicians, pharmacists, and other health professionals who provide face-to-face or telephonic medication therapy management services to covered individuals in the identified health population are entitled to reimbursement.
3. The department may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized medication therapy program. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.

**SECTION 2. DEPARTMENT OF HUMAN SERVICES - MEDICAID MEDICATION THERAPY MANAGEMENT PROGRAM - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The department of human services shall report to the appropriations committees of the sixty-fifth legislative assembly on the costs and benefits of the medication therapy management program for the biennium beginning July 1, 2015, and ending June 30, 2017.

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective on January 1, 2016.

Approved April 13, 2015  
Filed April 13, 2015

## CHAPTER 332

### SENATE BILL NO. 2367

(Senators Poolman, Marcellais, Rust)  
(Representatives Delmore, Fehr, Larson)

AN ACT to provide for the creation of a task force on substance exposed newborns; and to provide for a report to the legislative management.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

#### SECTION 1. TASK FORCE ON SUBSTANCE EXPOSED NEWBORNS - MEMBERSHIP - DUTIES - REPORT TO LEGISLATIVE MANAGEMENT.

1. The task force on substance exposed newborns is created for the purpose of researching the impact of substance abuse and neonatal withdrawal syndrome, evaluating effective strategies for treatment and prevention, and providing policy recommendations.
2. The task force consists of the following members:
  - a. The attorney general, or the attorney general's designee;
  - b. The executive director of the department of human services, or the executive director's designee;
  - c. A member of the senate, appointed by the legislative management;
  - d. A member of the house of representatives, appointed by the legislative management;
  - e. A state's attorney, appointed by the North Dakota association of counties;
  - f. A representative of the North Dakota medical association;
  - g. A representative of an addiction and recovery association, appointed by the attorney general;
  - h. A representative of the North Dakota chapter of the march of dimes;
  - i. A representative of prevent child abuse North Dakota;
  - j. The executive director of the Indian affairs commission, or the executive director's designee;
  - k. Four enrolled tribal members representing tribes located in the state, appointed by the Indian affairs commission;
  - l. A representative of the department of human services with expertise in early intervention and Part C of the Individuals with Disabilities Education Act, appointed by the executive director of the department of human services;

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- m. A representative of law enforcement, appointed by the attorney general;
  - n. A representative of the foster care community, appointed by the executive director of the department of human services;
  - o. A county social services director, appointed by the executive director of the department of human services;
  - p. A neonatologist, appointed by the North Dakota academy of pediatrics; and
  - q. A neonatal intensive care unit nurse, appointed by the state board of nursing.
3. The attorney general, or the attorney general's designee, shall serve as the chairman of the task force. The task force shall meet at least quarterly. Additional meetings may be held at the discretion of the chairman.
  4. The task force may request appropriate staff services from the department of human services.
  5. The members of the task force who are not state employees or members of the legislative assembly are entitled to mileage and expenses as provided by law for state officers and employees. Unless otherwise provided in this subsection, the expenses of appointed members are to be paid by the department of human services. A state employee who is a member of the task force is entitled to receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. The members of the task force who are members of the legislative assembly are entitled to compensation from the legislative council for attendance at task force meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
  6. The task force shall:
    - a. Collect and organize data concerning the nature and extent of neonatal withdrawal syndrome from substance abuse in this state;
    - b. Collect and organize data concerning the costs associated with treating expectant mothers and newborns suffering from withdrawal substance abuse;
    - c. Identify available federal, state, and local programs that provide services to mothers who abuse drugs or alcohol and to newborns who have neonatal withdrawal syndrome and evaluate those programs and services to determine if gaps in programs or ineffective policies exist; and
    - d. Evaluate methods to increase public awareness of the dangers associated with substance abuse, particularly to women, expectant mothers, and newborns.

7. Before July 1, 2016, the task force shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative management.

Approved April 15, 2015  
Filed April 15, 2015

## CHAPTER 333

### SENATE BILL NO. 2050

(Legislative Management)  
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-06.2 of the North Dakota Century Code, relating to eligibility for service payments for elderly and disabled; and to amend and reenact subsection 2 of section 50-24.1-07 of the North Dakota Century Code, relating to claims against an estate.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 50-06.2 of the North Dakota Century Code is created and enacted as follows:

##### Service payments for elderly and disabled program eligibility.

1. The state agency may not require an individual to apply for services under chapter 50-24.1 as a condition of being eligible to apply for services under the service payments for elderly and disabled program:
  - a. If the individual's estimated monthly home and community-based services benefits, excluding the cost of case management, are between the income level established in section 50-24.1-02.6 and the lowest level of the fee schedule for services under this chapter; or
  - b. If the individual is receiving a service that is not available under chapter 50-24.1.
2. The home and community-based services case manager shall notify the state agency upon use of an exception authorized under subsection 1.

**SECTION 2. AMENDMENT.** Subsection 2 of section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. a. A claim may not be required to be paid nor may interest begin to accrue during the lifetime of the decedent's surviving spouse, if any, nor while there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled, but no timely filed claim may be disallowed because of the provisions of this section.
- b. The department may not file a claim against an estate to recover payments made on behalf of a recipient who was eligible for medicaid under section 50-24.1-37 and who received coverage through a private carrier.

