

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1475

Introduced by

Representatives Carlson, Belter, Kasper, Keiser, Onstad

Senators Klein, Schneider, Wardner

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact sections 54-52.1-05.1 and 54-52.1-05.2 of the North
2 Dakota Century Code, relating to the public employees retirement system uniform group
3 insurance program health insurance benefits coverage policy and contract; to amend and
4 reenact sections 54-52.1-04 and 54-52.1-05 of the North Dakota Century Code, relating to the
5 uniform group insurance program health insurance benefits coverage policy and contract; to
6 provide a statement of legislative intent; to provide for an exception; and to declare an
7 emergency.

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

9 **SECTION 1. AMENDMENT.** Section 54-52.1-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-52.1-04. Board to contract for insurance.**

12 1. The board shall receive bids for the providing of hospital benefits coverage, medical
13 benefits coverage, life insurance benefits coverage for a specified term, and employee
14 assistance program services; may receive bids separately for prescription drug
15 coverage; and shall accept one or more bids of and contract with the carriers that in
16 the judgment of the board best serves the interests of the state and its eligible
17 employees. ~~Solicitations~~

18 2. Except as provided under section 54-52.1-04.2, a solicitation for health insurance
19 benefits coverage must be made not later than ninety days no less than six months
20 before the expiration of anthe existing uniform group insurance health insurance
21 benefits coverage contract and for all other contracts under this chapter must be made
22 no less than ninety days before the expiration of the existing uniform group insurance
23 contract. Bids must be solicited by advertisement in a manner selected by the board
24 thatwhich will provide reasonable notice to prospective bidders. In preparing bid

1 proposals and evaluating bids, the board may utilize the services of consultants on a
2 contract basis in order that the bids received may be uniformly compared and properly
3 evaluated.

4 3. In determining which bid, if any, will best serve the interests of eligible employees and
5 the state, the board shall give adequate consideration to the following factors:

6 1-a. The economy to be effected.

7 2-b. The ease of administration.

8 3-c. The adequacy of the coverages.

9 4-d. The adequacy of the in-state and out-of-state network coverage.

10 e. The financial position of the carrier, with special emphasis as to its solvency.

11 5-f. The reputation of the carrier and any other information that is available tending to
12 show past experience with the carrier in matters of claim settlement,
13 underwriting, and services.

14 4. The board may reject any or all bids and, in the event it does so, shall again solicit
15 bids as provided in this section. ~~The~~ if the board solicits bids under this subsection, it
16 may be necessary for the board to expedite the bidding process. If the board
17 expedites the bidding process under this subsection, the board shall notify the
18 legislative management of the expedited process and shall keep the legislative
19 management apprised of the status of the expedited process.

20 5. As provided under section 54-52.1-04.2, the board may establish a plan of
21 self-insurance for providing health insurance benefits coverage only under an
22 administrative services only (ASO) contract or a third-party administrator (TPA)
23 contract.

24 **SECTION 2. AMENDMENT.** Section 54-52.1-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-52.1-05. Provisions of contract - Report to legislative management.**

27 1. Each uniform group insurance contract entered into by the board must be consistent
28 with the provisions of this chapter, must be signed for the state of North Dakota by the
29 chairman of the board, and must include the following:

30 1-a. As many optional coverages as deemed feasible and advantageous by the
31 board.

- 1 2-b. A detailed statement of benefits offered, including maximum limitations and
2 exclusions, and such other provisions as the board may deem necessary or
3 desirable.
- 4 c. A provision that a determination by the board that the carrier breached a material
5 term of the contract or violated a material provision of this chapter which has not
6 been remedied within thirty-one days of the determination will result in either a
7 termination of the contract or will result in a decrease of three percent of the
8 monthly premium for each insured contract for each month the breach or violation
9 continues; a provision that the board has discretion to determine which remedy
10 under this provision will be pursued; and a provision that the board's
11 determination under this provision is final and not appealable. The provisions
12 under this subdivision are in addition to any other remedies that may be available
13 in the case of breach of the contract or violation of the law.
- 14 2. a. A contract entered by the board under this section for health insurance benefits
15 coverage must be entered no less than three months before the expiration of the
16 existing contract. No less than sixty days before entering a contract under this
17 subsection, the board shall make a written report to the legislative management
18 notifying the legislative management of the status of the solicitation, bidding, and
19 selection of a carrier, including receipt of any material the board may have
20 received from a consultant to assist the board in evaluating the bids.
- 21 b. If any of the information provided by the board to the legislative management is a
22 confidential record, the board shall inform the legislative management of the
23 confidential nature of any such record.
- 24 c. If the legislative management discusses any of the confidential information
25 received under this subsection, the discussion must be held in an executive
26 session.
- 27 3. This section applies to all policies that become effective after June 30, 2015.

