

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1046
(Human Services Committee)
(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-01.1-01, subsection 3 of section 50-01.1-02, and sections 50-01.1-03, 50-01.1-04, 50-01.1-06, 50-01.1-08, 50-35-01, 50-35-04, and 50-35-05 of the North Dakota Century Code, relating to direct and indirect costs, billing practices, and payments to human service zones, human service zones agreements and plans, creation of human service zones, human service zone directors, and the indirect cost plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-01. Definitions.

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

1. "Department" means the department of health and human services.
2. "Direct costs" means costs that are charged directly to the human service zone human services fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are approved by the department and not identified by the department as an indirect cost.
3. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
5. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
6. "Human service zone team member" means a county employee who is responsible for administering or delivering human services under the direction of the human service zone director.
7. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, locally administered economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.

- c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. Indirect costs include legal representation; facilities and related costs, such as utilities ~~and maintenance, remodeling, construction, and improvement costs~~; administrative support including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services. Indirect costs may not include non-space and non-facility costs and expenses that are exclusively attributable to the human service zones.
9. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone 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 2. AMENDMENT. Subsection 3 of section 50-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Counties shall identify other counties with which to enter a human service zone agreement, and together the board of county commissioners shall file with the department a written agreement to create a human service zone ~~no later than December 1, 2019~~. The agreement must identify the proposed counties of the human service zone, host county, identify the human service zone board members, proposed effective date, and agree to seek approval from the department regarding hiring or dismissal of ~~county social services or human service zone employees~~. The department shall review and approve all agreements in accordance with section 50-01.1-03. The department may modify the agreements as specified in section 50-01.1-03 or if some of the counties are not included in a human service zone. ~~If counties do not submit an agreement, the department shall create the human service zone.~~ The board of county commissioners shall submit a plan as prescribed in section 50-01.1-04 ~~by June 1, 2020~~. The department shall approve the plan in accordance with section 50-01.1-04 ~~by January 1, 2021~~ within six months of receiving the plan. The board of county commissioners shall provide quarterly updates as requested by the department to the department after the agreement is approved until the plan is submitted as requested. If counties do not submit an agreement or plan or if the agreement or plan is rescinded or terminated by the constituent counties or by the department pursuant to section 50-01.1-02, 50-01.1-04, or 50-01.1-08, the department shall create the human service zone. The department shall establish the date the approved agreement or plan takes effect.

SECTION 3. AMENDMENT. Section 50-01.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-03. Manner of determination.

1. In determining whether the creation of a human service zone should be approved or established, the department shall refer to, among other pertinent factors, the following:
 - a. Whether the affected county agencies are able to supply an adequate level and quality of human, social, and economic assistance services.
 - b. The number and qualifications of staff personnel serving the affected county agencies.
 - c. The ratio of the number of cases handled by the affected county agencies to the number of their staff personnel.
 - d. The geographical area and population served by the affected county agencies.
 - e. The distance of recipients from the affected county agencies.
 - f. The benefits that would be realized from the creation of the human service zone in terms of lower costs, increased availability of services, new services, and improvement of services.
 - g. The amount of current and future access points for individuals to apply for and receive services within a human service zone.
 - h. The existing pattern of the counties trade area and any regional pattern established by the department.
 - i. Whether the county has a population exceeding sixty thousand individuals according to the 2010 United States census to operate as a single human service zone and whether it is in the best interest of the neighboring counties.
 - j. The maximum number of human service zones created may not exceed nineteen.
 - k. Whether the human service zone director can adequately supervise the activities and operations of the human service zone.
 - l. Whether the human service zone board is constituted of individuals that represent the population of the human service zone.
 - m. Budget impact.
 - n. Other good cause.
2. The department has final approval of a human service zone. The department may establish or modify a human service zone based on the criteria set forth in subsection 1. All human service zones must be initially approved or established by January 1, 2020, and may be rescinded or terminated pursuant to section 50-01.1-02, 50-01.1-04, or 50-01.1-08, modified thereafter by the department, or approved by the department through a process developed by the department and in accordance with section 50-01.1-02.

SECTION 4. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Human service zone board.

1. A plan for the creation of a human service zone must describe the method of operation of the human service zone office, its administration, its location and the location of any ancillary

offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. The plan must provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the method of resolution of any disagreement between the boards of county commissioners involved in the human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded, terminated, or modified by the department or approved by the department through a process developed by the department and in accordance with section 50-01.1-02.

2. The human service zone director shall prepare a proposed budget for the human service zone at the time and in the manner as requested by the department and shall submit the department-approved proposed budget to the board of county commissioners of each county in the human service zone for review. The board of county commissioners may not take any action to amend or modify the amount approved by the department. The board of county commissioners may make recommendations to the human service zone director and the department to amend or modify the amount proposed or budgeted. The amount budgeted must be sufficient to defray the anticipated expenses of administration and the delivery of human services. Within ten days following review of the proposed budget by the boards of county commissioners, the human service zone director shall certify the budget to the respective county auditors of the counties in the district. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated indirect costs of the human service zone. Indirect costs of the human service zone may not become direct costs without written approval of the department. Counties may not direct bill human service zones or the department as counties will receive reimbursement of costs through the indirect cost plan and any other expense incurred by the human service zone must be incurred through the human service zone's approved budget. The amounts budgeted, reviewed, and approved by the several boards of county commissioners or the department, or both must be periodically deposited with the treasurer of the host county in which the human service zone office is located and must be placed in a special human service zone human services fund. Indirect cost payments received by the human service zone are not required to be deposited in the special human service zone human services fund. The human service zone's income must be deposited into the human service zone human services fund by the treasurer of the host county. The human service zone board shall establish procedures for the review and approval of all claims against the human service zone human services fund. The human service zone director or designee shall approve or ratify all claims against the human service zone human services fund. The county treasurer of the host county, shall pay approved or ratified claims from the human service zone human services fund. Unexpended human service zone human services funds remaining at the end of a fiscal year may be carried over to the next fiscal year pursuant to section 50-35-05. The department may recalculate and adjust each human service zone's payment based on pertinent factors, which include actual expenditures over the prior or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload.