Approved April 15, 2015  
Filed April 15, 2015

## CHAPTER 334

### HOUSE BILL NO. 1256

(Representatives D. Anderson, Rich S. Becker, Mooney)

AN ACT to amend and reenact sections 50-06.4-01, 50-06.4-02, 50-06.4-04, 50-06.4-05, 50-06.4-06, 50-06.4-07, 50-06.4-08, 50-06.4-09, 50-24.1-33, and 54-38-05, and subsection 25 of section 65-01-02 of the North Dakota Century Code, relating to the definition of brain injury; and to provide for a legislative management study.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-06.4-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **50-06.4-01. Definitions.**

As used in this chapter:

1. "Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, nontraumatic encephalopathy, nontraumatic aneurysm, stroke, or degenerative brain disorders or injuries induced by birth trauma.
2. "Department" means the department of human services.
2. ~~"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment, including open and closed head injuries that may result in mild, moderate, or severe impairments in one or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory-perceptual and motor abilities, psychosocial behavior, physical functioning, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes.~~

**SECTION 2. AMENDMENT.** Section 50-06.4-02 of the North Dakota Century Code is amended and reenacted as follows:

##### **50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint meeting.**

The department shall act as lead agency in the state for the purpose of coordinating services to ~~persons~~individuals with traumatic brain injury. At least annually the department shall call a joint meeting of the adjutant general, the state department of health, the department of veterans' affairs, and the superintendent of public instruction to discuss the provision of services to individuals with traumatic brain injury. State agencies and political subdivision agencies shall cooperate with the department to permit the department to efficiently coordinate services to

persons/individuals with traumatic brain injury while avoiding duplication of services. Neither this chapter, nor any activity undertaken by the department under this chapter, may be construed as creating a right to any benefit or service not specifically required to be granted as a condition of the receipt of grants of federal funds.

**SECTION 3. AMENDMENT.** Section 50-06.4-04 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.4-04. Authority to accept and expend grants, gifts, and services.**

The department may apply for and accept any funds, grants, gifts, or services made available for the purpose of providing or coordinating services to persons/individuals with traumatic brain injury by any federal agency or department or any private agency or individual. Funds received by the department under this section must be deposited in the state treasury in a special fund designated as the traumatic brain injury fund and may be spent within the limits of legislative appropriation.

**SECTION 4. AMENDMENT.** Section 50-06.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.4-05. Traumatic ~~brain~~Brain injury - Prevention and identification activities.**

The department shall provide outreach services and conduct public awareness efforts regarding the prevention and identification of traumatic brain injury.

**SECTION 5. AMENDMENT.** Section 50-06.4-06 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.4-06. Traumatic ~~brain~~Brain injury - Services and activities - Acceptance of moneys.**

The department may accept and expend moneys from any public or private source, including federal sources, for any purpose involving traumatic brain injuries or the provision of services to individuals with traumatic brain injury and their families.

**SECTION 6. AMENDMENT.** Section 50-06.4-07 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.4-07. Traumatic ~~brain~~Brain injury - Informal supports - Contracts - Exemption.**

1. The department shall contract with public or private entities for the provision of informal supports to individuals with traumatic brain injury. As used in this section, "informal supports" includes information sharing and referral services, peer mentoring, training, facilitation of support groups, public awareness efforts, and individual and programmatic advocacy efforts.
2. Any entity contracting with the department under this section must:
  - a. Demonstrate expertise in serving and enhancing the quality of life for individuals with traumatic brain injury;
  - b. Agree to work in cooperation with the department, case managers, and veterans' service officers; and

- c. Agree to consult with veterans and other individuals having a ~~traumatic~~ brain injury, their families, and their caregivers.
3. The department is exempt from complying with chapter 54-44.4 with respect to contracting for the provision of informal supports under this section.

**SECTION 7. AMENDMENT.** Section 50-06.4-08 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.4-08. Social and recreational services.**

The department shall provide or contract for the provision of social and recreational services, including day supports, to individuals with ~~traumatic~~ brain injury, if the department determines that available vocational rehabilitative services do not meet the individuals' needs.

**SECTION 8. AMENDMENT.** Section 50-06.4-09 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.4-09. Vocational rehabilitation and consultation.**

The department shall provide or contract for the provision of increased and specialized vocational rehabilitation and consultation to individuals with ~~traumatic~~ brain injury who receive case management for personal care services. Services under this section include extended support for individuals at risk of losing their employment upon exhausting their vocational services.

**SECTION 9. AMENDMENT.** Section 50-24.1-33 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-33. ~~Traumatic brain~~Brain injury - Home and community-based services - Outreach activities - Quality control.**

1. As part of the personal care services program for eligible medical assistance recipients and as part of the department's services for eligible disabled and elderly individuals, the department shall provide home and community-based services to individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain injury. The department shall give priority under this section to individuals whose impairments are less severe or similar to those of individuals who are eligible for medicaid waivers.
2. The department shall conduct outreach and public awareness activities regarding the availability of home and community-based services to individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain injury.
3. The department shall conduct quality control activities and make training available to case managers and other persons providing services to individuals under this section.

**SECTION 10. AMENDMENT.** Section 54-38-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-38-05. Duties of department.**

The department shall:

1. Study alcoholism and drug abuse and related problems, including methods and facilities available for the care, custody, detention, treatment, employment, and rehabilitation of resident alcoholics and drug dependent persons.
2. Promote meetings and programs for the discussion of alcoholism and drug abuse or any of their aspects, disseminate information on the subject of alcoholism and drug abuse for the guidance and assistance of individuals, courts, and public or private agencies for the prevention of alcoholism and drug abuse, and inform and educate the general public on problems of alcoholism and drug abuse, their prevention and treatment, to the end that alcoholism and drug abuse may be prevented and that persons suffering from alcoholism or drug dependency may be disposed to seek available treatment.
3. Conduct, promote, and finance, in full or in part, studies, investigations, and research, independently or in cooperation with universities, colleges, scientific organizations, and public or private agencies.
4. Accept for examination, diagnosis, guidance, and treatment, insofar as funds permit, any resident of the state coming to the department of that person's own volition for advice and guidance. For purposes of this subsection, "any resident" includes veterans and nonveterans who have a traumatic brain injury.
5. Establish, from time to time, policies governing the evaluation, acceptance, care, and treatment of alcoholics and drug dependent persons.
6. Develop, through consultation with the director of the department of transportation, a policy governing programs for persons who, subsequent to being convicted for traffic offenses, are referred to educational courses on alcohol, drugs, and driving.

