

PUBLIC WELFARE

CHAPTER 367

HOUSE BILL NO. 1176

(Representatives Hogan, Hawken, Maragos)
(Senators J. Lee, Heckaman, Axness)

AN ACT to amend and reenact subsection 3 of section 14-06.1-09, subsection 3 of section 50-01.2-00.1, section 50-01.2-03, subsection 6 of section 50-06-01.4, subsection 17 of section 50-06-05.1, section 50-09-29, and subsection 3 of section 54-06-20 of the North Dakota Century Code, relating to eligibility for the supplemental nutrition assistance program and the temporary assistance for needy families program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 14-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Information about other assistance programs, including concrete information and assistance with supplemental security income, social security, veterans administration benefits, welfare, ~~food stamps~~ the supplemental nutrition assistance program, housing, unemployment insurance, medical assistance, and educational financial assistance.

SECTION 2. AMENDMENT. Subsection 3 of section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

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. ~~Food stamp~~ 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 50-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-03. Duties of county social service board.

The county social service board of each county in this state shall:

1. Supervise and direct all human service activities conducted by the county including county general assistance or other public assistance.
2. Supervise and administer, under the direction and supervision of the department of human services, human services in the county which are financed in whole or in part with funds allocated or distributed by the department of human services.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human service activities within the county by private as well as public organizations.
4. Subject to subsection 17 of section 50-06-05.1, administer the ~~food-stamps~~supplemental nutrition assistance program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the ~~food-stamps~~supplemental nutrition assistance program with the department of human services.
5. Subject to subsection 19 of section 50-06-05.1, administer the energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the energy assistance program with the department of human services.
6. Charge and collect fees and expenses for services provided by its staff in accordance with policies and fee schedules adopted by the department of human services.
7. Supervise and administer designated child welfare services under the direction and supervision of the department of human services. Through established procedures the department of human services may release the county social service board of this duty or the county social service board may request to be released from this duty by the department of human services. If a county is released from the county's duty to supervise and administer designated child welfare services under this subsection, the county retains its financial responsibility for providing those services unless otherwise negotiated and approved by the department.

SECTION 4. AMENDMENT. Subsection 6 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

6. Administration of economic assistance programs, including temporary assistance for needy families, ~~food-stamps~~the supplemental nutrition assistance program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.

¹⁷¹ **SECTION 5. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

17. To act as the official agency of the state in the administration of the ~~food stamps~~ supplemental nutrition assistance program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. 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, the department shall deny assistance under the supplemental nutrition assistance program 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)].

SECTION 6. 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;

¹⁷¹ Section 50-06-05.1 was also amended by section 1 of Senate Bill No. 2069, chapter 226.

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- 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. 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. When appropriate, require household members to complete high school;
 - q. 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. Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
 - s. 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. 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. Require each household to participate in developing an individual responsibility 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 individual responsibility plan;
 - v. Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
 - w. 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. Disregard earned income as an incentive allowance for no more than twelve months; and
 - y. 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. 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.

SECTION 7. AMENDMENT. Subsection 3 of section 54-06-20 of the North Dakota Century Code is amended and reenacted as follows:

3. Subject to the limitations in this section, funds distributed under subsection 1 may be used to provide legal services to persons unable to afford private counsel in the following types of cases:
 - a. Public benefits, including temporary assistance to needy families, unemployment compensation, general assistance, ~~food stamps~~the supplemental nutrition assistance program, supplemental security income, or social security disability income;
 - b. Medical assistance;
 - c. Family law matters;
 - d. Housing;
 - e. Consumer issues; and
 - f. Elder law.

CHAPTER 368

SENATE BILL NO. 2108

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-06-05.3, 50-06-05.4, and 50-06-05.5 of the North Dakota Century Code, relating to services provided at the regional human service centers and to human service councils.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.3. Regional human service centers - Powers - Duties - Human service council advisory groups.

1. Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, ~~vocational rehabilitation, aging,~~ food and nutrition, and housing service. Regional human service centers shall function as regional administrative units established, within the multicounty areas designated by the governor's executive order 1978-12 dated October 5, 1978, to provide for the planning and delivery of human services.
2. Regional human service centers shall provide human services to all eligible individuals and families to help them achieve or maintain social, emotional, and economic self-sufficiency; prevent, reduce, or eliminate dependency; prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; aid in the preservation, rehabilitation, and reuniting of families; prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; secure referral or admission for institutional care; provide outpatient diagnostic and treatment services; provide information concerning guardianship to people interested in becoming or who are guardians; and provide rehabilitation services for patients with mental or emotional disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in an inpatient facility. Regional human service centers shall deliver services in the manner prescribed by the department.
3. ~~The director shall appoint a human service council of advisory group for each human service center shall be a council of not more than consisting of up to thirteen members. The council~~Each group member must be appointed by the ~~boards of county commissioners of the respective counties within a resident of the region meeting jointly with the director of the regional human service center, except for the appointment of the initial human service council which must be as provided in section 41 of chapter 486 of the 1981 Session Laws~~the

~~member is appointed to serve. County~~The director shall appoint two current county commissioners ~~may and one current county social service board member to serve as members of the~~ human service council provided, that ~~the commission members do not comprise more than one-third of the total council members~~ advisory group. The director may appoint an additional current commissioner to serve in lieu of the current county social service board member. The terms of office must be two years and arranged so that the term of ~~six one-half of the members shall expire~~ expires at the end of the first year and the term of ~~seven the remaining members shall expire~~ expires at the end of the second year. ~~Members~~The director shall select the members of each human service council ~~are to be selected~~ advisory group on the basis of population ~~from residents of the counties in the region served by the human service center. Each county in the region must have~~ be represented by at least one member on the human service council ~~advisory group~~. To the extent possible, membership ~~of the council~~ advisory group must reflect regional interests in the fields of developmental disabilities, social services, ~~vocational rehabilitation, mental health, and alcoholism and drug abuse. Members~~The director shall ~~elect~~ appoint a chairman for each advisory group from the council membership ~~a chairman and other officers as the council deems necessary. All members of each council must be residents of the area served by the regional human service center of the advisory group. Vacancies~~The director shall ~~fill a vacancy occurring on the board within an advisory group for other than the expiration of a term must be filled in the same manner as original appointments, except that appointments must be made only for the unexpired term. Members~~The department shall ~~compensate members of the~~ human service council ~~must be compensated~~ advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The ~~department also shall pay members must also be paid for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.~~

SECTION 2. AMENDMENT. Section 50-06-05.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.4. Duties of human service council advisory groups.

