

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1052

Introduced by

Legislative Management

(Workers' Compensation Review Committee)

1 A BILL for an Act to amend and reenact section 65-05-28.2 of the North Dakota Century Code,  
2 relating to the workers' compensation preferred provider program.

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

4 **SECTION 1. AMENDMENT.** Section 65-05-28.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **65-05-28.2. Preferred provider - Use required - Exceptions - Notice.**

- 7 1. During the first thirty days after a work injury, an employee of an employer ~~who~~that has  
8 selected a preferred provider under this section may seek medical treatment only from  
9 the preferred provider for the injury. Treatment by a provider other than the preferred  
10 provider is not compensable and the organization may not pay for treatment by a  
11 provider who is not a preferred provider, unless a referral was made by the preferred  
12 provider. A provider who is not a preferred provider may not certify disability or render  
13 an opinion about any matter pertaining to the injury, including causation,  
14 compensability, impairment, or disability. This section does not apply to emergency  
15 care nor to any care the employee reasonably did not know was related to a work  
16 injury.
- 17 2. An employee of an employer ~~who~~that has selected a preferred provider may elect to  
18 be treated by a different provider provided the employee makes the election and  
19 notifies the employer in writing ~~prior to~~before the occurrence of an injury.
- 20 3. After thirty days have passed following the injury, the employee may make a written  
21 request to the organization to change providers. The employee shall make the request  
22 and serve it on the employer and the organization at least thirty days ~~prior to~~before  
23 treatment by the provider. The employee shall state the reasons for the request and  
24 the employee's choice of provider.

1           4. If the employer objects to the provider selected by the employee under subsection 2 or  
2           3, the employer may file an objection to the change of provider. The employer shall  
3           detail in the objection the grounds for the objection and shall serve the objection on  
4           the employee and the organization within five days of service of the request. The  
5           employee may serve, within five days of service of the employer's objection, a written  
6           response on the employer and the organization in support of the request for change of  
7           provider. Within fifteen days after receipt of the response or of the expiration of the  
8           time for filing the response, the organization shall rule on the request. Failure of the  
9           organization to rule constitutes approval of the request. Treatment by the employee's  
10          chosen provider is not compensable until the organization approves the request. The  
11          preferred provider remains the treating provider until the organization approves the  
12          employee's request to change providers.

13          5. An employer that selects a preferred provider shall give notice and post notice as  
14          required under this subsection.

15          a. An employer shall give written notice of the identity and the terms of the preferred  
16          provider program:

17           (1) To the employer's employees when the employer makes an initial selection  
18           of a preferred provider or

19           (2) To the employer's employees when the employer changes the selection of  
20           the preferred provider. An employer shall give written notice identifying the  
21           selected preferred provider to every

22           (3) To an employee hired after the selection was made at the time of hire.

23           (4) To all the employer's employees at least annually after the initial notice.

24           ~~(5) To an employee when the employee notifies the employer of an accident~~  
25           ~~under section 65-05-01.2, but in no case more than two business days~~  
26           ~~following the employee's notification of the employer.~~

27          b. An employer ~~whethat~~ that has selected a preferred provider shall display notice of the  
28          identity of the preferred provider and the terms of the preferred provider program  
29          in a conspicuous manner at fixed worksites, and wherever feasible at mobile  
30          worksites, and in a sufficient number of places to reasonably inform employees of

1                   the identity of the preferred provider and of the requirements of this section terms  
2                   of the preferred provider program.  
3            c. Failure to give written notice ~~or~~, to properly post notice, or to reasonably inform  
4                   employees of the terms of the preferred provider program as required under this  
5                   subsection invalidates the selection, ~~allowing the employee to make the initial~~  
6                   ~~selection of a medical provider~~ for the employee's claim.