<sup>181</sup> **SECTION 11. AMENDMENT.** Subsection 25 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

25. "Permanent total disability" means disability that is the direct result of a compensable injury that prevents an employee from performing any work and results from any one of the following conditions:
  - a. Total and permanent loss of sight of both eyes;
  - b. Loss of both legs or loss of both feet at or above the ankle;
  - c. Loss of both arms or loss of both hands at or above the wrist;
  - d. Loss of any two of the members or faculties in subdivision a, b, or c;
  - e. Permanent and complete paralysis of both legs or both arms or of one leg and one arm;
  - f. Third-degree burns that cover at least forty percent of the body and require grafting;

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<sup>181</sup> Section 65-01-02 was also amended by section 1 of House Bill No. 1102, chapter 480.

- g. A medically documented traumatic brain injury affecting cognitive and mental functioning which renders an employee unable to provide self-care and requires supervision or assistance with a majority of the activities of daily living; or
- h. A compensable injury that results in a permanent partial impairment rating of the whole body of at least twenty-five percent pursuant to section 65-05-12.2.

If the employee has not reached maximum medical improvement within one hundred four weeks, the employee may receive a permanent partial impairment rating if a rating will assist the organization in assessing the employee's capabilities. Entitlement to a rating is solely within the discretion of the organization.

**SECTION 12. LEGISLATIVE MANAGEMENT STUDY.** During the 2015-16 interim, the legislative management shall consider studying brain injury care, specifically gathering client data from all brain injury service providers under contract with the department of human services, including information on brain injury type, age of consent, age of referral, number of brain injuries, and whether the individual was included or excluded from the service. The legislative management shall report its findings and recommendations with any legislation required to implement the recommendations to the sixty-fifth legislative assembly.

Approved April 16, 2015  
Filed April 16, 2015

## CHAPTER 335

### SENATE BILL NO. 2062

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-09-29 of the North Dakota Century Code, relating to the administration of temporary assistance for needy families.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

#### **50-09-29. Requirements for administration of temporary assistance for needy families.**

1. Except as provided in subsections 2, 3, and 4, the department of human services, in its administration of the temporary assistance for needy families program, shall:
  - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
  - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
  - c. Exempt eligible households from the requirements of subdivision b due to mental or physical disability of a parent or child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;
  - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
  - e. Except as provided in subdivision j, and as required to allow the state to receive funds from the federal government under title IV-A, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996;
  - f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the department ~~not to exceed five thousand dollars for a one-person household and eight thousand dollars for a household of two or more;~~
  - g. Exclude one motor vehicle of any value in determining eligibility;
  - h. Require work activities for all household members not specifically exempted by the department of human services for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;

- i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;
- j. To the extent required to allow the state to receive funds from the federal government under title IV-A, provide benefits to otherwise eligible noncitizens who are lawfully present in the United States;
- k. Establish and enforce standards against program fraud and abuse;
- l. Provide employment placement programs;
- m. ~~Consider implementing an electronic fund transfer system;~~
- n. Exempt from assets and income the savings and proportionate matching funds in individual development accounts;
- ~~o-p.~~ Determine the unemployment rate of adults living in a county that includes Indian reservation lands and a significant population of Indian individuals by using unemployment data provided by job service North Dakota;
- ~~p-q.~~ When appropriate, require household members to complete high school;
- ~~q-r.~~ To the extent required to allow the state to receive funds from the federal government under title IV-A, exempt single parents from required work activities;
- ~~r-s.~~ Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- ~~s-t.~~ Provide for sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- ~~t-u.~~ Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- ~~u-v.~~ Require each household to participate in developing an individual responsibilityemployment plan and provide for sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate ~~in developing an~~ with the terms of the individual responsibilityemployment plan;
- ~~v-w.~~ Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
- ~~w-x.~~ Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the probable month of the child's conception;
- ~~x-y.~~ Disregard earned income as an incentive allowance for no more than twelve months;

- y-x. Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services that are not identical to benefits and services provided elsewhere; and
- z-y. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, deny assistance to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
2. If the secretary of the United States department of health and human services determines that funds otherwise available for the temporary assistance for needy families program in this state must be reduced or eliminated should the department of human services administer the program in accordance with any provision of subsection 1, the department of human services shall administer the program in a manner that avoids the reduction or loss.
  3. If the department of human services determines, subject to the approval of the legislative management, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities, the department may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
  4. If the department of human services determines, subject to the approval of the legislative management, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the counties under chapter 50-01, the department may administer the program in a manner that avoids that result.

Approved March 13, 2015  
Filed March 13, 2015

## CHAPTER 336

### SENATE BILL NO. 2065

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-10.1-02, 50-10.1-04, 50-10.1-05, and 50-10.1-07 of the North Dakota Century Code, relating to appointment of state and local ombudsmen, ombudsmen access to facilities and records, posting information about the ombudsman program, and confidentiality of ombudsman records and files.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-10.1-02. Appointment of state and ~~regional~~local long-term care ombudsmen.**

The ~~executive director of the department shall appoint~~employ a state long-term care ombudsman and ~~such regional~~local long-term care ombudsmen as the ~~executive director deems~~department determines necessary within the limits of legislative appropriations.

**SECTION 2. AMENDMENT.** Section 50-10.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**50-10.1-04. Access to facilities and records.**

To carry out the powers and duties of this chapter, the state long-term care ombudsman and the ombudsman's authorized agents shall:

1. Have ~~reasonable~~ access to all long-term care facilities within the state and shall have private access to any resident within any long-term care facility within the state. ~~Reasonable access is defined as access by an ombudsman during normal working hours or by appointment and upon notification to the administrator or person in charge of the facility.~~
2. Have access to all ~~personal~~social and medical records of ~~any~~a resident of a long-term care facility ~~who has sought ombudsman services, or on whose behalf such services have been sought, except that no record may be obtained without the written consent of a resident or a legal representative of a resident, or unless a court orders the disclosure if:~~
  - a. The ombudsman or the ombudsman's authorized agent has the permission of the resident or the legal representative of the resident;
  - b. Access to the records is necessary to investigate a complaint and the resident is unable to consent to the review and has no legal representative; or

- c. A legal representative of the resident refuses to give the permission and the ombudsman or the ombudsman's authorized agent has reasonable cause to believe that the legal representative is not acting in the best interests of the resident and the state long-term care ombudsman approves access.