The ~~Each~~ human service council ~~advisory group~~ of the regional human service centers shall perform the following duties:

1. ~~Assist in~~ Provide information to the department relative to needs assessment and the planning and development of health and social resources ~~to assure for~~ the effective and efficient delivery of high-quality human services fully accessible to all citizens.
2. ~~Review and evaluate services and programs provided by the regional human service centers and make periodic reports to the department together with any recommendations the council~~ advisory group may have for improvement in services, programs, or facilities.
3. Promote cooperation and working agreements with private human service agencies.
4. ~~Review the budgets for submission to the executive director for consideration and submission within the budget request for the department.~~
5. Promote local and regional financing from public and private sources.

SECTION 3. AMENDMENT. Section 50-06-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.5. Director of regional center - Medical director.

Each regional human service center must be headed by a regional director appointed by the executive director of the department ~~in consultation with the regional human service council~~. The regional director must be accountable to the executive director or the director's designee. Each regional director ~~shall have the authority to~~may employ the staff necessary to discharge the center's responsibilities. ~~The~~A regional director ~~shall also have authority~~, subject to the approval of the executive director of the department or the director's designee, and within the limit of legislative appropriations, ~~to~~may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the regional human service center's service delivery responsibilities. ~~The staff of each~~Each regional human service center ~~director~~ shall ~~include~~hire a qualified medical professional who must be designated as the medical director of the center. The medical director ~~must be primarily~~is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the regional director, with the concurrence of the executive director or the director's designee. ~~At the discretion of the~~The executive director, or the director's designee may appoint the regional director of a center, ~~if qualified therefor, could also be appointed to be the~~ medical director of that center, provided the regional director is qualified to be the medical director. As used in this section, "qualified medical professional" means an individual possessing a degree of doctor of psychiatry, when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 369

SENATE BILL NO. 2067

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-06-15 of the North Dakota Century Code, relating to making reports confidential on providers and individuals applying for or receiving assistance or services under programs administered by the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-15 of the North Dakota Century Code is amended and reenacted as follows:

50-06-15. Confidentiality of information contained in records - Penalty.

1. Individually identifiable information concerning an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department is confidential, except that any such information, including an individual's social security number, may be used and disclosed:
 - a. In the administration of any such program;
 - b. In accordance with a program's participation in the department's master client index data matching system, unless prohibited by federal law;
 - c. As specifically authorized by the rules of the department; or
 - d. As permitted or required by other law.
2. A vendor, agent, or contractor of the department must agree to maintain the confidentiality of individually identifiable information disclosed to that person by the department or by any individual applying for or receiving assistance or services and may use and disclose confidential information only to the extent that person's agreement with the department permits the use and disclosure of any such information.
3. As used in this section, "individually identifiable information" means information, including an individual's name, address, telephone number, facsimile number, social security number, electronic mail address, program identification number, or any other unique identifying number, characteristic, or code, as well as demographic information collected from an individual, that:
 - a. Is created or received by the department; and
 - b. Relates to the:
 - (1) The past, present, or future assistance or services applied for or received by an individual under any program administered by or under

the supervision and direction of the department that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; or

- (2) A report, or any other information obtained, concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department.
4. Except as otherwise specifically provided by law, a report concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department, as well as any other information obtained, is confidential if the report is made in good faith, and may be disclosed to:
- a. Authorized staff of the department and its authorized agents who further may disclose to persons who have a definite interest in the well-being of the adults or children concerned, who are in a position to serve their interests, and who need to know the contents of the records to assure the well-being and interests of the adults or children concerned.
 - b. Any person who is the subject of the report; provided, however, that the identity of the persons reporting or supplying information under this chapter is protected until the information is needed for use in an administrative or legal proceeding arising out of the report.
 - c. Public officials and their authorized agents who require the information in connection with the discharge of their official duties.
 - d. A court, including an administrative hearing officer, when the court determines the information is necessary for the determination of an issue before the court.
 - e. A person engaged in a bona fide research purpose approved by the department's institutional review board; provided, however, that no individually identifiable information as defined in subsection 3 is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
- 4.5. Any person who discloses, authorizes, or knowingly permits, participates in, or acquiesces in the disclosure of any confidential information in violation of this section is subject to the penalty provided in section 12.1-13-01.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 370

HOUSE BILL NO. 1170

(Representatives Kreidt, Heller, Rohr, Wieland)
(Senator Unruh)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to nursing and basic care facility ratesetting; and to amend and reenact section 50-24.4-06 of the North Dakota Century Code, relating to allowable costs in nursing home ratesetting.

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:

Expedited ratesetting process - Nursing and basic care facilities.

The department shall establish an expedited ratesetting process by which nursing and basic care facilities may request an increase in the established rate due to additional costs incurred by the facility for providing health insurance policies to the facility's employees, to the extent those costs are directly related to the facility's compliance with the federal Patient Protection and Affordable Care Act of 2010 [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. The process must provide that to be approved for a rate adjustment that is reflected in the facility's January 1, 2014, rates, the facility must submit the adjustment request to the department by October 1, 2013.

SECTION 2. AMENDMENT. Section 50-24.4-06 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-06. Rate determination.

1. The department shall determine prospective payment rates for resident care costs. The department shall develop procedures for determining operating cost payment rates that take into account the mix of resident needs and other factors as determined by the department.
2. The department shall establish, by rule, limitations on compensation recognized in the historical base for top management personnel. Compensation for top management personnel must be categorized as a general and administrative cost and is subject to any limits imposed on that cost category.
3. For purposes of determining rates, the department shall:
 - a. Include, contingent upon approval of the medicaid state plan by the centers for medicare and medicaid services, allowable bad debt expenses in an amount not to exceed one hundred eighty days of resident care per year or an aggregate of three hundred sixty days of resident care for any one individual; and

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- b. Include allowable bad debt expenses in the property cost category in the report year in which the bad debt is determined to be uncollectible with no likelihood of future recovery.
 - c. Notwithstanding section 50-24.4-07, include as an allowable cost any tax paid by a basic care or nursing facility due to provisions of 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].

