

Introduced by

Legislative Management

(Human Services Committee)

1 A BILL for an Act to amend and reenact subsection 1 of section 25-01.2-01 ~~and section~~  
2 ~~50-24.1-02~~ of the North Dakota Century Code, relating to ~~Down syndrome and eligibility for~~  
3 ~~medical assistance~~ the definition of developmental disability; and to provide for a report.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 25-01.2-01 of the North Dakota  
6 Century Code is amended and reenacted as follows:

- 7 1. "Developmental disability" means a severe, chronic disability of an individual which:
- 8 a. Is attributable to a mental or physical impairment or combination of mental and  
9 physical impairments, including Down syndrome;
  - 10 b. Is manifested before the individual attains age twenty-two;
  - 11 c. Is likely to continue indefinitely;
  - 12 d. Results in substantial functional limitations in three or more of the following areas  
13 of major life activity:
    - 14 (1) Self-care;
    - 15 (2) Receptive and expressive language;
    - 16 (3) Learning;
    - 17 (4) Mobility;
    - 18 (5) Self-direction;
    - 19 (6) Capacity for independent living; and
    - 20 (7) Economic sufficiency; and
  - 21 e. Reflects the individual's needs for a combination and sequence of special,  
22 interdisciplinary, or generic care, treatment, or other services which are of lifelong  
23 or extended duration and are individually planned and coordinated.

1 ~~— **SECTION 2. AMENDMENT.** Section 50-24.1-02 of the North Dakota Century Code is~~  
2 ~~amended and reenacted as follows:~~

3 ~~— **50-24.1-02. Eligibility.**~~

4 ~~— Within the limits of legislative appropriations, medical assistance may be paid for any~~  
5 ~~person who either has income and resources insufficient to meet the costs of necessary~~  
6 ~~medical care and services or is eligible for or receiving financial assistance under chapter 50-09~~  
7 ~~or title XVI of the Social Security Act, as amended, and:~~

8 ~~— 1. Has not at any time before or after making application for medical assistance made an~~  
9 ~~assignment or transfer of property for the purpose of rendering that person eligible for~~  
10 ~~assistance under this chapter. For the purposes of making any determination or~~  
11 ~~redetermination of eligibility, the phrase "assignment or transfer" includes actions or~~  
12 ~~failures to act which effect a renunciation or disclaimer of any interest which the~~  
13 ~~applicant or recipient might otherwise assert or have asserted, or which serve to~~  
14 ~~reduce the amounts which an applicant or recipient might otherwise claim from a~~  
15 ~~decedent's estate, a trust or similar device, or a person obligated by law to furnish~~  
16 ~~support to the applicant or recipient.~~

17 ~~— 2. Has applied or agrees to apply all proceeds received or receivable by that person or~~  
18 ~~that person's eligible spouse from automobile accident medical benefits coverage and~~  
19 ~~private health care coverage to the costs of medical care for that person and that~~  
20 ~~person's eligible spouse and children. The department of human services may require~~  
21 ~~from any applicant or recipient of medical assistance the assignment of any rights~~  
22 ~~accruing under automobile medical benefits coverage or private health care coverage.~~  
23 ~~Any rights or amounts so assigned must be applied against the cost of medical care~~  
24 ~~paid on behalf of the recipient under this chapter. The assignment is not effective as to~~  
25 ~~any carrier before the receipt of notice of assignment by such carrier.~~

26 ~~— 3. Is an individual three years of age or older with a diagnosis of Down syndrome who~~  
27 ~~meets the criteria for developmental disability in section 25-01.2-01, without regard to~~  
28 ~~intellectual disability or impairment of general intellectual functioning.~~

29 ~~— 4. Is eligible under rules and regulations established by the department of human~~  
30 ~~services.~~

**SECTION 2. DEPARTMENT OF HUMAN SERVICES MEDICAID WAIVER STUDY -  
REPORT TO LEGISLATIVE MANAGEMENT.**

- 1           1    During the 2017-18 interim, as part of the ongoing review of existing and potential  
2                    Medicaid waivers performed by the department of human services, the department  
3                    shall conduct a study of the current eligibility requirements for the developmental  
4                    disability Medicaid waiver.  
5
- 6           2.    The study must include an analysis of whether the current developmental disability  
7                    Medicaid waiver eligibility determination protocol uses age-appropriate assessment  
8                    methods, uses assessment tools reliable and valid in nature for level of need  
9                    determinations, and utilizes assessment information that may already be available in  
10                  an individual's record.  
11
- 12          3.    The study must include an evaluation of the feasibility and desirability of including in  
13                  the eligibility determination under the developmental disability Medicaid waiver,  
14                  consideration of related conditions and the possible use of certain medical conditions,  
15                  such as Down syndrome.  
16
- 17          4.    Before April 1, 2018, the department shall make a report to the legislative  
18                  management on the outcome of this study, including any recommendations, together  
                    with any legislation required to implement the recommendations.