**SECTION 3. AMENDMENT.** Section 50-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**50-10.1-05. ~~Chapter~~Information to be posted - Retaliation prohibited.**

~~A copy of this chapter~~Information about the ombudsman program must be posted in a conspicuous place in each long-term care facility, along with ~~a statement of the right~~how to file a complaint concerning administrative actions which affect any resident and the address where a complaint may be filed. Each resident, the spouse of each resident having a spouse, and any designated representative of a resident must be provided with ~~copies of the posted documents~~information about the ombudsman program at the time the resident is admitted to the long-term care facility. A long-term care facility, and its agents, may not take or threaten retaliatory action against a resident, employee, or any other person on account of the filing of a complaint by or on behalf of that resident, or on account of the providing of information to a long-term care ombudsman constituting or relating to a complaint.

**SECTION 4. AMENDMENT.** Section 50-10.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**50-10.1-07. Confidentiality and disclosure of records and files.**

Those records and files of the state and ~~regional~~local ombudsman, and their authorized agents, which relate to, or identify any resident of a long-term care facility or a complainant, are confidential and may not be disclosed unless:

1. A resident, or a legal guardian or attorney in fact, consents in writing to the release of the information and designates to whom the information must be disclosed;
2. The ombudsman authorizes a disclosure which does not reveal the identity of any complainant or resident; or
3. A court of competent jurisdiction orders the disclosure.

Approved April 8, 2015  
Filed April 8, 2015

## CHAPTER 337

### HOUSE BILL NO. 1109

(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-10.2-02 of the North Dakota Century Code, relating to health care facility residents' rights.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

#### **50-10.2-02. Residents' rights - Implementation.**

1. All facilities shall, upon a resident's admission, provide in hand to the resident and a member of the resident's immediate family or any existing legal guardian of the resident a statement of the resident's rights while living in the facility. Within thirty days after admission, the statement must be orally explained to the resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident, and thereafter annually so long as the resident remains in the facility. The statement must include rights, responsibilities of both the resident and the facility, and rules governing resident conduct. Facilities shall treat residents in accordance with provisions of the statement. The statement must include provisions ensuring each resident the following minimum rights:
  - a. The right to civil and religious liberties, including knowledge of available choices, the right to independent personal decisions without infringement, and the right to encouragement and assistance from the staff of the facility to promote the fullest possible exercise of these rights.
  - b. The right to have private meetings, associations, and communications with any person of the resident's choice within the facility.
  - c. The right of each resident, the resident's immediate family, any existing legal guardian of the resident, friends, facility staff, and other persons to present complaints on the behalf of the resident to the facility's staff, the facility's administrator, governmental officials, or to any other person, without fear of reprisal, interference, coercion, discrimination, or restraint. The facility shall adopt a grievance process and make the process known to each resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident. An individual making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.
  - d. The right to send and receive unopened personal mail and the right of access to and use of telephones for private conversations.

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- e. The right to assured private visits by one's spouse, or if both are residents of the same facility, the right to share a room, within the capacity of the facility, unless sharing a room is not medically advisable as documented in the medical records by the attending physician.
  - f. The right to manage one's own financial affairs if not under legal guardianship, or to delegate that responsibility in writing to the administrator or manager of the facility, but only to the extent of funds held in trust by the facility for the resident. If such a trust is established, then a written quarterly accounting of any transactions made on behalf of the resident must be furnished along with an explanation by the facility to the resident or the person legally responsible for the resident.
  - g. The right to be fully informed in writing prior to or at the time of admission and during one's stay, of services provided and the charges for those services, including ancillary charges. Residents, or their legal guardians, must be informed at least thirty days prior to any change in the costs or availability of the services. No facility may demand or receive any advance payment or gratuity to assure admission.
  - h. The right to be adequately informed of one's medical condition and proposed treatment and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, to be discharged from the facility upon written request, and to be notified by the resident's attending physician of the medical consequences of any such actions.
  - i. The right to have privacy in treatment and in caring for personal needs, to use personal belongings, to have security in storing and using personal possessions, and to have confidentiality in the treatment of personal and medical records. The resident has the right to view, and authorize release of, any personal or medical records.
  - j. The right to be treated courteously, fairly, and with the fullest measure of dignity.
  - k. The right to be free from mental and physical abuse and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect the resident from injury to self or to others. In such cases, the restraint must be authorized and documented by a physician for a limited period of time and, if the restraint is a chemical one, it must be administered by a licensed nurse or physician. Except as provided in this subdivision, drugs or physical restraints may not be used or threatened to be used for the purposes of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not part of an approved treatment plan.
  - l. The right not to be transferred or discharged except for:
    - (1) Medical reasons;
    - (2) The resident's welfare or that of other residents; or
    - (3) Nonpayment of one's rent or fees-

Residents may be temporarily transferred; or

(4) A temporary transfer during times of remodeling.

- m. The right to receive at least a thirty-day written advance notice of any transfer or discharge when the resident is being discharged to another facility or the resident's own home, or when the resident is being transferred or discharged because of a change in the resident's level of care; ~~and the right to receive~~however, advance notice of transfer or discharge under all other circumstances to the extent not prohibited by sound medical reasons, or incompatibility which affects a resident's welfare or that of another resident may be less than thirty days if the resident has urgent medical needs that require a more immediate transfer or discharge, or a more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.
- n. The right to refuse to perform services on behalf of the facility, unless agreed to by the resident or legal guardian and established in the plan of care.
- o. The right to a claim for relief against a facility for any violation of rights guaranteed under this chapter.
- p. The right to have each facility display a notice that the following information is available for public review and make the information available on request:
  - (1) A complete copy of every inspection report, deficiency report, and plan of correction the facility received during the previous two years.
  - (2) The facility's grievance process.
  - (3) A copy of the statement of ownership, board membership, and partners.
  - (4) A statement of ownership setting forth any conflict of interest in the operation of the facility.
- q. The right to a pharmacist of the resident's choice irrespective of the type of medication distribution system used by the facility.
- r. The right to not be discriminated against by a facility in the admissions process or in the provision of appropriate care on the basis of the resident's source of payment to the facility. Any applicant for admission to a facility who is denied admission must be given the reason for the denial in writing upon request.
- s. The right of residents and their families to organize, maintain, and participate in resident advisory and family councils.
- t. The right of residents receiving services performed by a provider from outside the facility to be informed, on request, of the identity of the provider.