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 371

HOUSE BILL NO. 1360

(Representatives N. Johnson, Fehr, Kempenich, Hogan)
(Senators Dever, Poolman, Wardner)

A BILL to provide for the funding of the program of all-inclusive care for the elderly within the department of human services appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF HUMAN SERVICES TO FUND PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY. The department of human services shall provide funding for medicaid payments to programs of all-inclusive care for the elderly to expand service areas. A program of all-inclusive care for the elderly may be expanded into one urban area starting January 1, 2014. By March 31, 2014, if the funding levels approved for long-term care grants, not including developmental disability grants, by the sixty-third legislative assembly as part of the department of human services appropriation for the biennium beginning July 1, 2013, and ending June 30, 2015, demonstrate funding is available for further urban or rural expansion, the department may implement additional expansions. For a program of all-inclusive care for the elderly to expand service areas, the program provider shall supply monthly encounter claims data to the department for both the original and expanded service areas, as applicable.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 372

HOUSE BILL NO. 1378

(Representative Keiser)

AN ACT to require the department of human services to conduct a study of the cost of services to children; and to provide for a report to the sixty-fourth legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF HUMAN SERVICES STUDY OF COST OF CERTAIN SERVICES TO CHILDREN - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The department of human services, during the 2013-14 interim, shall identify the estimated cost to implement a medicaid waiver or amend an existing Medicaid waiver, to provide coverage for children who have continued and substantial medical and support needs, but who, at the age of three years, no longer qualify for services under the developmental disabilities waiver. In preparing the estimate, the department shall secure input from stakeholders, including families, providers, and advocates. The department of human services shall report its findings to the sixty-fourth legislative assembly. The report shall include the estimated number of children eligible, criteria for the provision of services under the waiver, the services to be offered, and a timeline for implementation of the waiver.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 373

SENATE BILL NO. 2271

(Senators Axness, Heckaman, Wanzek)
(Representatives Mooney, Silbernagel, Steiner)

AN ACT to amend and reenact subsection 5 of section 39-01-15 and section 50-06.1-16 of the North Dakota Century Code, relating to the committee on employment of people with disabilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷² **SECTION 1. AMENDMENT.** Subsection 5 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of human services for use by the committee on employment of people with disabilities of the department of human services for development of job opportunities for disabled individuals in this state to accomplish the committee's statutory duties provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the person to whom the certificate was issued is entitled to a replacement. The person shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

SECTION 2. AMENDMENT. Section 50-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-06.1-16. Committee on employment of people with disabilities - Appointment - Expenses - Director - Duties - Annual report.

1. There is established a committee on employment of people with disabilities. ~~The committee consists of three members.~~
 - a. ~~The governor shall appoint each member for a term~~four members of the public to serve as committee members with terms of three years, staggered so that the term~~terms of one member expires at least one but no more than two members expire~~ July first of each year:
 - (1) The executive director of the North Dakota association of community providers or a designee of the director;

¹⁷² Section 39-01-15 was also amended by section 1 of Senate Bill No. 2120, chapter 283.

- (2) One community employer representative;
 - (3) One individual with a disability; and
 - (4) One family member of an individual with a disability.
 - b. The following five individuals shall serve on the committee as ex officio members:
 - (1) The director of the department of commerce division of workforce development, or the director's designee;
 - (2) The director of the department of human services division of vocational rehabilitation, or the director's designee;
 - (3) The superintendent of public instruction's director of special education, or the director's designee;
 - (4) The director of the protection and advocacy project, or the director's designee; and
 - (5) The head of the department of human services developmental disabilities programs, as identified by the executive director of the department of human services.
 - c. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term.
 2. The public members of the committee are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees.
 3. The goal of the committee is to remove barriers in reaching and identify how to further the goal of public and private employers considering competitive and integrated employment as the first option when supporting individuals with disabilities who are of working age to obtain employment. As used in this section:
 - a. "Competitive employment" means work in the competitive labor market which is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by an individual who does not have a disability.
 - b. "Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with individuals who do not have a disability, other than individuals who do not have a disability who are providing services to those applicants or eligible individuals, to the same extent that individuals without a disability in comparable positions interact with others.
 4. The committee, with the approval of the governor, shall appoint a full-time director to serve at the pleasure of the governor. For administrative purposes, the director is an unclassified employee of the department and is not included in the classified service. The committee shall coordinate activities and serve

~~as a clearinghouse for information relating to the employment of people with disabilities. The committee shall prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the employment of people with disabilities.;~~

- ~~a. At the call of the chairman, shall meet at least quarterly.~~
 - ~~b. Shall collaborate, coordinate, and improve employment outcomes for working-age adults with disabilities, including:
 - ~~(1) Reviewing and aligning policies, procedures, eligibility, and enrollment and planning for services for individuals, with the objective of increasing opportunities for community employment for North Dakotans with disabilities.~~
 - ~~(2) Developing cross-agency tools to document eligibility, order of selection, assessment, and planning for services for individuals with disabilities.~~
 - ~~(3) Identifying best practices, effective partnerships, sources of available federal funds, opportunities for shared services among existing providers, and means to expand model programs to increase community employment opportunities for individuals with disabilities.~~
 - ~~(4) Identifying and addressing areas where sufficient support is not currently available or where additional options are needed to assist individuals with disabilities to work in competitive employment in integrated settings.~~
 - ~~(5) Establishing interagency agreements to improve coordination of services and allow for data sharing as appropriate to assist individuals with disabilities.~~
 - ~~(6) Setting benchmarks for improving community employment outcomes and services for individuals with disabilities.~~~~
 - ~~c. Before January first of each year, shall issue an annual report. The committee shall submit the annual report to the governor and the legislative management. The report must detail the committee's activities, the committee's goals, and the progress the committee has made in reaching these goals. State agencies shall cooperate with the committee on the creation and dissemination of the annual report. The annual report must include identification of barriers to achieving the committee's goals and must include identified strategies and policies that can help the committee realize its goals.~~
5. The department of human services division of vocational rehabilitation shall provide the committee with administrative services.

CHAPTER 374

HOUSE BILL NO. 1180

(Representatives Schmidt, Damschen, Kreidt, Rohr, Boe)
(Senators Schaible, Heckaman)

AN ACT to create and enact two new sections to chapter 50-06.2 and a new section to chapter 50-24.7 of the North Dakota Century Code, relating to a pilot program for independent home and community-based services case managers; and to provide an expiration date.

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 - Independent home and community-based services case manager - Pilot program.

The department shall establish a pilot program for the provision of independent case management services under the service payments for elderly and disabled program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
 - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
(2) Works for an agency other than a county social service agency; and
 - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the state agency.
2. May:
 - a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of individuals receiving benefits pursuant to this chapter under the direction and supervision of the state agency;
 - b. Provide case management services to recipients; and
 - c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

SECTION 2. A new section to chapter 50-06.2 of the North Dakota Century Code is created and enacted as follows:

Medical assistance home and community-based services - Independent home and community-based services case manager - Pilot program.

