# CHAPTER 33-03-23
# HEALTH CARE CLAIMS DATA


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**33-03-23-01. Definitions.**

As used in this article, except as otherwise specifically provided or where the context indicates otherwise:

1. "Committee" means the health care data committee established in accordance with North Dakota Century Code chapter 23-01.1.

2. "Comprehensive health association of North Dakota members" means those insurance companies who are participating members in the North Dakota comprehensive health association as determined by the insurance commissioner under North Dakota Century Code section 26.1-08-03.

3. "Council" means the state health council as established under North Dakota Century Code section 23-01-02.

4. "Data supplier" means any insurer, nonprofit health service corporation, health maintenance organization, insured or self-funded group health plan, or state agency which pays for health benefits or provider services, health data clearinghouse, community health information network, or health care provider cooperative.

5. "Department" means the North Dakota state department of health.

6. "Diagnosis-related group" (DRG) means the categorizations established by the health care financing administration for the purposes of hospital payment and any subsequent similar set of categorizations so established.

7. "Group health plan" means an employee welfare benefit plan providing medical care as defined in 26 U.S.C. § 213(d), to participants or beneficiaries directly or through insurance, reimbursement, or otherwise.

8. "HCFA-1500" means the health care financing administration form 1500 or successor forms.

9. "Health maintenance organization" means any health maintenance organization certified by the North Dakota insurance department.

10. "Health professional data" means any claims for inpatient, outpatient, or ambulatory medical or surgical services or other services normally submitted to the third party payer on HCFA-1500 or successor forms or other forms specified by the committee.

11. "Hospital data" means any claims for inpatient, outpatient, or ambulatory surgical services or other services normally submitted to the third-party payer on form UB-92 or successor forms.

12. "Insurers" means any insurance company licensed to do business in North Dakota by the insurance department.

13. "Provider" means a person, agency, or organization which is engaged in the provision of health care to the public.

14. "UB-92" means the health care financing administration form UB-92 or successor forms.

**History:** Effective April 1, 1988; amended effective October 1, 1992; November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-04

**33-03-23-02. Requests for data.**

The committee may require data suppliers and agencies of state government to provide certain data and information.

1. The committee shall establish uniform formats for the different types of data for use by data suppliers in providing hospitalization data, health professional data, nursing home data, health maintenance organization data, and other types of data as the committee finds necessary.

2. Data required to be submitted must be provided to the committee in the format established or, if the data supplier requests in writing, in a format which is technically equivalent and which supplies all of the necessary information. Third-party payers who cannot meet these reporting specifications and third-party payers who demonstrate that it is not economically feasible to report in accordance with these specifications shall request in writing approval to report the data in a specific, alternative form. These requests must be submitted to and approved inwriting by the department.

3. Data requests must be specific regarding the time period covered, data elements to be provided, and the form and format in which the data is to be provided.

4. Hospital data required to be provided must be limited to those data elements provided for on the health care financing administration form UB-92 (or replacement form) using the current definitions developed by the North Dakota uniform billing committee, and, as specified by the health care data committee, other data commonly collected in the course of billing and obtaining reimbursement of claims.

5. Health professional data required to be provided must be limited to those data elements provided for on the health care financing administration form 1500 or successor form or other forms specified by the health care data committee, and, as specified by that committee other data commonly collected in the course of billing and obtaining reimbursement of claims.

6. Data must be provided within sixty days of the committee's request for data. A fifteen-day extension of time for providing data may be granted if the data supplier adequately justifies the delay.

7. Prior to collecting hospital data or health professional data from any data supplier, the data supplier must be provided an exact format for reporting data and an explicit description of each data item to be reported. Descriptions of data elements shall include specifications in terms of form location, definitions and alternate specifications, and definitions for those data suppliers that do not maintain the exact UB-92 data as described in the North Dakota uniform billing procedures manual, or for data elements not provided for in the HCFA-1500 medicare carriers manual (as revised). Those data suppliers that maintain similar elements shall report

the comparable data elements that they maintain and a detailed code structure for each element to the department.