2. Waiver of any of the rights guaranteed by this chapter may not be made a condition of admission to a facility.
3. Each facility shall prepare a written plan and provide staff training to implement this chapter.
4. ~~The department shall hold open meetings at least once every two years in each region established by the governor's executive order 1978-12 dated October 5, 1978, having a facility, to advise and to facilitate communication and cooperation between facility personnel and the residents in their mutual efforts to improve resident care; and to document concerns and issues needing to be addressed. Appropriate advance notice must be given.~~
5. The department shall develop and coordinate with the facility licensing and regulatory agencies a relocation plan in the event a facility is decertified or unlicensed.

Approved March 25, 2015

Filed March 25, 2015

## CHAPTER 338

### SENATE BILL NO. 2081

(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to immunity for a person providing foster care for approving reasonable and prudent activities; and to amend and reenact section 50-11-00.1 of the North Dakota Century Code, relating to definitions used in foster care homes for children and adults.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **50-11-00.1. Definitions.**

As used in this chapter:

1. "Approval" means the approval by the department of a home of a Native American family located on a recognized Indian reservation in North Dakota or of a facility owned by the tribe or a tribal member and located on a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the home or facility to receive title IV-E funding.
2. "Authorized agent" means the county social service board, unless another entity is designated by the department.
3. "Department" means the department of human services.
4. "Facility" means a family foster home for adults, family foster home for children, group home, or residential child care facility for children.
5. "~~Family foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee thereof, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.~~
6. "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof to no more than four children, unless all the children in foster care are related to each other by blood or marriage or unless the department approves otherwise for the placement of siblings, in which case the limitation in this subsection does not apply.
- ~~7-6.~~ "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the home of a caregiver, to a person age eighteen or older, who is unable, neglects, or refuses to provide for the person's own care.

- 8-7. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, group home, or residential child care facility.
8. "Foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee of the residence, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
9. "Group home" means a licensed or approved residence in which foster care is regularly provided for more than four, but less~~fewer~~ than ~~ten~~thirteen, unrelated children.
10. "Residential child care facility" means a licensed or approved facility other than an occupied private residence providing foster care to ~~more than eight~~thirteen or more unrelated children, except as may be otherwise provided by rule or regulation.

**SECTION 2.** A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

**Immunity for a person providing foster care.**

A person providing foster care for children in a licensed or approved facility is immune from civil liability for any act or omission resulting in damage or injury to or by a child in foster care if, at the time of the act or omission, the person providing foster care for children applied the reasonable and prudent parent standard in a manner that protects child safety, while also allowing the child in foster care to experience age or developmentally appropriate activities.

Approved March 11, 2015  
Filed March 11, 2015

## CHAPTER 339

### SENATE BILL NO. 2080

(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 24 of section 50-11.1-02, subsections 2 and 3 of section 50-11.1-03, subsection 1 of section 50-11.1-04, subsection 9 of section 50-11.1-06.2, sections 50-11.1-13.1 and 50-11.1-17, and subsections 1, 3, and 4 of section 50-11.1-18 of the North Dakota Century Code, relating to the definition of self-declaration, early childhood services license requirements, prerequisites for issuance of a license or self-declaration, background investigations, penalty for provision of services, and the early childhood services inclusion support services and grant program.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 24 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to ~~three children below the age of twenty-four months or for no more than five children through the age of eleven, of which no more than three may be under the age of twenty-four months.~~

**SECTION 2. AMENDMENT.** Subsections 2 and 3 of section 50-11.1-03 of the North Dakota Century Code are amended and reenacted as follows:

2. A license for group child care is required if early childhood services are provided for at least eight and no more than ~~eighteen~~thirty children at any one time.
3. A license for a child care center is required if early childhood services are provided for more than ~~eighteen~~thirty children at any one time.

**SECTION 3. AMENDMENT.** Subsection 1 of section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program upon a showing that:

- a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and must be maintained according to rules adopted by the department;
- b. Staff members are qualified to fulfill the duties required of them according to the provisions of this chapter and standards prescribed for their qualifications by the rules of the department;
- c. The application does not include any fraudulent or untrue representations;
- d. The owner or operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months prior to the date of the current application;
- e. The owner or operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial cannot have occurred within the five years immediately preceding the application date;
- f. The program has paid its license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- g. The family child care owner or operator has received training and is currently certified in cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs that are approved by the department, and is currently certified in first aid by a program approved by the department; and
- h. The group child care, preschool, school-age child care, or child care center maintains, at all times during which early childhood services are provided, at least one person who has received training and is currently certified in cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs that are approved by the department, and at least one person who is currently certified in first aid by a program approved by the department.

**SECTION 4. AMENDMENT.** Subsection 9 of section 50-11.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

9. Any individual who is providing early childhood services solely for the provider's own children, grandchildren, nieces, nephews, and cousins as a ~~licensed provider, a nonlicensed holder of a self declaration, or an in-home provider~~ may not be required to submit to a criminal history record check authorized under section 50-06-01.9.

**SECTION 5. AMENDMENT.** Section 50-11.1-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-13.1. Penalty for provision of services - When applicable.**

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:

- ~~1-a.~~ Those services are provided after that individual is required to register as a sexual offender;
  - ~~2-b.~~ The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; or
  - ~~3-c.~~ The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual.
2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.