The department shall establish a pilot program for the provision of independent case management services under the medical assistance home and community-based services program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
 - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
(2) Works for an agency other than a county social service agency; and
 - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the state agency.
2. May:
 - a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter under the direction and supervision of the state agency;
 - b. Provide case management services to recipients; and
 - c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

SECTION 3. A new section to chapter 50-24.7 of the North Dakota Century Code is created and enacted as follows:

Expanded service payments for elderly and disabled - Independent home and community-based services case manager - Pilot program.

The department shall establish a pilot program for the provision of independent case management services under the expanded service payments for elderly and disabled program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
 - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
(2) Works for an agency other than a county social service agency; and
 - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the department.

2. May:

- a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter under the direction and supervision of the department;
- b. Provide case management services to recipients; and
- c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 375

SENATE BILL NO. 2085

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-11.1-02, 50-11.1-02.2, and 50-11.1-15 of the North Dakota Century Code, relating to definitions used in early childhood services licensing, smoking on early childhood services premises, and the early childhood services advisory board; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷³ **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions.

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

1. "Authorized agent" means the county social service board, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "County agency" means the county social service board in each of the counties of the state.
4. "Department" means the department of human services.
5. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
6. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
7. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.

¹⁷³ Section 50-11.1-02 was also amended by section 1 of House Bill No. 1422, chapter 376.

- c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to subsection 1 of section 15.1-06-06.
 - d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the superintendent of public instruction.
 - e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
 - i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
8. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children ~~during the two hours immediately before and after the schoolday and all day, except Saturday and Sunday, when school is not in session during the official school year.~~
 9. "Group child care" means a child care program licensed to provide early childhood services for eighteen or fewer children.
 10. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
 11. "In-home provider" means any person who provides early childhood services to children in the children's home.
 12. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.
 13. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
 14. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.

15. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
16. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
17. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
18. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
19. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
20. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
21. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
22. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
23. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
- 23-24. "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.
- 24-25. "Staff member" means operator, caregiver, provider, or any other individual, whether paid or volunteer, who provides care, supervision, or guidance to children in an early childhood program or under a self-declaration and includes food preparation, transportation, and maintenance personnel.

SECTION 2. AMENDMENT. Section 50-11.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02.2. Smoking prohibited in certain facilities on premises where early childhood services are provided.

SmokingAs provided by section 23-12-10, smoking is not permitted in ~~an~~ the premises where early childhood facility at any time during which a child who receives early childhood services from that facility is present and receiving services at that facility ~~services are provided. For purposes of sections 23-12-09 and 23-12-10, a person providing early childhood services as a registrant or pursuant to a self-declaration is considered a child care facility subject to licensure by the department.~~

SECTION 3. AMENDMENT. Section 50-11.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-15. (~~Effective through June 30, 2013~~) Early childhood services advisory board - Membership - Duties.

1. The early childhood services advisory board is composed of seven members appointed by the director of the department. The members of the board must include a broad-based geographically distributed membership. The term of office is four years expiring on July thirty-first with no more than two terms expiring in any one year. ~~Of the first members appointed, one member must be appointed for a term of one year, two members must be appointed for terms of two years, two members must be appointed for terms of three years, and two members must be appointed for terms of four years.~~ A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as the original appointment, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. A member also is entitled to be reimbursed up to one hundred dollars per day for the expenses incurred by the member which relate to the hiring of a substitute early childhood services provider in order that the member may attend meetings and perform the member's official duties.
2. The early childhood services advisory board shall:
 - a. Advise the department ~~aseach time~~ each time the department conducts a review of ~~allreviews~~ early childhood services rules, a review of which the department shall complete before August 1, 2010;
 - b. Upon the completion of the department's review, with the assistance of the department, conduct an analysis of and make recommendations to the department regarding the department's review of the early childhood services rules, however, final approval of any administrative rule changes must be completed through the administrative rulemaking process set forth in chapter 28-32; and
 - c. On an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules. The recommendations, the goal of which is to streamline and improve the quality of the early childhood services process, must seek to balance the need for rules that ensure safe quality child care with the need to revise or eliminate rules that create unnecessary barriers for early childhood service providers.
3. ~~To accommodate the process set forth in subdivisions a and b of subsection 2, any rules the department adopts in response to legislation enacted in 2009 are exempt from the deadline for rules to implement statutory changes set forth in section 28-32-07, however, those rules must be in effect before January 1, 2011.~~

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2013

Filed April 12, 2013

CHAPTER 376

HOUSE BILL NO. 1422

(Representatives Hawken, Frantsvog, Hatlestad, N. Johnson)
(Senators Heckaman, Krebsbach)

AN ACT to create and enact a new subsection to section 50-11.1-03 and two new sections to chapter 50-11.1 of the North Dakota Century Code, relating to staffing as group sizes for licensed child care; to amend and reenact subsection 9 of section 50-11.1-02 of the North Dakota Century Code, relating to the definition of group child care; to provide an appropriation; to provide a contingent appropriation; to provide legislative intent; to provide a report to the legislative management; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁴ **SECTION 1. AMENDMENT.** Subsection 9 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Group child care" means a child care program licensed to provide early childhood services for ~~eighteen~~thirty or fewer children.

SECTION 2. A new subsection to section 50-11.1-03 of the North Dakota Century Code is created and enacted as follows:

A license is not required for onsite child care services that are located in the actual building in which the child's parent is employed, not to exceed ten children per location.

SECTION 3. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Play area regulation.

If a facility licensed under this chapter has sufficient indoor recreation space, the department may not require outdoor play space.

SECTION 4. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Staffing requirements.

The maximum group size of children in a child care center must be:

1. For children less than eighteen months of age, the maximum group size is ten children;
2. For children eighteen months of age to thirty-six months of age, the maximum group size is fifteen children;

¹⁷⁴ Section 50-11.1-02 was also amended by section 1 of Senate Bill No. 2085, chapter 375.

3. For children three years of age to four years of age, the maximum group size is twenty children;
4. For children four years of age to five years of age, the maximum group size is twenty-five children;
5. For children five years of age to six years of age, the maximum group size is thirty children; and
6. For children six years of age to twelve years of age, the maximum group size is forty children.

