21.0224.01000

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1203

Introduced by

Representative Keiser

A BILL for an Act to create and enact chapter 26.1-36.8 of the North Dakota Century Code, relating to requirements of health insurance policies; to amend and reenact section 50-24.1-37 of the North Dakota Century Code, relating to continuation of Medicaid Expansion; to repeal sections 40 and 41 of chapter 11 of the 2017 Session Laws, relating to repeal of the Medicaid Expansion program; to provide for application; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-36.8 of the North Dakota Century Code is created and enacted as follows:

26.1-36.8-01. Definitions.

As used in this chapter:

1. "Commissioner" means the commissioner of insurance.
2. "Cost-sharing" means any copayment, coinsurance, or deductible required by, or on behalf of, a covered individual in order to receive a specific health care item or service covered by a health benefit plan.
3. "Drug" has the same meaning as provided under section 19-02.1-01.
4. "Health benefit plan" has the same meaning as provided under section 26.1-36.3-01.
5. "Pre-existing condition exclusion" means a limitation or exclusion of benefits related to a condition based on the fact the condition was present before the enrollment date for coverage, regardless of whether any medical diagnosis, care, or treatment was recommended or received before the enrollment date.

26.1-36.8-02. Grandfathered health benefit plans.

This chapter does not apply to a health benefit plan in effect on the effective date of this Act. A plan granted grandfather status under this section loses this status if the plan is amended or adjusted.

26.1-36.8-03. Required policy provisions - Rules.

1. The commissioner shall adopt rules that set minimum policy coverage standards applicable to a health benefit plan subject to this chapter. In addition to other requirements provided by law, the standards must require a policy regulated under this chapter to provide as benefits to all enrollees coverage for:
   a. Ambulatory patient services;
   b. Emergency services;
   c. Hospitalization;
   d. Maternity and newborn care;
   e. Mental health and substance use disorder services, including behavioral health treatment;
   f. Drugs;
   g. Rehabilitative and habilitative services and devices;
   h. Laboratory services;
   i. Preventative and wellness services and chronic disease management; and
   j. Pediatric services, including oral and vision care.
2. A health benefit plan subject to this chapter may not establish lifetime or annual limits on the dollar value of benefits described in subsection 1 for any covered individual.
3. A health benefit plan subject to this chapter which offers coverage for a child or stepchild of a certificate holder or insured must continue to offer such coverage, at the option of the policyholder or insured, until the unmarried child or stepchild reaches the age of twenty-six.

26.1-36.8-04. Limitations on pre-existing condition exclusions for health benefit plans.

1. A health benefit plan issuer may not impose a pre-existing condition exclusion and may not deny issuing a policy to a individual on the basis of a pre-existing condition.
2. A health benefit plan issuer may:
   a. Restrict enrollment in a health benefit plan to open enrollment and special enrollment periods in accordance with other provisions of this chapter.
   b. Use other alternatives approved by the commissioner to address adverse selection.

26.1-36.8-05. Fairness in cost-sharing and ratemaking - Rules.

1. A health benefit plan issuer may not require cost-sharing in an amount greater than eight thousand five hundred fifty dollars for self-only coverage and seventeen thousand one hundred dollars for other than self-only coverage. By rule, the commissioner may adjust this cost-sharing limit amount.
2. A health benefit plan subject to this chapter may charge different premium rates for each individual covered by that policy; however, the premium rates may vary only in relation to:
   a. Whether the policy covers an individual or a family;
   b. Rating area, as established pursuant to subsection 3;
   c. Age, except that such rate may not vary by more than three to one for adults; and
   d. Tobacco use, except that such rate may not vary by more than one and one-half to one.
3. The commissioner may adopt rules to establish:
   a. One or more geographic rating areas within the state and the permissible age bands within which premium rates may vary; and
   b. Minimum standards for ratemaking and cost-sharing, in accordance with accepted actuarial principles and practices.

26.1-36.8-06. Rules - Application.

1. The commissioner shall adopt rules addressing any standard or practice necessary to effectuate the purposes of this chapter.
2. Unless a rule provides a different application date, a rule adopted under this chapter applies beginning six months after the date the rule becomes final.

26.1-36.8-07. Conflict of laws.

1. A health benefit plan subject to this chapter remains subject to every other requirement and provision of this title which is not inconsistent with this chapter.
2. If a provision of this chapter conflicts with another provision of this title, the provision of this chapter controls, unless the application of the other provision would result in more generous coverage.

SECTION 2. AMENDMENT. Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-37. Medicaid expansion - Legislative management report. ~~(Effective through July 31, 2021 - Contingent repeal - See note)~~

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 line published by the federal office of management and budget applicable to the household size.

~~2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.~~

~~3.~~ Except for pharmacy services, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.

~~4.~~3. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.

~~5.~~4. Provider reimbursement rate information received by the department under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.

SECTION 3. REPEAL. Sections 40 and 41 of chapter 11 of the 2017 Session Laws are repealed.

SECTION 4. APPLICATION. This Act applies to a health benefit plan delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this Act. This chapter does not abridge or otherwise affect a health benefit plan already in effect at the time this chapter becomes applicable until that policy is amended or adjusted.

SECTION 5. CONTINGENT EFFECTIVE DATE. This Act becomes effective when the insurance commissioner certifies to the legislative council that a court of competent jurisdiction over the state of North Dakota has ruled all or a significant portion of the federal Patient Protection and Affordable Care Act is unconstitutional and the judgment of that court has become final and definitive.