8. Data must be collected at least annually but not more often than quarterly from the following data suppliers:

   a. Those comprehensive health association of North Dakota members, including health maintenance organizations, found by the North Dakota commissioner of insurance to be subject to an assessment of one percent or more as a participating member of the comprehensive health association of North Dakota, and any data supplier whose annual written premium is 0.5 percent or more of the total annual written premiums for individual or for group medical and major medical policies, as determined by the latest survey or census of insurance carriers conducted by the North Dakota commissioner of insurance, and any data supplier whose annual written premium for hospital-surgical expense coverage is one million dollars or more as determined by the latest survey or census of the North Dakota commissioner of insurance.

   b. The committee may request, but may not require, that self-funded group health plans submit claims data.

   c. State agencies that have paid any claims for hospital or health professional services during the calendar year, including medicare and medicaid data in the possession of the agency.

9. The committee shall require that the data suppliers include a contract identifier number for contracts or plans paid for or subsidized by the North Dakota public employees retirement system or the comprehensive health insurance association of North Dakota and for those employer groups who have requested in writing that the department retain a contract identifier number.

10. The committee shall require that the data suppliers include identification codes for hospitals, health professionals, clinics, and patients.

11. Data must be collected at least annually, but not more often than quarterly, from the department of human services regarding basic care, intermediate care, and skilled nursing care provided in long-term care facilities located in this state. The data must include medicare and medicaid claims for these facilities as collected by the department of human services.

12. Data must be supplied in the mode of transmission specified by the committee.

**History:** Effective April 1, 1988; amended effective October 1, 1992; November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-02, 23-01.1-04

**33-03-23-03. Prepublication review.**

Prior to publication of any reports required by statute, the committee shall allow data suppliers and providers an opportunity to review the data to be published and comment.

Data reports and analyses which are to be made available to the general public and which identify specific providers or which are solely derived from the records of a specific data supplier are subject to the following prepublication review procedures:

1. Prior to the publication of any reports required by statute, data, information, analyses, or reports relating to individual providers must be submitted to or available to the provider for verification of the accuracy of the information contained in the report. In the event that the provider finds a discrepancy between the data available to the provider and the information

contained in the draft report, the provider may submit information substantiating or refuting the draft report. Hospital data and nursing home data will be submitted to each hospital or nursing home identified. Health professional data will be available onsite at the department, and onsite at the licensing or certifying authority of the health professional or available at locations determined by the committee.

2. If the committee has not received the provider's response in writing within thirty days of the mailing date of the draft report, the committee shall assume that the data contained in the report has been verified and shall proceed with publication.

3. If the provider responds within thirty days of the mailing date of the draft report that the information is incorrect and provides documentation that an error has occurred, the committee may accept the documentation and revise the draft report correspondingly or it may reject the documentation as inadequate and proceed with publication.

   The committee shall notify the provider of its decision.

4. The provider may appeal the decision of the committee pursuant to North Dakota Century Code chapter 28-32.

5. Providers may have their data-specific comments published as an appendix to final reports.

**History:** Effective April 1, 1988; amended effective October 1, 1992; November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-02

**33-03-23-04. Mutual responsibilities of the department and the board with regard to a physician directory.**

Repealed effective October 1, 1992.

**33-03-23-05. Confidentiality.**

Individual patient confidentiality shall be protected.

1. The committee shall adopt such procedures as it finds necessary for the protection of patient confidentiality provided that in no case shall data that specifically identify a patient by name or that could be used to identify a patient by name be released to the public, data researchers, or employers. Any provider that is identified in the claims data submitted to the committee may be identified by name and code number in the tabulations released by the committee.

2. The committee may enter into agreements with data users, researchers, and employers for the release of data in other than final published form. The committee shall establish within these agreements appropriate safeguards regarding the release of such data so that individual patients will not be identified.