SECTION 5. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing child care provider incentive grants pursuant to section 50-11.1-14.1, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$300,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding early childhood services specialists pursuant to section 50-11.1-18, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 7. CONTINGENT APPROPRIATION. If the changes in the eligibility and copay requirements for the child care assistance program as contained in section 8 of this Act require more funding than the amounts appropriated to the department of human services in House Bill No. 1012, as approved by the sixty-third legislative assembly, for the child care assistance program for the 2013-15 biennium, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing the changes contained in section 8 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015. If the changes in section 8 of this Act can be implemented within the child care assistance program appropriation appropriated to the department of human services in House Bill No. 1012, as approved by the sixty-third legislative assembly, for the child care assistance program for the 2013-15 biennium, or requires less than the \$2,500,000 provided in this section, up to \$1,000,000 of the \$2,500,000 appropriated in this section may be used by the department of human services to provide child care provider incentive grants pursuant to section 50-11.1-14.1.

SECTION 8. LEGISLATIVE INTENT - CHILD CARE ASSISTANCE PROGRAM - REPORT TO THE LEGISLATIVE MANAGEMENT. It is the intent of the legislative assembly that the department of human services change the eligibility requirement for the child care assistance program from fifty percent of the state median income to eighty-five percent of the state median income. Beginning July 1, 2014, if the funding appropriated to the department of human services in House Bill No. 1012, as approved by the sixty-third legislative assembly, and in section 7 of this Act for the child care assistance program is sufficient, the department of human services may reduce copay requirements for the child care assistance program. The department of human services shall report the impact of these changes to the legislative management.

SECTION 9. APPLICATION. Section 4 of this Act does not apply to a child care center operator who has maintained a license since before January 1, 1999.

SECTION 10. EXPIRATION DATE. Sections 4 and 9 of this Act are effective until the date the administrative rules containing the requirements of section 4 of this Act on maximum group size of children in a child care center take effect. The department of human services shall certify to the legislative council the date those rules will take effect, and as of that date sections 4 and 9 of this Act become ineffective.

Approved May 2, 2013

Filed May 2, 2013

CHAPTER 377

HOUSE BILL NO. 1232

(Representatives Heller, Hogan, K. Koppelman)
(Senators Sorvaag, Unruh, Murphy)

AN ACT to amend and reenact sections 43-10.1-03.1 and 50-24.1-02.3 of the North Dakota Century Code, relating to pre-need funeral contracts and medicaid eligibility.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-10.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage.

Whenever payments are made to a person upon pre-need funeral service contracts, one hundred percent of the funds collected under the contracts for the sale of professional service or personal property to be used in funeral services and fifty percent of the funds collected under the contracts for the sale of cemetery merchandise must be deposited in or transferred to a trust company in this state or to a federally insured bank, credit union, or savings and loan association in this state, within ten days. The deposit must be placed in a federal deposit insurance corporation or national credit union administration insured certificate of deposit or negotiable debt obligation of the United States government. Payments received from the sale of professional service or personal property to be used in funeral services or cemetery merchandise which cannot or would not be serviced by a licensed funeral establishment or cemetery association in the area where the service or property was sold are specifically included, whether or not the sales might otherwise be considered pre-need funeral service contracts, within the payments to be deposited under this section. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the depositor upon the death of the person for whose benefit the funds were paid. A certified copy of the certificate of death must be furnished to the bank, credit union, savings and loan association, or trust company as prima facie evidence of death. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the person making the payment, before the death of the person for whose benefit the funds are paid, upon a five-day written notice by registered or certified mail made by the bank, credit union, savings and loan association, or trust company to the depositor or transferor at the request of the person making the payment. ~~Upon written request, however, a~~ purchaser of a pre-need funeral service contract may make a certain amount of the pre-need funds irrevocable. The irrevocable amount may not exceed the amount of the allowable asset exclusion used for determining eligibility for medical assistance under section 50-24.1-02.3 at the time the contract is entered, plus the portion of the three thousand dollar asset limitation the purchaser designates for funeral expenses. A purchaser of a pre-need funeral service contract has forty-five days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with whom the contract was entered. Any pre-need funeral service contract held by a cemetery

association or a licensed funeral establishment must be fully transferable to another cemetery association or funeral establishment licensed under chapter 43-10 or a substantially similar law of another jurisdiction which agrees to accept the obligations.

A bank, credit union, savings and loan association, or trust company receiving such a deposit or transfer shall keep a complete record of the deposit or transfer, showing the name of the depositor or transferor, name of the person making payment, name of the person for whose benefit payment is made, and any other pertinent information.

Any personal property to be used in funeral services or cemetery merchandise which is sold to a purchaser on the basis that it will be identified and marked as belonging to such purchaser, and stored or warehoused for the purchaser, must be stored or warehoused at some location within this state.

SECTION 2. AMENDMENT. Section 50-24.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.3. When designated pre-need funeral service contracts, prepayments, or deposits not to be considered in eligibility determination.

In determining eligibility for medical assistance, the department of human services may not consider as an available resource any pre-need funeral service contracts, prepayments, or deposits to a fund which total six thousand dollars or less designated by the applicant or recipient as set-aside to pay for the applicant's or recipient's funeral. An applicant or recipient designates a prepayment or deposit for that applicant's or recipient's burial by providing funds that are to be used for the funeral or burial expenses of the applicant or recipient. If an applicant's or recipient's burial is funded by an insurance policy, the amount considered set-aside for burial is the lesser of the cost basis or the face value of the insurance policy. In addition, the applicant or recipient may designate all or a portion of the three thousand dollar asset limitation for funeral pre-need contracts, prepayments, or deposits. Interest or earnings retained in a funeral fund also may not be considered as an available resource. A pre-need funeral service contract, prepayment, or deposit designated under this section is not a multiple-party account for purposes of chapter 30.1-31. Any amount in a pre-need funeral service contract, prepayment, or deposit designated under this section which is not used for funeral or burial expenses must be returned to the estate of the medical assistance recipient and is subject to recovery by the department from the medical assistance recipient's estate. No claim for payment of funeral expenses may be made against the estate of a deceased medical assistance recipient except to the extent that funds maintained in accordance with this section total less than six thousand dollars.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 378

HOUSE BILL NO. 1172

(Representatives Kreidt, Heller, Rohr, Wieland)
(Senator Unruh)

AN ACT to amend and reenact subsection 1 of section 50-24.1-07 of the North Dakota Century Code, relating to the recovery from the estate of a medical assistance recipient.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. On the death of any recipient of medical assistance who was a resident of a nursing facility, intermediate care facility for individuals with intellectual disabilities, or other medical institution and with respect to whom the department of human services determined that resident reasonably was not expected to be discharged from the medical institution and to return home, or who was fifty-five years of age or older when the recipient received the assistance, and on the death of the spouse of the deceased recipient, the total amount of medical assistance paid on behalf of the recipient following the institutionalization of the recipient who cannot reasonably be expected to be discharged from the medical institution, or following the recipient's fifty-fifth birthday, as the case may be, must be allowed as a preferred claim against the decedent's estate after payment, in the following order, of:
 - a. Recipient liability expense applicable to the month of death for nursing home or basic care services;
 - b. Funeral expenses not in excess of three thousand dollars;
 - b-c. Expenses of the last illness, other than those incurred by medical assistance;
 - e-d. Expenses of administering the estate, including attorney's fees approved by the court;
 - d-e. Claims made under chapter 50-01;
 - e-f. Claims made under chapter 50-24.5;
 - f-g. Claims made under chapter 50-06.3 and on behalf of the state hospital; and
 - g-h. Claims made under subsection 4.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 379