**SECTION 6. AMENDMENT.** Section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval - Term.**

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department or the department's authorized agent shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department or the department's authorized agent shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Except as otherwise provided, the department shall approve a self-declaration upon the applicant's declaration that:
  - a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and shall be maintained according to the standards prescribed by the rules of the department;
  - b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in its rules;
  - c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;

- d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial cannot have occurred within five years of the application date;
  - e. The applicant has paid the required application fees;
  - f. The applicant has paid any penalties and sanctions assessed against the program required by ~~sections~~sections 50-11.1-03 and 50-11.1-07.4;
  - g. The applicant is currently certified in cardiopulmonary resuscitation by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation training program approved by the department;
  - h. The applicant is currently certified in first aid through a training program approved by the department; and
  - i. The application does not include any fraudulent or untrue representations.
2. The department may consider the early childhood services history of the applicant in determining issuance of a self-declaration document.
  3. The department may issue a provisional self-declaration document in accordance with the rules of the department.

**SECTION 7. AMENDMENT.** Subsections 1, 3, and 4 of section 50-11.1-18 of the North Dakota Century Code are amended and reenacted as follows:

1. The department may establish in collaboration with the department of commerce an early childhood services inclusion grant program for ~~licensed~~ early childhood services providers that provide, or applicants for licensure who indicate they will provide, care for children with disabilities or developmental delays. The grant program must be designed to:
  - a. ~~Increase the number of staff in the adult to child ratio to~~Support the staffing needs to expand supervision ~~and the ability to care for children with disabilities or developmental delays; and~~
  - b. Assist in modifying or adapting the early childhood services setting as needed to address the health and, safety, and developmental needs of children with disabilities or developmental delays.
3. The department may establish a grant review committee to assist in the development of grant guidelines, the review of applications, and the determination of awards or denials. The membership of the grant review committee must include representation from each of the following:
  - a. The department of human services;
  - b. The department of public instruction;
  - c. The North Dakota training and information center;
  - d. ~~North Dakota child care resource and referral~~Child care aware of North Dakota; and

- e. Parents of children with disabilities or at risk for developmental delays; and
  - f. Other appropriate partners.
4. To be eligible for the grant program, the early childhood services provider must:
- a. Be state-licensed, self-declared, or in the process of applying for licensure;
  - b. Submit a letter from the provider's county social services office confirming the provider's licensing status;
  - c. Submit a letter from aCollaborate with service provider that providesproviders that provide formal supports to the child confirming an increased funding need to assist the provider in serving the child with disabilitiesor children with disabilities or developmental delays; and
  - d-c. Work with the child's family and an inclusion or health specialist to complete a care plan appropriate for the child care setting.

Approved March 18, 2015

Filed March 18, 2015

## CHAPTER 340

### HOUSE BILL NO. 1247

(Representatives Oversen, Delmore, Hawken, Kiefert, Larson, Rohr)  
(Senators Grabinger, Oban)

AN ACT to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to early childhood services training on safe sleep practices for infants.

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

**SECTION 1.** A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

#### **Early childhood services providers - Training on infant safe sleep practices.**

The department shall adopt rules to require an early childhood service provider and the provider's staff members who are responsible for the care or teaching of children under the age of one to annually complete a department approved sudden infant death syndrome prevention training course.

Approved April 9, 2015

Filed April 9, 2015

## CHAPTER 341

### HOUSE BILL NO. 1041

(Legislative Management)  
(Health Care Reform Review Committee)

AN ACT to amend and reenact section 50-24.1-37 of the North Dakota Century Code, relating to pharmacy benefit management services for the medicaid expansion program; and to provide for application.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-37. (Effective January 1, 2014, through July 31, 2017) Medicaid expansion.**

1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty level, based on modified adjusted gross income.
2. The department of human services shall inform new enrollees in the medical assistance program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange. The contract between the department and the private carrier must:
  - a. Provide a reimbursement methodology for all medications and dispensing fees which identifies the minimum amount paid to pharmacy providers for each medication. The reimbursement methodology, at a minimum, must:
    - (1) Be available on the department's website; and
    - (2) Encompass all types of pharmacy providers regardless of whether the pharmacy benefits are being paid through the private carrier or contractor or subcontractor of the private carrier under this section.
  - b. Provide full transparency of all costs and all rebates in aggregate.
  - c. Allow an individual to obtain medication from a pharmacy that provides mail order service; however, the contract may not require mail order to be the sole method of service.
  - d. Ensure that pharmacy services obtained in jurisdictions other than this state and its three contiguous states are subject to prior authorization and reporting to the department for eligibility verification.

- e. Ensure the payments to pharmacy providers do not include a required payback amount to the private carrier or one of the private carrier's contractors or subcontractors which is not representative of the amounts allowed under the reimbursement methodology provided in subdivision a.
- f. Any information provided to the department of human services or any audit firm by a pharmacy benefit manager under this section is confidential under section 44-04-17.1.

**SECTION 2. APPLICATION.** This Act applies to a contract entered or renewed on or after the effective date of this Act.

Approved April 9, 2015  
Filed April 9, 2015

## CHAPTER 342

### SENATE BILL NO. 2043

(Legislative Management)  
(Health Services Committee)

AN ACT to create and enact a new section to chapter 50-24.1 and a new subsection to section 50-24.6-04 of the North Dakota Century Code, relating to medical assistance coverage for the services of licensed community paramedics, advanced emergency medical technicians, emergency medical technicians, and drug manufacturer rebates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

##### **Health-related services - Licensed community paramedics.**

The department of human services shall adopt rules governing payments to licensed community paramedics, advanced emergency medical technicians, and emergency medical technicians for health-related services provided to recipients of medical assistance, subject to necessary limitations and exclusions. A physician or an advanced practice registered nurse must supervise any care provided by a licensed community paramedic, an advanced emergency medical technician, or emergency medical technician.

**SECTION 2.** A new subsection to section 50-24.6-04 of the North Dakota Century Code is created and enacted as follows:

The department may negotiate additional rebates from drug manufacturers to supplement the rebates required by federal law governing the medical assistance program. Additionally, the department may join a multistate supplemental drug rebate pool, and if the department negotiates additional rebates outside this pool, any other manufacturer must be allowed to match those rebates.