28 **SECTION 3.** Section 54-52.1-05.1 of the North Dakota Century Code is created and
29 enacted as follows:

1 **54-52.1-05.1. Provisions of health insurance benefits coverage.**

2 1. The board contract for health insurance benefits coverage under this chapter must
3 provide that for the duration of the term of that contract:

4 a. The contract must require the carrier process in-house its claims under the
5 contract for in-state medical and hospital benefits.

6 b. The contract must provide:

7 (1) That except as necessary for treatment, payment, and operations, the
8 carrier may not share identifiable or unidentifiable insured or provider data
9 or information with a related or unrelated health care delivery entity.

10 (2) The carrier may not directly market to the insured an identified health care
11 delivery entity or an identified health care provider. This paragraph limits a
12 carrier's ability to market providers but does not limit a carrier's ability to
13 market services.

14 c. The contract and related policy must provide adequate in-state and out-of-state
15 network coverage.

16 2. If the board enters a contract for health insurance benefits coverage under this chapter
17 with a carrier that has common ownership with a health care delivery entity, for
18 purposes of the carrier's negotiated provider discount rates with in-state providers:

19 a. For a provider that is a critical access hospital that does not have common
20 ownership with the carrier, the negotiated provider discount rates may not be less
21 than the negotiated provider discount rates the carrier has with the related health
22 care delivery entity that is a critical access hospital.

23 b. For a provider that is not a critical access hospital and that does not have
24 common ownership with the carrier, the negotiated provider discount rates may
25 not be less than the negotiated provider discount rates the carrier has with the
26 related health care delivery entity that is not a critical access hospital.

27 3. This section applies to all policies that become effective after June 30, 2015.

28 **SECTION 4.** Section 54-52.1-05.2 of the North Dakota Century Code is created and
29 enacted as follows:

1 **54-52.1-05.2. Health insurance benefits coverage - New carrier - Report to legislative**
2 **management.**

3 1. This section applies if the board enters a contract for health insurance benefits
4 coverage under this chapter which results in a new carrier. For the duration of the term
5 of that contract, the contract and related policy:

6 a. Must provide for a seamless transition from the existing coverage to the new
7 coverage.

8 b. Must provide adequate in-state and out-of-state network coverage.

9 (1) If the carrier's in-state network coverage has fewer providers than the
10 previous carrier's in-state network, the difference in covered providers may
11 not exceed five percent of the previous carrier's in-state providers.

12 (2) If the carrier's out-of-state network coverage has fewer providers than the
13 previous carrier's out-of-state network, the difference in covered providers
14 may not exceed ten percent of the previous carrier's out-of-state providers.
15 If the carrier does not meet this threshold level of required providers, until
16 the carrier meets that threshold, the insured's liability for out-of-network
17 services may not exceed what the insured's liability would have been if the
18 services had been provided in-network.

19 (3) Adequate network coverage must include:

20 (a) A billing process that allows an in-network and an out-of-network
21 provider to submit claims directly to the carrier; and

22 (b) An insured's right to select any in-network provider of the insured's
23 choice.

24 (4) For purposes of this subdivision, the date of measurement of the previous
25 carrier's network coverage is the date the board signs the contract with the
26 new carrier.

27 c. May not result in the insured being financially liable due to balance billing if the
28 insured received preauthorization.

29 d. May not limit an insured's right to choose an in-network provider, regardless of
30 whether the provider is in-state or out-of-state and may not require an insured
31 receive a referral to see a specialist.

1 e. May not have a process for prior approval or preauthorization before benefits are
2 available for services which is more restrictive than the previous policy or which
3 covers more services than the previous policy.

4 f. As part of a prior approval or preauthorization process, may not direct or redirect
5 an insured to a specified provider or health care delivery entity.

6 2. Under this section, if a contract with a new carrier is renewed without soliciting bids,
7 the contract and policy requirements under this section continue. If the contract is
8 rebid, the contract and policy requirements under this section apply to the existing
9 carrier and any new carrier unless before the solicitation, the board provides the
10 legislative management a report on the proposed changes to the contract and related
11 policy.

12 3. This section applies to all policies that become effective after June 30, 2015.

13 **SECTION 5. UNIFORM GROUP INSURANCE PROGRAM HEALTH INSURANCE POLICY**

14 **ELEMENTS - DELAY - LEGISLATIVE INTENT.** For the uniform group insurance program
15 health insurance policy beginning July 1, 2015, if the board determines compliance with this Act
16 would result in an increase of more than \$5,000,000 in the price of the accepted bid for the
17 uniform group insurance program health insurance policy for the 2015-17 biennium, the public
18 employee retirement system board shall initiate an expedited rebidding process for the contract
19 and the carrier providing coverage at the time of that determination may continue under the
20 existing contract until a new contract is finalized, but not to exceed nine months beyond the
21 date the board made the determination.

22 **SECTION 6. EMPLOYEE BENEFITS PROGRAMS COMMITTEE - EXCEPTION.** This Act
23 and any amendments to this Act are not subject to the requirements of section 54-35-02.4.

24 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.