HOUSE BILL NO. 1201

(Representatives Porter, Hofstad, Hogan, Weisz)
(Senators Berry, Mathern)

AN ACT to amend and reenact section 50-24.1-32 of the North Dakota Century Code, relating to medical assistance services provided by physician assistants; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-32. Medical assistance - Services provided by physician assistants and advanced registered nurse practitioners.

The medical assistance program must recognize physician assistants and advanced registered nurse practitioners as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the physician assistant or advanced registered nurse practitioner as a primary care provider under the medical assistance program must be within the scope of the physician assistant's or advanced registered nurse practitioner's respective license.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on the date the director of the department of human services certifies to the secretary of state and the legislative council that the department has completed implementation of the medicaid management information system.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 380

SENATE BILL NO. 2114

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to sanctions against a provider who provides services under a provider agreement with medical assistance; and to provide a penalty.

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:

Civil sanction - Costs recoverable - Interest - Appeals.

1. For purposes of this section:
 - a. "Affiliate" means a person having an overt or covert relationship each with another person in a manner that one person directly or indirectly controls or has the power to control another.
 - b. "Department" means the department of human services.
 - c. "Provider" means any individual or entity furnishing medicaid services under a provider agreement with the department of human services.
2. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to twenty-five percent of the amount the department was induced to pay as a result of each act of fraud or abuse. This sanction is in addition to the applicable rules established by the department.
3. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to five thousand dollars on each act of fraud or abuse which did not induce the department to make an erroneous payment. This sanction is in addition to the applicable rules established by the department.
4. A provider, an affiliate of a provider, or any combination of provider and affiliates, that is assessed a civil sanction by the department also shall reimburse the department investigation fees, costs, and expenses for any investigation and action brought under this section.
5. Unless otherwise provided in a judgment entered against a provider or against an affiliate of the provider, overpayments and sanctions accrue interest at the legal rate beginning thirty days after the department provides written notice to the provider or the affiliate of the provider.
6. a. A provider or an affiliate of a provider who is assessed a sanction may request a review of the sanction by filing within thirty days of the date of

- the department's notice of sanction a written notice with the department which includes a statement of each disputed item and the reason or basis for the dispute.
- b. A provider or an affiliate of a provider may not request review under this section if the sanction imposed is termination or suspension and the notice of sanction states that the basis for the sanction is either:
- (1) The provider's or affiliate's failure to meet standards of licensure, certification, or registration where those standards are imposed by state or federal law as a condition to participation in the medicaid program; or
 - (2) The provider or affiliate has been similarly sanctioned by the medicare program or by another state's medicaid program.
- c. Within thirty days after requesting a review, a provider or affiliate shall provide to the department all documents, written statements, exhibits, and other written information that supports the request for review.
- d. The department shall assign a provider's or affiliate's request for review to someone other than an individual who was involved in imposing the sanction. A provider or affiliate who has requested review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
- e. The department shall make and issue its final decision within seventy-five days of receipt of the notice of request for review. The department's final decision must conform to the requirements of section 28-32-39. A provider or affiliate may appeal the final decision of the department to the district court in the manner provided in section 28-32-42, and the district court shall review the department's final decision in the manner provided in section 28-32-46. The judgment of the district court in an appeal from a request for review may be reviewed in the supreme court on appeal by any party in the same manner as provided in section 28-32-49.
- f. Upon receipt of notice that the provider or affiliate has appealed its final decision to the district court, the department shall make a record of all documents, written statements, exhibits, and other written information submitted by the provider, affiliate, or the department in connection with the request for review and the department's final decision on review, which constitutes the entire record. Within thirty days after an appeal has been taken to district court as provided in this section, the department shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original and a certified copy of the entire record, and that record must be treated as the record on appeal for purposes of section 28-32-44.
7. Determinations of medical necessity may not lead to imposition of remedies, duties, prohibitions, and sanctions under this section.
8. The remedies, duties, prohibitions, and sanctions of this section are not exclusive and are in addition to all other causes of action, remedies, penalties, and sanctions otherwise provided by law or by provider agreement.

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9. The state's share of all civil sanctions, investigation fees, costs, expenses, and interest received by the department under this section must be deposited into the general fund.

Approved April 19, 2013
Filed April 19, 2013

CHAPTER 381

HOUSE BILL NO. 1362

(Representatives Carlson, Bellew, Kasper, Kreidt, Weisz)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medicaid expansion; to provide an appropriation to the department of human services for the expansion of the medical assistance program; to provide for a legislative management study; to provide an effective date; and to provide an expiration date.

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:

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. The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.

SECTION 2. APPROPRIATION - AUTHORIZATION - DEPARTMENT OF HUMAN SERVICES. There is appropriated from special funds derived from federal funds any amounts received relating to the 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 the department of human services for the purpose of implementing the provisions for the expansion of the medical assistance program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY-AFFORDABLE CARE ACT IMPLICATIONS. The legislative management shall consider studying during the 2013-14 interim the effects of 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], due to the dramatically changing health care system in the state. The study must address alternatives to the federal Patient Protection and Affordable Care Act and the medicaid expansion provisions to make health care more accessible and affordable to the citizens of the state, including access, the cost of providing services, the medicare penalty to the state's providers, and the medicaid payment system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act becomes effective on January 1, 2014.

SECTION 5. EXPIRATION DATE. Section 1 of this Act is effective through July 31, 2017, and after that date is ineffective.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 382

HOUSE BILL NO. 1089

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

AN ACT to amend and reenact section 50-24.4-29 of the North Dakota Century Code, relating to geropsychiatric facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-29 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-29. ~~Limits on geropsychiatric~~Geropsychiatric facilities.