Approved April 13, 2015  
Filed April 13, 2015

**CHAPTER 343****SENATE BILL NO. 2046**

(Legislative Management)  
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance coverage for certain behavioral health services.

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

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

**Behavioral health services - Licensed marriage and family therapists.**

Beginning January 1, 2016, the department of human services shall allow licensed marriage and family therapists to enroll and be eligible for payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department determines necessary.

Approved April 22, 2015

Filed April 22, 2015

## CHAPTER 344

### HOUSE BILL NO. 1277

(Representatives Fehr, Hofstad, B. Koppelman, Lefor)  
(Senators Cook, Rust)

AN ACT to amend and reenact section 50-24.4-07 of the North Dakota Century Code, relating to the exclusion of sales tax revenue as an offset to costs in setting nursing home rates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>182</sup> **SECTION 1. AMENDMENT.** Section 50-24.4-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **50-24.4-07. Nonallowable costs.**

1. The following costs may not be recognized as allowable: political contributions; salaries or expenses of a lobbyist, as defined in section 54-05.1-02, for lobbying activities; advertising designed to encourage potential residents to select a particular nursing home; fines and penalties; legal and related expenses for unsuccessful challenges to decisions by governmental agencies; memberships in sports, health, or similar social clubs or organizations; and costs incurred for activities directly related to influencing employees with respect to unionization. The department by rule shall exclude the costs of other items or services not directly related to the provision of resident care.
2. Nonallowable costs include the education expense unless:
  - a. The education was provided by an accredited academic or technical educational facility;
  - b. The education expense was for materials, books, or tuition;
  - c. The facility claims the education expense, annually, in an amount not to exceed three thousand seven hundred fifty dollars for each individual; and
  - d. The amount of education expense claimed for an individual does not exceed fifteen thousand dollars in the aggregate.
3. The education expense may be claimed the year in which it is expended.
4. For any individual who receives education assistance, the facility shall enter a contract with the individual which stipulates a minimum commitment to work for the facility as well as a repayment plan if the individual does not fulfill the contract obligations.

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<sup>182</sup> Section 50-24.4-07 was also amended by section 1 of House Bill No. 1353, chapter 345.

5. An individual who receives education assistance shall commit to a minimum of one thousand six hundred sixty-four hours of employment after completion of the educational program for each year education assistance was provided by the facility.
6. The facility shall report the education expense separately on the facility's cost report. The expense is allowed as a passthrough and is limited only by the fifteen thousand dollar maximum per individual.
7. If an individual defaults on a contract and education expenses for the individual have previously been claimed in any report year, the facility shall report the amount of repayment on the facility's cost report in the report year in which the default occurs.
8. The department shall exclude sales tax revenue received from a political subdivision or local taxing authority as an offset to costs for facilities located in communities with a population below twelve thousand five hundred people.

Approved March 25, 2015  
Filed March 25, 2015

## CHAPTER 345

### HOUSE BILL NO. 1353

(Representatives Kreidt, Bellew, Hofstad, Rohr, Seibel, Silbernagel, Weisz)  
(Senator Unruh)

AN ACT to amend and reenact section 50-24.4-07 of the North Dakota Century Code, relating to nonallowable costs in determining nursing home rates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>183</sup> **SECTION 1. AMENDMENT.** Section 50-24.4-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **50-24.4-07. Nonallowable costs.**

1. The following costs may not be recognized as allowable: political contributions; salaries or expenses of a lobbyist, as defined in section 54-05.1-02, for lobbying activities; advertising designed to encourage potential residents to select a particular nursing home; fines and penalties; legal and related expenses for unsuccessful challenges to decisions by governmental agencies; memberships in sports, health, or similar social clubs or organizations; and costs incurred for activities directly related to influencing employees with respect to unionization. The department by rule shall exclude the costs of other items or services not directly related to the provision of resident care.
2. Nonallowable costs include the education expense unless:
  - a. The education was provided by an accredited academic or technical educational facility;
  - b. The education expense was for materials, books, or tuition; and
  - c. ~~The facility claims the education expense, annually, in an amount not to exceed three thousand seven hundred fifty dollars for each individual; and~~
  - d. The amount of education expense claimed for an individual does not exceed fifteen thousand dollars in the aggregate.
3. The education expense may be claimed the year in which it is expended.
4. For any individual who receives education assistance, the facility shall enter a contract with the individual which stipulates a minimum commitment to work for the facility as well as a repayment plan if the individual does not fulfill the contract obligations.
5. An individual who receives the maximum of fifteen thousand dollars of education assistance shall commit to a minimum of ~~one thousand six hundred~~

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<sup>183</sup> Section 50-24.4-07 was also amended by section 1 of House Bill No. 1277, chapter 344.

~~sixty-four~~six thousand six hundred fifty-six hours of employment after completion of the educational program for each year education assistance was provided by the facility. The number of hours of employment required may be prorated for an individual who receives less than the maximum of fifteen thousand dollars of education assistance.

6. The facility shall report the education expense separately on the facility's cost report. The expense is allowed as a passthrough and is limited only by the fifteen thousand dollar maximum per individual.
7. If an individual defaults on a contract and education expenses for the individual have previously been claimed in any report year, the facility shall report the amount of repayment on the facility's cost report in the report year in which the default occurs.

