

**FIRST ENGROSSMENT
with Conference Committee Amendments
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 50-24.1 and a new section to
2 chapter 54-52.1 of the North Dakota Century Code, relating to the medical assistance pharmacy
3 management program and public employees retirement system prescription drug coverage
4 benefits; to provide for a legislative management study; to provide for application; and to
5 provide an effective date.

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

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

9 **Pharmacy management program.**

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

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

17 **Prescription drug coverage - Performance audits.**

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

22 The contract must provide:

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

- 1 (1) The total dollars paid to the pharmacy benefits manager by the carrier and
2 the board;
- 3 (2) The total amount of dollars paid to the pharmacy benefits manager by the
4 carrier which were not subsequently paid to a licensed pharmacy in the
5 state; and
- 6 (3) Payments made to all pharmacy providers.
- 7 b. The board must have full access to data regarding the average reimbursement,
8 by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy
9 benefits manager to licensed pharmacies with which the pharmacy benefits
10 manager shares common ownership or control or is affiliated.
- 11 c. The board must have full access to data regarding the average reimbursement,
12 by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy
13 benefits manager to pharmacies licensed in the state.
- 14 d. The board must have full access to data regarding any direct and indirect fees,
15 charges, or recoupment, or any kind of assessments imposed by the pharmacy
16 benefits manager on pharmacies licensed with which the pharmacy benefits
17 manager shares common ownership or control or is affiliated.
- 18 e. The board must have full access to data regarding any direct and indirect fees,
19 charges, or recoupment, or any kind of assessments imposed by the pharmacy
20 benefits manager, on pharmacies licensed in the state.
- 21 f. The contract must provide that all drug rebates, financial incentives, fees, and
22 discounts must be disclosed to the board.
- 23 2. The board shall use an independent auditor who has no conflict of interest with the
24 carrier, pharmacy benefits manager, or board. The board's auditor, the insurance
25 department, and the employee benefits programs committee may access any
26 information the board may access under this section. All information accessed by the
27 board, board's auditor, insurance department, or employee benefits programs
28 committee which is trade secret is a confidential record. This subsection does not limit
29 the information required to be disclosed to the board under subsection 1.
- 30 3. If the board contracts directly with a pharmacy benefits manager or provides
31 prescription drug coverage through a self-insurance plan, the contract must provide

1 the pharmacy benefits manager shall disclose to the board and the board's auditor all
2 rebates and any other fees that provide the pharmacy benefits manager with sources
3 of income under the contract, including under related contracts the pharmacy benefits
4 manager has with third parties, such as drug manufacturers.

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

6 **RETIREMENT SYSTEM PRESCRIPTION DRUG COVERAGE.** During the 2019-20 interim, the
7 legislative management shall study the feasibility and desirability of the public employees
8 retirement system entering a separate contract for prescription drug coverage under the uniform
9 group insurance program. The legislative management may contract with a private third party to
10 assist in conducting the study and identifying pros and cons relating to a carve out for
11 prescription drug coverage under the uniform group insurance program. The legislative
12 management shall report its findings and recommendations, together with any legislation
13 necessary to implement the recommendations, to the sixty-seventh legislative assembly.

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

16 **SECTION 5. EFFECTIVE DATE.** Section 1 of this Act becomes effective on January 1,
17 2020.