~~Only two~~The department may select one or more nursing homes within the state ~~may have to operate~~ a unit that exclusively provides geropsychiatric services and ~~no more than one geropsychiatric unit may be located in any one nursing home.~~ Admission to one of the nursing homes that exclusively provides geropsychiatric services for the purpose of receiving geropsychiatric services may be granted only after the state hospital has performed an evaluation of the individual being admitted which indicates the individual is in need of nursing home geropsychiatric services. If at any time ~~the department determines that~~ the number of approved geropsychiatric units in the state is ~~below two~~insufficient to meet the needs, the department may select a geropsychiatric unit based on the experience, qualification, and capacity of the nursing homes that propose to provide geropsychiatric services. ~~After the geropsychiatric units have been established within the nursing homes, the~~The state hospital may not offer geropsychiatric services through any other geropsychiatric unit ~~set up exclusively to provide those services.~~

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 383

SENATE BILL NO. 2161

(Senators J. Lee, Berry, Krebsbach)
(Representatives Porter, Weisz, Hogan)

AN ACT to amend and reenact sections 50-25.1-02, 50-25.1-04.3, and 50-25.1-04.5 of the North Dakota Century Code, relating to the child fatality review panel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means a person who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a public or private school or child care setting.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol abuse or dependence as defined in the current diagnostic and statistical manual published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in subdivision a of subsection 1 of section 14-09-22 caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.
4. "Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.
5. "Authorized agent" means the county social service board, unless another entity is designated by the department.
6. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical

examinations, mental health and related support services, advocacy, and case review.

7. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
8. "Department" means the department of human services or its designee.
9. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.
10. "Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department shall coordinate the organization of local child protection teams on a county or multicounty basis.
11. "Near death" means an act which, as certified by a physician, places a child in serious or critical condition.
12. "Neglected child" means a deprived child as defined in chapter 27-20.
- 12-13. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery of the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.
- 13-14. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- 14-15. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must

be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.

SECTION 2. AMENDMENT. Section 50-25.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.3. Child fatality review panel - Duties.

The child fatality review panel shall meet at least semiannually to review the deaths and near deaths of all minors which occurred in the state during the preceding six months and to identify trends or patterns in the deaths and near deaths of minors. The panel may review near deaths alleged to have resulted only from child abuse and neglect. The panel shall promote:

1. Interagency communication for the management of child death cases and for the management of future nonfatal cases.
2. Effective criminal, civil, and social intervention for families with fatalities.
3. Intervention and counseling of surviving and at-risk siblings, and offer the same.
4. Interagency use of cases to audit the total health and social service systems and to minimize misclassification of cause of death.
5. Evaluation of the impact of specific risk factors including substance abuse, domestic violence, and prior child abuse.
6. Interagency services to high-risk families.
7. Data collection for surveillance of deaths and the study of categories of causes of death.
8. The use of media to educate the public about child abuse prevention.
9. Intercounty and interstate communications regarding child death.
10. Use of local child protection team members as local child fatality review panelists.
11. Information that apprises a parent or guardian of the parent's or guardian's rights and the procedures taken after the death of a child.

SECTION 3. AMENDMENT. Section 50-25.1-04.5 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.5. Child fatality review panel - Confidentiality of meetings, documentation, and reports.

1. Notwithstanding section 44-04-19, all meetings of the panel are closed to the public. Notwithstanding section 44-04-18, all documentation and reports of the panel are confidential, except for an annual report, ~~of the panel are~~

confidential reports. The annual report involving child abuse and neglect deaths and near deaths must include the following:

- a. The cause of and circumstances regarding the death or near death;
 - b. The age and gender of the child;
 - c. Information describing any previous child abuse and neglect reports or assessments that pertain to the child abuse or neglect that led to the death or near death;
 - d. The result of any such assessments; and
 - e. The services provided in accordance with section 50-25.1-06, unless disclosure is otherwise prohibited by law.
2. The panel shall make available to the persons designated in section 50-25.1-11 the documentation and reports of the panel.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 384

SENATE BILL NO. 2323

(Senators Murphy, Hogue, Holmberg, Kilzer, Schneider)
(Representative Sanford)

AN ACT to amend and reenact sections 50-25.2-03 and 50-25.2-10 of the North Dakota Century Code, relating to the reporting of abuse or neglect of a vulnerable adult; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-03. ~~Voluntary reporting~~Reporting of abuse or neglect - Method of reporting.

1. Any medical or mental health professional or personnel, law enforcement officer, firefighter, member of the clergy, or caregiver having knowledge that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, shall report the information to the department or the department's designee or to an appropriate law enforcement agency if the knowledge is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report the information if the knowledge is derived from information received in the capacity of spiritual adviser. For purposes of this subsection, "medical or mental health professional or personnel" means a professional or personnel providing health care or services to a vulnerable adult, on a full-time or part-time basis, on an individual basis or at the request of a caregiver, and includes a physician, nurse, medical examiner, coroner, dentist, dental hygienist, optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational therapist, addiction counselor, counselor, marriage and family therapist, social worker, mental health professional, emergency medical services personnel, hospital personnel, nursing home personnel, congregate care personnel, or any other person providing medical and mental health services to a vulnerable adult.
2. A report, if required by section 25-01.3-04, satisfies all reporting requirements of this chapter.
3. Any person not required to report under subsection 1 who has reasonable cause to believe that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, may report the information to the department or the department's designee or to an appropriate law enforcement agency. A law enforcement agency receiving a report under this section shall immediately notify the department or the department's designee of the report.

2-4. A person reporting required to report under this section subsection 1 shall make an oral or written report and a person voluntarily reporting under subsection 2 may make an oral or written report, as soon as possible. To the extent reasonably possible, a person who makes a report under this section shall include in the report:

- a. The name, age, and residence address of the alleged vulnerable adult;
- b. The name and residence address of the caregiver, if any;
- c. The nature and extent of the alleged abuse or neglect or the conditions and circumstances that would reasonably be expected to result in abuse or neglect;
- d. Any evidence of previous abuse or neglect, including the nature and extent of the abuse or neglect; and
- e. Any other information that in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse or neglect and the identity of the individual responsible for the alleged abuse or neglect.

SECTION 2. AMENDMENT. Section 50-25.2-10 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-10. Penalty for failure to report - Penalty and civil liability for false reports.

1. Any person required to report under subsection 1 of section 50-25.2-03 who willfully fails to do so is guilty of an infraction.
2. Any person who willfully makes a false report, or provides false information which causes the report to be made, is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the person who causes the false report to be made is guilty of a class A misdemeanor.
- 2-3. A person who willfully makes a false report, or provides false information that causes a report to be made, is liable in a civil action for all damages suffered by the person reported.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 385

SENATE BILL NO. 2109

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

AN ACT to amend and reenact sections 50-29-02 and 50-29-04 of the North Dakota Century Code, relating to eligibility determinations for the children's health insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-29-02 of the North Dakota Century Code is amended and reenacted as follows:

50-29-02. Duties of the department.

