

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1374

Introduced by

Representatives M. Nelson, Holman

1 A BILL ~~for an Act to create and enact a new section to chapter 50-06 of the North Dakota~~
2 ~~Century Code, relating to a department of human services pharmacy benefits management~~
3 ~~program; to provide a continuing appropriation; and to provide for application.~~ for an Act to
4 create and enact a new section to chapter 50-24.1 and a new section to chapter 54-52.1 of the
5 North Dakota Century Code, relating to the medical assistance pharmacy management
6 program and public employees retirement system prescription drug coverage benefits; to
7 provide for a legislative management study; to provide for application; and to provide an
8 effective date.

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

10 ~~— SECTION 1. A new section to chapter 50-06 of the North Dakota Century Code is created~~
11 ~~and enacted as follows:~~

12 ~~— Pharmacy benefits management program - Pharmacy benefits management fund -~~
13 ~~Continuing appropriation.~~

14 ~~— 1. The department of human services may establish a pharmacy benefits management~~
15 ~~program for use by the medical assistance program, including Medicaid expansion~~
16 ~~and the public employees retirement system uniform group insurance program for~~
17 ~~prescription drug coverage. The department shall charge the public employees~~
18 ~~retirement system for pharmacy benefits management services received under this~~
19 ~~section.~~

20 ~~— 2. The pharmacy benefits management fund is established in the state treasury. The~~
21 ~~department shall deposit into the fund all moneys received for providing pharmacy~~
22 ~~benefits management services. There is appropriated to the department on a~~
23 ~~continuing basis all moneys deposited into the fund and interest upon moneys in the~~
24 ~~fund for the purpose of implementing the pharmacy benefits management program.~~

~~3. The department is not subject to chapters 19-03.6 or 26.1-27.1 for purposes of the provision of pharmacy benefits management services under this section.~~

~~**SECTION 2. APPLICATION.** The public employees retirement system shall contract with the department of human services for pharmacy benefits management services at the first opportunity to contract for prescription drug coverage arising on or after the effective date of this Act. The department of human services shall provide pharmacy benefits management services for the Medicaid expansion program at the first opportunity to contract for prescription drug coverage arising on or after the effective date of this Act.~~

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Pharmacy management program.

The department shall establish a pharmacy management program to be used by the medical assistance program for Medicaid expansion for prescription drug coverage. The department shall process claims through the department's existing pharmacy claims system and Medicaid management information system and provide the contracted managed care plan with a daily pharmacy claims file for Medicaid expansion recipients.

SECTION 2. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Prescription drug coverage - Performance audits.

1. Except for Medicare part D, prescription drug coverage, the board may not enter or renew a contract for prescription drug coverage unless the contract authorizes the board during the term of the contract to conduct a performance audit of the prescription drug coverage and any related pharmacy benefits management services.

The contract must provide:

a. The board must have full access to data regarding:

(1) The total dollars paid to the pharmacy benefits manager by the carrier and the board;

(2) The total amount of dollars paid to the pharmacy benefits manager by the carrier which were not subsequently paid to a licensed pharmacy in the state; and

(3) Payments made to all pharmacy providers.

1 b. The board must have full access to data regarding the average reimbursement,
2 by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy
3 benefits manager to licensed pharmacies with which the pharmacy benefits
4 manager shares common ownership or control or is affiliated.

5 c. The board must have full access to data regarding the average reimbursement,
6 by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy
7 benefits manager to pharmacies licensed in the state.

8 d. The board must have full access to data regarding any direct and indirect fees,
9 charges, or recoupment, or any kind of assessments imposed by the pharmacy
10 benefits manager on pharmacies licensed with which the pharmacy benefits
11 manager shares common ownership or control or is affiliated.

12 e. The board must have full access to data regarding any direct and indirect fees,
13 charges, or recoupment, or any kind of assessments imposed by the pharmacy
14 benefits manager, on pharmacies licensed in the state.

15 f. The contract must provide that all drug rebates, financial incentives, fees, and
16 discounts must be disclosed to the board.

17 2. The board shall use an independent auditor who has no conflict of interest with the
18 carrier, pharmacy benefits manager, or board. The board's auditor, the insurance
19 department, and the employee benefits programs committee may access any
20 information the board may access under this section. All information accessed by the
21 board, board's auditor, insurance department, or employee benefits programs
22 committee which is trade secret is a confidential record. This subsection does not limit
23 the information required to be disclosed to the board under subsection 1.

24 3. If the board contracts directly with a pharmacy benefits manager or provides
25 prescription drug coverage through a self-insurance plan, the contract must provide
26 the pharmacy benefits manager shall disclose to the board and the board's auditor all
27 rebates and any other fees that provide the pharmacy benefits manager with sources
28 of income under the contract, including under related contracts the pharmacy benefits
29 manager has with third parties, such as drug manufacturers.

30 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES**

31 **RETIREMENT SYSTEM PRESCRIPTION DRUG COVERAGE.** During the 2019-20 interim, the

1 legislative management shall study the feasibility and desirability of the public employees
2 retirement system entering a separate contract for prescription drug coverage under the uniform
3 group insurance program. The legislative management may contract with a private third party to
4 assist in conducting the study and identifying pros and cons relating to a carve out for
5 prescription drug coverage under the uniform group insurance program. The legislative
6 management shall report its findings and recommendations, together with any legislation
7 necessary to implement the recommendations, to the sixty-seventh legislative assembly.

8 **SECTION 4. APPLICATION.** Section 2 of this Act applies to contracts entered by the public
9 employees retirement system board on and after the effective date of this Act.

10 **SECTION 5. EFFECTIVE DATE.** Section 1 of this Act becomes effective on January 1,
11 2020.