SECTION 5. AMENDMENT. Section 50-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-06. Human service zone directors.

Human service zone directors:

1. ~~Must be employees of the human service zone and located within the human service zone, unless serving more than one human service zone.~~
2. Shall serve as the presiding officer of the human service zone board.

3. May serve one or more human service zones.
4. May hire, take disciplinary actions, and direct the work of a human service zone team member in accordance with the department's policies. The human service zone director has discretion to hire or separate from employment a human service zone team member, on behalf of the human service zone board, subject to the allotted number of approved and funded staff positions by the department.
5. Shall notify the department and appropriate host county staff, as directed by the county commissioners, regarding the hiring, dismissal, demotion, suspension without pay, forced relocation within the human service zone, reduction-in-force, or reprisal of a human service zone team member.
6. May notify county commissioners, the human service zone board, or other appropriate county staff regarding transfers of staff between the county and the department.
7. Shall establish, as agreed upon by the department, equitable compensation and salary increases for all human service zone team members within established appropriation.
8. Shall develop a budget for the human service zone in partnership with the department and other human service zone directors to ensure the administration of human services.
9. May serve as a designee of the department to supervise department employees assigned to or located within the human service zone.
10. Are the custodian designees of the executive director of the department for any child in the custody of the department.

SECTION 6. AMENDMENT. Section 50-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-08. Standards of administration - Action upon failure to administer.

1. The department shall adopt standards for administration for human services and shall provide training for the implementation of those standards. Each human service zone shall provide for administration of human services that meet those standards.
2. The department shall develop a system of progressive discipline to address performance issues within the human service zone, including a grievance process. The system shall reserve the most serious actions for severe or chronic failure to meet the standards adopted under subsection 1.
3. The department shall provide ongoing performance notifications to the human service zone board and human service zone director related to the overall compliance with the standards of administration.
4. If a human service zone fails to provide for administration of human services that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the human service zone to prepare and implement a corrective action plan.
 - c. ~~Terminate~~Rescind, terminate, or modify a human service zone, agreement, or plan which may include requiring the reconstituting of the human service zone board or rehiring of a human service zone director as part of a new or modified agreement or plan.
 - d. Recalculate and adjust the human service zone's payments.

- e. Recommend disciplinary action to the human service zone director or the human service zone board.

SECTION 7. AMENDMENT. Section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

50-35-01. Definitions.

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

1. "Department" means the department of health and human services.
2. "Director" means the executive director of the department or the executive director's designee.
3. "Direct costs" means costs that are charged directly to the human service zone human services fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are approved by the department and not identified by the department as an indirect cost.
4. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.
5. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
6. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
7. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.

- c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; remodeling, construction, and improvement costs; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services. Indirect costs may not include non-space and non-facility costs and expenses that are exclusively attributable to the human service zones.

SECTION 8. AMENDMENT. Section 50-35-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The director shall calculate, in collaboration with the human service zone director or designee, the total payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:
 - a. Other factors outlined in subsection 3;
 - b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];
 - c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members to the salary increase provided by the legislative assembly for state employees; and
 - d. Current and future duties of and services offered by the human service zone and department.
2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.
3. The director may recalculate and adjust each human service zone's payment based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's payment, the human service zone director must be notified within thirty days of amendment or modification. The spending authority of the human service zone must be increased or decreased based on the approved, adjusted, or modified payment.
4. ~~The director, during the period between January 1, 2021, and December 31, 2023, shall calculate payment for indirect costs. Indirect costs of the human service zone may not become direct costs without written approval of the department. The total payment by the department for reimbursement of indirect costs incurred to support human services may not be less than the prorated amount paid to counties for this purpose in state fiscal year 2018 as identified in the~~must be within legislative appropriation and be based on the annual indirect cost plan, unless a cost reduction or cost-savings is achieved by the county starting August 1, 2023, for

the counties to budget for the 2024 fiscal year. The 2023 cost allocation plan must be based on the requested information received from the counties.

5. Direct costs must be applied consistently within all human service zones and may not be included in indirect costs.
6. Indirect costs must be applied consistently within all counties as it relates to human service zones and may not be included in direct costs.
7. Counties shall provide the requested information for the cost allocation plan by September fifteenth of each year. The department shall provide notice to the county commissioners and auditors sixty days before the deadline if the county does not participate in providing information for the cost allocation plan. If counties fail to provide the requested information by September fifteenth of each year, the counties may not participate in the cost allocation plan and must be responsible for one hundred percent of all indirect costs.
8. The director may authorize expenditures from the human service finance fund to reimburse all indirect costs associated with a statewide pilot project, service, or program performed by a human service zone.

SECTION 9. AMENDMENT. Section 50-35-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures, excluding indirect costs payments, by the human service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's distribution payment and balance of moneys carried over pursuant to subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.
2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or two hundred fifty thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director and may not be used for the county's cost allocation of indirect costs. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1046.

House Vote: Yeas 87 Nays 6 Absent 1

Senate Vote: Yeas 45 Nays 2 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State