The department shall:

1. ~~Prepare~~The department shall prepare, submit, and implement the plan that includes eligibility determinations for self-employed applicants, when ~~adjusted gross income or loss means the adjusted gross income or loss as computed for an individual for federal income tax purposes under the Internal Revenue Code of eligibility~~, based on the lower of either:
 - a. ~~The previous one year of adjusted gross income or loss from the business, or if the previous year's federal income tax return has not been filed, from the year prior to that year, less any earned or unearned income on the tax return, plus any current earned or unearned income; or~~
 - b. ~~The average of the previous three years of adjusted gross income or loss from the business, or if the previous year's federal income tax return has not been filed or the business has been in existence for fewer than three years, from the federal income tax returns from the previous three years that have been filed for the business, less the average of earned or unearned income for each of the years for which federal income tax returns have been filed, plus any current earned or unearned income.~~

~~If the most recently available federal income tax return does not accurately predict income because the business has been recently established, has been terminated, has been subjected to a severe change such as an uninsured loss or a decrease or increase in the size of the operation, income statements or any other reliable information may be used to compute self-employment income modified adjusted gross income methodologies as required in 42 U.S.C. 1396a(e)(14);~~

2. Supervise the administration of the children's health insurance program throughout this state;
3. Take action, give directions, and adopt rules as may be necessary or desirable to carry out the provisions of this chapter;

4. After federal approval of the plan, apply for a federal waiver allowing plan coverage for a family through an employer-based insurance policy if an employer-based family insurance policy is more cost-effective than the traditional plan coverage for the children;
5. Report annually to the legislative council and describe enrollment statistics and costs associated with the plan;
6. Reimburse counties for expenses incurred in the administration of the children's health insurance program at rates based upon all counties' total administrative costs; and
7. Administer all funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.

SECTION 2. AMENDMENT. Section 50-29-04 of the North Dakota Century Code is amended and reenacted as follows:

50-29-04. Plan requirements.

The plan:

1. Must be provided through private contracts with insurance carriers;
2. Must allow conversion to another health insurance policy;
3. Must be based on an actuarial equivalent of a benchmark plan;
4. Must incorporate every state-required waiver approved by the federal government;
5. Must include community-based eligibility outreach services; and
6. Must provide:
 - a. A ~~netgross~~ income eligibility limit ~~of~~based on a net income eligibility equivalent of one hundred sixty percent of the poverty line;
 - b. A copayment requirement for each pharmaceutical prescription and for each emergency room visit;
 - c. A deductible for each inpatient hospital visit;
 - d. Coverage for:
 - (1) Inpatient hospital, medical, and surgical services;
 - (2) Outpatient hospital and medical services;
 - (3) Psychiatric and substance abuse services;
 - (4) Prescription medications;
 - (5) Preventive screening services;

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- (6) Preventive dental and vision services; and
 - (7) Prenatal services; and
 - e. A coverage effective date that is the first day of the month, following the date of application and determination of eligibility.

SECTION 3. EFFECTIVE DATE. This Act becomes effective upon the implementation of the department of human services' new eligibility system or upon completion of system changes required for compliance with the Patient Protection and Affordable Care Act. The department of human services shall notify the legislative council of the occurrence of either of these events.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 386

HOUSE BILL NO. 1101

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

AN ACT to create and enact two new sections to chapter 50-31 of the North Dakota Century Code, relating to opioid treatment programs; and to amend and reenact section 50-31-01 of the North Dakota Century Code, relating to opioid treatment programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-31-01 of the North Dakota Century Code is amended and reenacted as follows:

50-31-01. ~~Definition~~Definitions.

1. "Department" means the department of human services.
2. "Opioid treatment program" means a program through which medication is dispensed in the treatment of opioid addiction.

SECTION 2. Two new sections to chapter 50-31 of the North Dakota Century Code are created and enacted as follows:

State opioid treatment authority.

The division of mental health and substance abuse services of the department is designated as the state opioid treatment authority.

Opioid treatment programs - Licensure required - Rules.

1. To operate in this state, an opioid treatment program must be granted a license from the department, certification from the United States department of health and human services substance abuse and mental health services administration, and registration from the United States department of justice drug enforcement administration.
2. The department may license a substance abuse treatment program to operate an opioid treatment program in the state. A separate license is required for each location at which an opioid treatment program is operated under this section.
3. The department shall adopt rules relating to licensing and monitoring opioid treatment programs, including rules for:
 - a. Standards for approval and maintenance of license;
 - b. Assessment of need for an opioid treatment program in the proposed location;

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- c. Patient eligibility for admission to an opioid treatment program;
 - d. Treatment standards, including counseling and drug testing requirements; and
 - e. Measures to prevent the diversion to illegal use of any drug used by a program to treat an opioid addiction.
4. Each state-licensed opioid treatment program shall submit by electronic means information regarding each prescription dispensed for a controlled substance to the state's prescription drug monitoring program, unless specifically exempted by federal law.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 387

HOUSE BILL NO. 1110

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

AN ACT to amend and reenact section 50-33-02 of the North Dakota Century Code, relating to eligibility decisions for child care assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-33-02 of the North Dakota Century Code is amended and reenacted as follows:

50-33-02. Child care assistance - Application for benefits - Applicant's duty to establish eligibility - Decisions - Rules.

1. An individual desiring child care assistance or an individual seeking assistance on behalf of another individual may apply for child care assistance. An applicant shall submit a request for child care assistance in writing to a county agency on a form prescribed by the department. The applicant shall complete, sign, and date the application. Eligibility begins on the first day of the month in which a signed and dated application is received by the county agency. Eligibility may begin on the first day of the month prior to the month in which a signed and dated application is received by the county agency, if the applicant requests child care assistance for that month and demonstrates eligibility in that month.
2. The applicant shall provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including the age, verification of relative relationship, citizenship or resident alien status of the children, verification of participation in an allowable activity, and financial eligibility.
3. An eligibility decision must be made within ~~fifteen~~thirty days on child care assistance applications whenever possible. The county agency shall notify the applicant following a determination of eligibility or ineligibility.
4. The department shall establish rules for the administration of the child care assistance program, including rules on income requirements, appeals of eligibility determinations for child care assistance, closure of a child care assistance case, and a sliding scale fee schedule for child care assistance benefits and to establish and enforce standards against program fraud and abuse.

Approved March 27, 2013
Filed March 27, 2013