Approved April 9, 2015  
Filed April 9, 2015

## CHAPTER 346

### HOUSE BILL NO. 1234

(Representatives Weisz, Porter)

AN ACT to amend and reenact section 50-24.4-15 of the North Dakota Century Code, relating to nursing home rate determination.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-24.4-15 of the North Dakota Century Code is amended and reenacted as follows:

##### **50-24.4-15. Property-related costs.**

1. The department shall include in the ratesetting system for nursing homes a payment mechanism for the use of real and personal property which provides for depreciation and related interest costs. The property cost payment mechanism must:
  - a. Recognize the valuation basis of assets acquired in a bona fide transaction as an—ongoing operation after July 1, 1985, limited to the lowest of:
    - (1) Purchase price paid by the purchaser;
    - (2) Fair market value at the time of sale; or
    - (3) Seller's cost basis, increased by one-half of the increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, less accumulated depreciation.
  - b. Recognize depreciation on land improvements, buildings, and fixed equipment acquired, as an ongoing operation over the estimated useful remaining life of the asset as determined by a qualified appraiser.
  - c. Recognize depreciation on movable equipment acquired as an ongoing operation after August 1, 1995, over a composite remaining useful life.
  - d. Provide for an interest expense limitation determined by the department and established by rule.
  - e. Establish a per bed property cost limitation considering single and double occupancy construction. The double room limit effective July 1, 2015, is one hundred fifty-six thousand seven hundred eighty-three dollars and the single room limit is two hundred thirty-five thousand one hundred seventy-six dollars.
  - f. Recognize increased lease costs of a nursing home operator to the extent the lessor has incurred increased costs related to the ownership of the

facility, the increased costs are charged to the lessee, and the increased costs would be allowable had they been incurred directly by the lessee.

- g. Recognize any mandated costs, fees, or other moneys paid to the attorney general through transactions under sections 10-33-144 through 10-33-149.
2. For rate years beginning after December 31, 2003, the limitations of paragraph 3 of subdivision a of subsection 1 do not apply to the valuation basis of assets purchased between July 1, 1985, and July 1, 2000. The provisions of this subsection may not be applied retroactively to any rate year before July 1, 2005.
3. For rate years beginning after December 31, 2007, the limitations of subdivision e of subsection 1 do not apply to the valuation basis of assets acquired as a result of a natural disaster before December 31, 2006. The provisions of this subsection may not be applied retroactively to any rate year before January 1, 2008.

Approved April 24, 2015  
Filed April 24, 2015

## CHAPTER 347

### SENATE BILL NO. 2082

(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to eligibility for basic care assistance; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

##### **50-24.5-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.
2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
3. "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
4. "County agency" means the county social service board.
5. "Department" means the department of human services.
6. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
7. "Eligible beneficiary" means a resident of this state who:
  - a. (1) Is aged; or  
(2) Is at least eighteen years of age and is disabled or blind;
  - b. (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or  
(2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an

asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02:

- c. Meets the requirements of section 23-09.3-08.1;
  - d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
    - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or an assisted living facility; or
    - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
  - e. Is determined to be eligible pursuant to rules adopted by the department.
8. "Institution" means a facility licensed under chapter 23-09.3.
  9. "Living independently" includes living in congregate housing. The term does not include living in an institution.
  10. "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.
  11. "Proprietor" means an individual responsible for day-to-day administration and management of a facility.
  12. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.
  13. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 11, 2015  
Filed March 11, 2015

## CHAPTER 348

### HOUSE BILL NO. 1359

(Representatives Kreidt, Hofstad, Kempenich, J. Nelson)  
(Senator Unruh)

AN ACT to create and enact section 50-24.5-02.3 of the North Dakota Century Code, relating to basic care payment rates; and to amend and reenact sections 50-32-02 and 50-32-04 of the North Dakota Century Code, relating to assisted living facilities.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Section 50-24.5-02.3 of the North Dakota Century Code is created and enacted as follows:

##### **50-24.5-02.3. Basic care payment rates.**

1. The department shall establish, by rule, procedures for determining rates for the care of residents of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing provisions of this chapter. The procedures must be based on methods and standards that the department finds are adequate to recognize the costs that must be incurred for the care of residents in efficiently and economically operated basic care facilities.
2. The department shall identify costs that are recognized for establishing payment rates.
3. For the rate year beginning July 1, 2016, the department shall establish the limits by using the average of the highest and lowest rates from the 2014 rate year. The direct care limit must be ninety-five percent of the average and the indirect care limit must be ninety percent of the average. Beginning with the July 1, 2017, rate year, the department shall adjust the limits by using the cost percentage change from the prior two rate years, within the limits of legislative appropriations.
4. The department shall provide, by rule, within the limits of legislative appropriations, for payment of rates paid by the aged, blind, and disabled persons program for a maximum of thirty days per occurrence for leave days for a resident who is in a licensed health care facility when the resident is expected to return to the facility.
5. Within the limits of legislative appropriations, the department shall establish an uncompensated care expense of one hundred eighty days.

**SECTION 2. AMENDMENT.** Section 50-32-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-32-02. Licensing of assisted living facilities - Penalty.**

1. An entity may not keep, operate, conduct, manage, or maintain an assisted living facility or use the term "assisted living" in its advertising unless it is licensed by the department.
2. An assisted living facility shall pay to the department an annual license fee of seventy-five dollars for each facility. License fees collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.
3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license approved by the department. Fines collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.
4. If there are one or more deficiencies or a pattern of deficiencies related to quality of care or compliance with licensing requirements, the department may issue a provisional license. A provisional license may not be valid for more than ninety days. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.
5. Religious orders providing individualized support services to vowed members residing in the order's retirement housing are not subject to this chapter.
- 5-6. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

**SECTION 3. AMENDMENT.** Section 50-32-04 of the North Dakota Century Code is amended and reenacted as follows:

**50-32-04. Assisted living facility health services - Limitations on hospice services.**

1. An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this section, health services means services provided to an individual for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.
2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs.

Approved April 27, 2015  
Filed April 27, 2015

## CHAPTER 349

### SENATE BILL NO. 2237

(Senators J. Lee, Dever, Mathern)  
(Representatives Beadle, Delmore, Hofstad)

AN ACT to amend and reenact section 50-31-06 of the North Dakota Century Code, relating to information received by the department of human services for substance abuse treatment programs; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 50-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**50-31-06. Information confidential.**

~~Information~~Client records and client information that are protected under title 42, Code of Federal Regulations, part 2, the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.], or are specifically excluded from disclosure by other state or federal law, and which are received by the department through inspections of programs under this chapter are confidential and may not be disclosed except in a proceeding involving the issuance of a license. As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 25, 2015  
Filed March 25, 2015