**History:** Effective April 1, 1988; amended effective October 1, 1992; November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-05

**33-03-23-06. Accessibility and cost of reports.**

The committee shall make certain information available to the public, providers, data suppliers, researchers, and state agencies.

1. The committee shall direct and the department shall produce an annual report comparing the cost of hospitalization by hospital and for those diagnosis-related groups selected by the committee by diagnosis-related group.

2. The committee shall direct and the department shall produce an annual report comparing the fees of health professionals providing services identified by the committee.

3. Any person, organization, governmental agency, or other entity may request special tabulations of the UB-92 data or HCFA-1500 data or data from other forms as specified by the committee that are reported to the department, or direct access to a machine-readable, final data set prepared and maintained by the department. The final data set must include the exact list of data elements specified by the committee. All requests must be made in writing to the department. The written request must include the name, address, telephone number, employer, or organizational affiliation, and a detailed description of the data or tabulations being requested.

4. With the exception of those analyses, reports, and projects undertaken pursuant to section 33-03-23-08, no special tabulations may be produced by the department until all editing and updating of the data for the year to be included in the tabulations have been completed, and the data set is determined to be the final corrected data set.

5. When a request for special tabulations or computer tapes is received by the department that would include identification of a specific provider or facility in the special tabulations or on the requested computer tapes, the provider or facility must be notified by the department thatdata including the provider identification are being released. The notification must consist of a copy of the completed request form filed with the department and a cover letter indicating the anticipated date that the data shall be provided. If a request for special tabulations is received requesting statewide information or information on multiple providers or facilities, then notice as specified in this subsection must be provided to the organization representing that type of provider or facility. As used in this subsection, "facility" means a clinic, hospital, freestanding surgical center, or any other type of health care facility.

6. All direct and indirect costs associated with the fulfillment of special requests including staff time, computer time, copying costs, and supplies must be borne by the requester.

**History:** Effective April 1, 1988; amended effective October 1, 1992; November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-02, 23-01.1-06

**33-03-23-07. Maintenance of data.**

All data reported to the committee in response to the committee's requests for necessary data must be maintained for five years. A diagnosis-specific subset of the hospitalization claims data set (UB-92) andhealth professional claims data set (HCFA-1500 or data set from other forms specified by the committee) must be maintained for a period of not less than ten years.

**History:** Effective April 1, 1988; amended effective October 1, 1992; November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-02

**33-03-23-08. Interagency agreements.**

1. The committee shall maintain memoranda of understanding with the department of human services, the workers compensation bureau, the public employees retirement system, the office of the commissioner of insurance, and any other state agency which the committee deems to have access to or authority over, or both, significant health care and nursing home data resources, for the sharing of information, data, data processing resources, and expertise.

2. These memoranda of understanding must contain provisions regarding the security and storage of data and data processing media, patient confidentiality, release restrictions, and the routine uses of the data reports to be produced, but shall not exempt any state agency that is a data supplier from full compliance with all the requirements imposed on data suppliers under this chapter.

**History:** Effective April 1, 1988; amended effective November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-02

**33-03-23-08.1. Resale of data.**

None of the data files may be copied and resold in the form they were received by the requester for any amount greater than the reasonable cost of making a copy of the data file. However, a requester may sell reports derived or created from a data file, if the requester has made significant changes in the selection, coordination, or arrangement of the information in the data file, indicating sufficient originality to permit the requester to obtain a copyright for its reconfiguration of the information in the data file.

**History:** Effective November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-02

**33-03-23-09. Civil penalty.**

Failure of a data supplier to respond to a request for data as set forth in this chapter shall constitute a violation subject to a civil penalty not to exceed five hundred dollars per day of violation. Procedures for the determination of a violation, assessment, and appeal of a penalty are governed by North Dakota Century Code chapter 28-32.

**History:** Effective April 1, 1988; amended effective November 1, 1995.
**General Authority:** NDCC 23-01.1-04
**Law Implemented:** NDCC 23-01.1-07